

## Memorandum 2007-17

**Nonsubstantive Reorganization of Deadly Weapons Statutes:  
Text of Title 2 of Part 4 of the Penal Code**

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As directed by the Legislature (2006 Cal. Stat. res. ch. 128), the Commission has begun a study in which it will review the statutes governing deadly weapons and determine how to make those statutes more user-friendly without changing their substantive effect. In conducting that study, the Commission will need to repeatedly refer to the text of Title 2 of Part 4 of the Penal Code (Penal Code §§ 12000-12809). That portion of the code is entitled "Control of Deadly Weapons." To assist Commissioners and other persons interested in this study, the text of Title 2 is attached to this memorandum. **Please retain the attachment after the April meeting, for continued use in this study.**

Respectfully submitted,

Barbara Gaal  
Chief Deputy Counsel

Study M-300

PENAL CODE: PART 4

TITLE 2. CONTROL OF DEADLY WEAPONS

(PENAL CODE §§ 12000-12809)



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1 **Note.** In the following version of Title 2 of Part 4 of the Penal Code, statutory and  
2 constitutional references are shown in gray. Definitions are shown by putting the defined term in  
3 **boldface.**

## 4 TITLE 2. CONTROL OF DEADLY WEAPONS

### 5 CHAPTER 1. FIREARMS

#### 6 Article 1. General Provisions

##### 7 Penal Code § 12000. Dangerous Weapons Control Law

8 12000. This chapter shall be known and may be cited as **“The Dangerous**  
9 **Weapons Control Law.”**

##### 10 Penal Code § 12001. Definitions

11 12001. (a)(1) As used in this title, the terms **“pistol,” “revolver,”** and **“firearm**  
12 **capable of being concealed upon the person”** shall apply to and include any  
13 device designed to be used as a weapon, from which is expelled a projectile by the  
14 force of any explosion, or other form of combustion, and that has a barrel less than  
15 16 inches in length. These terms also include any device that has a barrel 16 inches  
16 or more in length which is designed to be interchanged with a barrel less than 16  
17 inches in length.

18 (2) As used in this title, the term **“handgun”** means any **“pistol,” “revolver,”**  
19 or **“firearm capable of being concealed upon the person.”**

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

23 (c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078,  
24 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the Welfare  
25 and Institutions Code, the term **“firearm”** includes the frame or receiver of the  
26 weapon.

27 (d) For the purposes of Sections 12025 and 12031, the term **“firearm”** also shall  
28 include any rocket, rocket propelled projectile launcher, or similar device  
29 containing any explosive or incendiary material whether or not the device is  
30 designed for emergency or distress signaling purposes.

31 (e) For purposes of Sections 12070, 12071, and paragraph (8) of subdivision (a),  
32 and subdivisions (b), (c), (d), and (f) of Section 12072, the term **“firearm”** does  
33 not include an unloaded firearm that is defined as an **“antique firearm”** in  
34 Section 921(a)(16) of Title 18 of the United States Code.

35 (f) Nothing shall prevent a device defined as a **“handgun,” “pistol,”**  
36 **“revolver,”** or **“firearm capable of being concealed upon the person”** from also

1 being found to be a short-barreled shotgun or a short-barreled rifle, as defined in  
2 Section 12020.

3 (g) For purposes of Sections 12551 and 12552, the term “**BB device**” means any  
4 instrument that expels a projectile, such as a BB or a pellet, not exceeding 6mm  
5 caliber, through the force of air pressure, gas pressure, or spring action, or any spot  
6 marker gun.

7 (h) As used in this title, “**wholesaler**” means any person who is licensed as a  
8 dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the  
9 United States Code and the regulations issued pursuant thereto who sells,  
10 transfers, or assigns firearms, or parts of firearms, to persons who are licensed as  
11 manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with  
12 Section 921) of Title 18 of the United States Code, or persons licensed pursuant to  
13 Section 12071, and includes persons who receive finished parts of firearms and  
14 assemble them into completed or partially completed firearms in furtherance of  
15 that purpose.

16 “**Wholesaler**” shall not include a manufacturer, importer, or gunsmith who is  
17 licensed to engage in those activities pursuant to Chapter 44 (commencing with  
18 Section 921) of Title 18 of the United States Code or a person licensed pursuant to  
19 Section 12071 and the regulations issued pursuant thereto. A wholesaler also does  
20 not include those persons dealing exclusively in grips, stocks, and other parts of  
21 firearms that are not frames or receivers thereof.

22 (i) As used in Section 12071 or 12072, “**application to purchase**” means any of  
23 the following:

24 (1) The initial completion of the register by the purchaser, transferee, or person  
25 being loaned the firearm as required by subdivision (b) of Section 12076.

26 (2) The initial completion and transmission to the department of the record of  
27 electronic or telephonic transfer by the dealer on the purchaser, transferee, or  
28 person being loaned the firearm as required by subdivision (c) of Section 12076.

29 (j) For purposes of Section 12023, a firearm shall be deemed to be “**loaded**”  
30 whenever both the firearm and the unexpended ammunition capable of being  
31 discharged from the firearm are in the immediate possession of the same person.

32 (k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073,  
33 12078, 12101, and 12801 of this code, and Sections 8100, 8101, and 8103 of the  
34 Welfare and Institutions Code, notwithstanding the fact that the term “**any**  
35 **firearm**” may be used in those sections, each firearm or the frame or receiver of  
36 the same shall constitute a distinct and separate offense under those sections.

37 (l) For purposes of Section 12020, a violation of that section as to each firearm,  
38 weapon, or device enumerated therein shall constitute a distinct and separate  
39 offense.

40 (m) Each application that requires any firearms eligibility determination  
41 involving the issuance of any license, permit, or certificate pursuant to this title  
42 shall include two copies of the applicant’s fingerprints on forms prescribed by the

1 Department of Justice. One copy of the fingerprints may be submitted to the  
2 United States Federal Bureau of Investigation.

3 (n) As used in this chapter, a **“personal handgun importer”** means an  
4 individual who meets all of the following criteria:

5 (1) He or she is not a person licensed pursuant to Section 12071.

6 (2) He or she is not a licensed manufacturer of firearms pursuant to Chapter 44  
7 (commencing with Section 921) of Title 18 of the United States Code.

8 (3) He or she is not a licensed importer of firearms pursuant to Chapter 44  
9 (commencing with Section 921) of Title 18 of the United States Code and the  
10 regulations issued pursuant thereto.

11 (4) He or she is the owner of a pistol, revolver, or other firearm capable of being  
12 concealed upon the person.

13 (5) He or she acquired that pistol, revolver, or other firearm capable of being  
14 concealed upon the person outside of California.

15 (6) He or she moves into this state on or after January 1, 1998, as a resident of  
16 this state.

17 (7) He or she intends to possess that pistol, revolver, or other firearm capable of  
18 being concealed upon the person within this state on or after January 1, 1998.

19 (8) The pistol, revolver, or other firearm capable of being concealed upon the  
20 person was not delivered to him or her by a person licensed pursuant to Section  
21 12071 who delivered that firearm following the procedures set forth in Section  
22 12071 and subdivision (c) of Section 12072.

23 (9) He or she, while a resident of this state, had not previously reported his or  
24 her ownership of that pistol, revolver, or other firearm capable of being concealed  
25 upon the person to the Department of Justice in a manner prescribed by the  
26 department that included information concerning him or her and a description of  
27 the firearm.

28 (10) The pistol, revolver, or other firearm capable of being concealed upon the  
29 person is not a firearm that is prohibited by subdivision (a) of Section 12020.

30 (11) The pistol, revolver, or other firearm capable of being concealed upon the  
31 person is not an assault weapon, as defined in Section 12276 or 12276.1.

32 (12) The pistol, revolver, or other firearm capable of being concealed upon the  
33 person is not a machinegun, as defined in Section 12200.

34 (13) The person is 18 years of age or older.

35 (o) For purposes of paragraph (6) of subdivision (n):

36 (1) Except as provided in paragraph (2), residency shall be determined in the  
37 same manner as is the case for establishing residency pursuant to Section 12505 of  
38 the Vehicle Code.

39 (2) In the case of members of the Armed Forces of the United States, residency  
40 shall be deemed to be established when he or she was discharged from active  
41 service in this state.

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

4 (q) As used in this code, “**handgun safety certificate**” means a certificate  
5 issued by the Department of Justice pursuant to Article 8 (commencing with  
6 Section 12800) of Chapter 6 of Title 2 of Part 4, as that article is operative on or  
7 after January 1, 2003.

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

### 13 **Penal Code § 12001.1 Undetectable knives**

14 12001.1. (a) Any person in this state who commercially manufactures or causes  
15 to be commercially manufactured, or who knowingly imports into the state for  
16 commercial sale, keeps for commercial sale, or offers or exposes for commercial  
17 sale, any undetectable knife is guilty of a misdemeanor. As used in this section, an  
18 “**undetectable knife**” means any knife or other instrument with or without a  
19 handguard that is capable of ready use as a stabbing weapon that may inflict great  
20 bodily injury or death that is commercially manufactured to be used as a weapon  
21 and is not detectable by a metal detector or magnetometer, either handheld or  
22 otherwise, that is set at standard calibration.

23 (b) Notwithstanding any other provision of law, commencing January 1, 2000,  
24 all knives or other instrument with or without a handguard that is capable of ready  
25 use as a stabbing weapon that may inflict great bodily injury or death that are  
26 commercially manufactured in this state that utilize materials that are not  
27 detectable by a metal detector or magnetometer, shall be manufactured to include  
28 materials that will ensure they are detectable by a metal detector or magnetometer,  
29 either handheld or otherwise, that is set at standard calibration.

30 (c) This section shall not apply to the manufacture or importation of  
31 undetectable knives for sale to a law enforcement or military entity nor shall this  
32 section apply to the subsequent sale of these knives to a law enforcement or  
33 military entity.

34 (d) This section shall not apply to the manufacture or importation of  
35 undetectable knives for sale to federal, state, and local historical societies,  
36 museums, and institutional collections which are open to the public, provided that  
37 the undetectable knives are properly housed and secured from unauthorized  
38 handling, nor shall this section apply to the subsequent sale of the knives to these  
39 societies, museums, and collections.

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

3 12001.5. Except as expressly provided in Section 12020, and solely in  
4 accordance with Section 12020, no person may manufacture, import into this state,  
5 keep for sale, offer for sale, give, lend, or possess any short-barreled shotgun or  
6 short-barreled rifle, as defined in Section 12020, and nothing else in this chapter  
7 shall be construed as authorizing the manufacture, importation into the state,  
8 keeping for sale, offering for sale, or giving, lending, or possession of any short-  
9 barreled shotgun or short-barreled rifle, as defined in Section 12020.

10 **Penal Code § 12001.6. Violent use of firearm**

11 12001.6. As used in this chapter, an offense which involves the violent use of a  
12 firearm includes any of the following:

13 (a) A violation of paragraph (2) or (3) of subdivision (a) of Section 245 or a  
14 violation of subdivision (d) of Section 245.

15 (b) A violation of Section 246.

16 (c) A violation of paragraph (2) of subdivision (a) of Section 417.

17 (d) A violation of subdivision (c) of Section 417.

18 **Penal Code § 12002. Wooden club or baton for law enforcement purposes**

19 12002. (a) Nothing in this chapter prohibits police officers, special police  
20 officers, peace officers, or law enforcement officers from carrying any wooden  
21 club, baton, or any equipment authorized for the enforcement of law or ordinance  
22 in any city or county.

23 (b) Nothing in this chapter prohibits a uniformed security guard, regularly  
24 employed and compensated by a person engaged in any lawful business, while  
25 actually employed and engaged in protecting and preserving property or life  
26 within the scope of his or her employment, from carrying any wooden club or  
27 baton if the uniformed security guard has satisfactorily completed a course of  
28 instruction certified by the Department of Consumer Affairs in the carrying and  
29 use of the club or baton. The training institution certified by the Department of  
30 Consumer Affairs to present this course, whether public or private, is authorized to  
31 charge a fee covering the cost of the training.

32 (c) The Department of Consumer Affairs, in cooperation with the Commission  
33 on Peace Officer Standards and Training, shall develop standards for a course in  
34 the carrying and use of the club or baton.

35 (d) Any uniformed security guard who successfully completes a course of  
36 instruction under this section is entitled to receive a permit to carry and use a club  
37 or baton within the scope of his or her employment, issued by the Department of  
38 Consumer Affairs. The department may authorize certified training institutions to  
39 issue permits to carry and use a club or baton. A fee in the amount provided by  
40 law shall be charged by the Department of Consumer Affairs to offset the costs

1 incurred by the department in course certification, quality control activities  
2 associated with the course, and issuance of the permit.

3 (e) Any person who has received a permit or certificate which indicates  
4 satisfactory completion of a club or baton training course approved by the  
5 Commission on Peace Officer Standards and Training prior to January 1, 1983,  
6 shall not be required to obtain a baton or club permit or complete a course certified  
7 by the Department of Consumer Affairs.

8 (f) Any person employed as a county sheriff's or police security officer, as  
9 defined in **Section 831.4**, shall not be required to obtain a club or baton permit or  
10 to complete a course certified by the Department of Consumer Affairs in the  
11 carrying and use of a club or baton, provided that the person completes a course  
12 approved by the Commission on Peace Officer Standards and Training in the  
13 carrying and use of the club or baton, within 90 days of employment.

14 (g) Nothing in **this chapter** prohibits an animal control officer, as described in  
15 **Section 830.9**, from carrying any wooden club or baton if the animal control  
16 officer has satisfactorily completed a course of instruction certified by the  
17 Department of Consumer Affairs in the carrying and use of the club or baton. The  
18 training institution certified by the Department of Consumer Affairs to present this  
19 course, whether public or private, is authorized to charge a fee covering the cost of  
20 the training.

21 **Penal Code § 12003. Severability**

22 12003. If any **section, subsection, sentence, clause or phrase of this chapter** is for  
23 any reason held to be unconstitutional such decision shall not affect the validity of  
24 the remaining portions of **this chapter**. The Legislature hereby declares that it  
25 would have passed **this act and each section, subsection, sentence, clause and**  
26 **phrase thereof**, irrespective of the fact that any one or more **other sections,**  
27 **subsections, sentences, clauses or phrases** be declared unconstitutional.

28 Article 1.5. Prohibited Armed Persons File

29 **Penal Code § 12010. Prohibited Armed Persons File**

30 12010. (a) The Attorney General shall establish and maintain an online database  
31 to be known as the Prohibited Armed Persons File. The purpose of the file is to  
32 cross-reference persons who have ownership or possession of a firearm on or after  
33 January 1, 1991, as indicated by a record in the Consolidated Firearms Information  
34 System, and who, subsequent to the date of that ownership or possession of a  
35 firearm, fall within a class of persons who are prohibited from owning or  
36 possessing a firearm.

37 (b) The information contained in the Prohibited Armed Persons File shall only  
38 be available to those entities specified in, and pursuant to, **subdivision (b) or (c) of**  
39 **Section 11105**, through the California Law Enforcement Telecommunications

1 System, for the purpose of determining if persons are armed and prohibited from  
2 possessing firearms.

3 **Penal Code § 12011. Use of Prohibited Armed Persons File**

4 12011. The Prohibited Armed Persons File database shall function as follows:

5 (a) Upon entry into the Automated Criminal History System of a disposition for  
6 a conviction of any felony, a conviction for any firearms-prohibiting charge  
7 specified in Section 12021, a conviction for an offense described in Section  
8 12021.1, a firearms prohibition pursuant to Section 8100 or 8103 of the Welfare  
9 and Institutions Code, or any firearms possession prohibition identified by the  
10 federal National Instant Check System, the Department of Justice shall determine  
11 if the subject has an entry in the Consolidated Firearms Information System  
12 indicating possession or ownership of a firearm on or after January 1, 1991, or an  
13 assault weapon registration, or a .50 BMG rifle registration.

14 (b) Upon an entry into any department automated information system that is  
15 used for the identification of persons who are prohibited from acquiring, owning,  
16 or possessing firearms, the department shall determine if the subject has an entry  
17 in the Consolidated Firearms Information System indicating ownership or  
18 possession of a firearm on or after January 1, 1991, or an assault weapon  
19 registration, or a .50 BMG rifle registration.

20 (c) If the department determines that, pursuant to subdivision (a) or (b), the  
21 subject has an entry in the Consolidated Firearms Information System indicating  
22 possession or ownership of a firearm on or after January 1, 1991, or an assault  
23 weapon registration, or a .50 BMG rifle registration, the following information  
24 shall be entered into the Prohibited Armed Persons File:

25 (1) The subject's name.

26 (2) The subject's date of birth.

27 (3) The subject's physical description.

28 (4) Any other identifying information regarding the subject that is deemed  
29 necessary by the Attorney General.

30 (5) The basis of the firearms possession prohibition.

31 (6) A description of all firearms owned or possessed by the subject, as reflected  
32 by the Consolidated Firearms Information System.

33 **Penal Code § 12012. Assistance by Attorney General**

34 12012. The Attorney General shall provide investigative assistance to local law  
35 enforcement agencies to better ensure the investigation of individuals who are  
36 armed and prohibited from possessing a firearm.

1 Article 2. Unlawful Carrying and Possession of Weapons

2 **Penal Code § 12020. Manufacture, import, sale, gift, loan, or possession of specified**  
3 **weapons**

4 12020. (a) Any person in this state who does any of the following is punishable  
5 by imprisonment in a county jail not exceeding one year or in the state prison:

6 (1) Manufactures or causes to be manufactured, imports into the state, keeps for  
7 sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun  
8 or wallet gun, any undetectable firearm, any firearm which is not immediately  
9 recognizable as a firearm, any camouflaging firearm container, any ammunition  
10 which contains or consists of any flechette dart, any bullet containing or carrying  
11 an explosive agent, any ballistic knife, any multiburst trigger activator, any  
12 nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal  
13 knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any  
14 unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any  
15 air gauge knife, any writing pen knife, any metal military practice handgrenade or  
16 metal replica handgrenade, or any instrument or weapon of the kind commonly  
17 known as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

18 (2) Commencing January 1, 2000, manufactures or causes to be manufactured,  
19 imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or  
20 lends, any large-capacity magazine.

21 (3) Carries concealed upon his or her person any explosive substance, other than  
22 fixed ammunition.

23 (4) Carries concealed upon his or her person any dirk or dagger.

24 However, a first offense involving any metal military practice handgrenade or  
25 metal replica handgrenade shall be punishable only as an infraction unless the  
26 offender is an active participant in a criminal street gang as defined in the Street  
27 Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with  
28 Section 186.20) of Title 7 of Part 1). A bullet containing or carrying an explosive  
29 agent is not a destructive device as that term is used in Section 12301.

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

31 (1) The sale to, purchase by, or possession of short-barreled shotguns or short-  
32 barreled rifles by police departments, sheriffs' offices, marshals' offices, the  
33 California Highway Patrol, the Department of Justice, or the military or naval  
34 forces of this state or of the United States for use in the discharge of their official  
35 duties or the possession of short-barreled shotguns and short-barreled rifles by  
36 peace officer members of a police department, sheriff's office, marshal's office,  
37 the California Highway Patrol, or the Department of Justice when on duty and the  
38 use is authorized by the agency and is within the course and scope of their duties  
39 and the peace officer has completed a training course in the use of these weapons  
40 certified by the Commission on Peace Officer Standards and Training.

41 (2) The manufacture, possession, transportation or sale of short-barreled  
42 shotguns or short-barreled rifles when authorized by the Department of Justice

1 pursuant to Article 6 (commencing with Section 12095) of this chapter and not in  
2 violation of federal law.

3 (3) The possession of a nunchaku on the premises of a school which holds a  
4 regulatory or business license and teaches the arts of self-defense.

5 (4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a  
6 school which holds a regulatory or business license and teaches the arts of self-  
7 defense.

8 (5) Any antique firearm. For purposes of this section, “antique firearm” means  
9 any firearm not designed or redesigned for using rimfire or conventional center  
10 fire ignition with fixed ammunition and manufactured in or before 1898 (including  
11 any matchlock, flintlock, percussion cap, or similar type of ignition system or  
12 replica thereof, whether actually manufactured before or after the year 1898) and  
13 also any firearm using fixed ammunition manufactured in or before 1898, for  
14 which ammunition is no longer manufactured in the United States and is not  
15 readily available in the ordinary channels of commercial trade.

16 (6) Tracer ammunition manufactured for use in shotguns.

17 (7) Any firearm or ammunition that is a curio or relic as defined in Section  
18 478.11 of Title 27 of the Code of Federal Regulations and which is in the  
19 possession of a person permitted to possess the items pursuant to Chapter 44  
20 (commencing with Section 921) of Title 18 of the United States Code and the  
21 regulations issued pursuant thereto. Any person prohibited by Section 12021,  
22 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and  
23 Institutions Code from possessing firearms or ammunition who obtains title to  
24 these items by bequest or intestate succession may retain title for not more than  
25 one year, but actual possession of these items at any time is punishable pursuant to  
26 Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the  
27 Welfare and Institutions Code. Within the year, the person shall transfer title to the  
28 firearms or ammunition by sale, gift, or other disposition. Any person who violates  
29 this paragraph is in violation of subdivision (a).

30 (8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of  
31 the United States Code and which is in the possession of a person permitted to  
32 possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law  
33 90-618), as amended, and the regulations issued pursuant thereto. Any person  
34 prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or  
35 8103 of the Welfare and Institutions Code from possessing these weapons who  
36 obtains title to these weapons by bequest or intestate succession may retain title  
37 for not more than one year, but actual possession of these weapons at any time is  
38 punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section  
39 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person  
40 shall transfer title to the weapons by sale, gift, or other disposition.

41 Any person who violates this paragraph is in violation of subdivision (a). The  
42 exemption provided in this subdivision does not apply to pen guns.

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

6 (10) Instruments or devices, other than short-barreled shotguns or short-barreled  
7 rifles, that are possessed or utilized during the course of a motion picture,  
8 television, or video production or entertainment event by an authorized participant  
9 therein in the course of making that production or event or by an authorized  
10 employee or agent of the entity producing that production or event.

11 (11) Instruments or devices, other than short-barreled shotguns or short-barreled  
12 rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by,  
13 imported by, or lent by persons who are in the business of selling instruments or  
14 devices listed in subdivision (a) solely to the entities referred to in paragraphs (9)  
15 and (10) when engaging in transactions with those entities.

16 (12) The sale to, possession of, or purchase of any weapon, device, or  
17 ammunition, other than a short-barreled rifle or short-barreled shotgun, by any  
18 federal, state, county, city and county, or city agency that is charged with the  
19 enforcement of any law for use in the discharge of their official duties, or the  
20 possession of any weapon, device, or ammunition, other than a short-barreled rifle  
21 or short-barreled shotgun, by peace officers thereof when on duty and the use is  
22 authorized by the agency and is within the course and scope of their duties.

23 (13) Weapons, devices, and ammunition, other than a short-barreled rifle or  
24 short-barreled shotgun, that are sold by, manufactured by, exposed or kept for sale  
25 by, possessed by, imported by, or lent by, persons who are in the business of  
26 selling weapons, devices, and ammunition listed in subdivision (a) solely to the  
27 entities referred to in paragraph (12) when engaging in transactions with those  
28 entities.

29 (14) The manufacture for, sale to, exposing or keeping for sale to, importation  
30 of, or lending of wooden clubs or batons to special police officers or uniformed  
31 security guards authorized to carry any wooden club or baton pursuant to Section  
32 12002 by entities that are in the business of selling wooden batons or clubs to  
33 special police officers and uniformed security guards when engaging in  
34 transactions with those persons.

35 (15) Any plastic toy handgrenade, or any metal military practice handgrenade or  
36 metal replica handgrenade that is a relic, curio, memorabilia, or display item, that  
37 is filled with a permanent inert substance or that is otherwise permanently altered  
38 in a manner that prevents ready modification for use as a grenade.

39 (16) Any instrument, ammunition, weapon, or device listed in subdivision (a)  
40 that is not a firearm that is found and possessed by a person who meets all of the  
41 following:

42 (A) The person is not prohibited from possessing firearms or ammunition  
43 pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of

1 Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions  
2 Code.

3 (B) The person possessed the instrument, ammunition, weapon, or device no  
4 longer than was necessary to deliver or transport the same to a law enforcement  
5 agency for that agency's disposition according to law.

6 (C) If the person is transporting the listed item, he or she is transporting the  
7 listed item to a law enforcement agency for disposition according to law.

8 (17) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that  
9 is found and possessed by a person who meets all of the following:

10 (A) The person is not prohibited from possessing firearms or ammunition  
11 pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of  
12 Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions  
13 Code.

14 (B) The person possessed the firearm no longer than was necessary to deliver or  
15 transport the same to a law enforcement agency for that agency's disposition  
16 according to law.

17 (C) If the person is transporting the firearm, he or she is transporting the firearm  
18 to a law enforcement agency for disposition according to law.

19 (D) Prior to transporting the firearm to a law enforcement agency, he or she has  
20 given prior notice to that law enforcement agency that he or she is transporting the  
21 firearm to that law enforcement agency for disposition according to law.

22 (E) The firearm is transported in a locked container as defined in subdivision (d)  
23 of Section 12026.2.

24 (18) The possession of any weapon, device, or ammunition, by a forensic  
25 laboratory or any authorized agent or employee thereof in the course and scope of  
26 his or her authorized activities.

27 (19) The sale of, giving of, lending of, importation into this state of, or purchase  
28 of, any large-capacity magazine to or by any federal, state, county, city and  
29 county, or city agency that is charged with the enforcement of any law, for use by  
30 agency employees in the discharge of their official duties whether on or off duty,  
31 and where the use is authorized by the agency and is within the course and scope  
32 of their duties.

33 (20) The sale to, lending to, transfer to, purchase by, receipt of, or importation  
34 into this state of, a large-capacity magazine by a sworn peace officer as defined in  
35 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized  
36 to carry a firearm in the course and scope of his or her duties.

37 (21) The sale or purchase of any large-capacity magazine to or by a person  
38 licensed pursuant to Section 12071.

39 (22) The loan of a lawfully possessed large-capacity magazine between two  
40 individuals if all of the following conditions are met:

41 (A) The person being loaned the large-capacity magazine is not prohibited by  
42 Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the  
43 Welfare and Institutions Code from possessing firearms or ammunition.

1 (B) The loan of the large-capacity magazine occurs at a place or location where  
2 the possession of the large-capacity magazine is not otherwise prohibited and the  
3 person who lends the large-capacity magazine remains in the accessible vicinity of  
4 the person to whom the large-capacity magazine is loaned.

5 (23) The importation of a large-capacity magazine by a person who lawfully  
6 possessed the large-capacity magazine in the state prior to January 1, 2000,  
7 lawfully took it out of the state, and is returning to the state with the large-capacity  
8 magazine previously lawfully possessed in the state.

9 (24) The lending or giving of any large-capacity magazine to a person licensed  
10 pursuant to Section 12071, or to a gunsmith, for the purposes of maintenance,  
11 repair, or modification of that large-capacity magazine.

12 (25) The return to its owner of any large-capacity magazine by a person  
13 specified in paragraph (24).

14 (26) The importation into this state of, or sale of, any large-capacity magazine  
15 by a person who has been issued a permit to engage in those activities pursuant to  
16 Section 12079, when those activities are in accordance with the terms and  
17 conditions of that permit.

18 (27) The sale of, giving of, lending of, importation into this state of, or purchase  
19 of, any large-capacity magazine, to or by entities that operate armored vehicle  
20 businesses pursuant to the laws of this state.

21 (28) The lending of large-capacity magazines by the entities specified in  
22 paragraph (27) to their authorized employees, while in the course and scope of  
23 their employment for purposes that pertain to the entity's armored vehicle  
24 business.

25 (29) The return of those large-capacity magazines to those entities specified in  
26 paragraph (27) by those employees specified in paragraph (28).

27 (30)(A) The manufacture of a large-capacity magazine for any federal, state,  
28 county, city and county, or city agency that is charged with the enforcement of any  
29 law, for use by agency employees in the discharge of their official duties whether  
30 on or off duty, and where the use is authorized by the agency and is within the  
31 course and scope of their duties.

32 (B) The manufacture of a large-capacity magazine for use by a sworn peace  
33 officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part  
34 2 who is authorized to carry a firearm in the course and scope of his or her duties.

35 (C) The manufacture of a large-capacity magazine for export or for sale to  
36 government agencies or the military pursuant to applicable federal regulations.

37 (31) The loan of a large-capacity magazine for use solely as a prop for a motion  
38 picture, television, or video production.

39 (32) The purchase of a large-capacity magazine by the holder of a special  
40 weapons permit issued pursuant to Section 12095, 12230, 12250, 12286, or 12305,  
41 for any of the following purposes:

42 (A) For use solely as a prop for a motion picture, television, or video production.

43 (B) For export pursuant to federal regulations.

1 (C) For resale to law enforcement agencies, government agencies, or the  
2 military, pursuant to applicable federal regulations.

3 (c)(1) As used in this section, a “**short-barreled shotgun**” means any of the  
4 following:

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

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

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

12 (D) Any device which may be readily restored to fire a fixed shotgun shell  
13 which, when so restored, is a device defined in subparagraphs (A) to (C),  
14 inclusive.

15 (E) Any part, or combination of parts, designed and intended to convert a device  
16 into a device defined in subparagraphs (A) to (C), inclusive, or any combination of  
17 parts from which a device defined in subparagraphs (A) to (C), inclusive, can be  
18 readily assembled if those parts are in the possession or under the control of the  
19 same person.

20 (2) As used in this section, a “**short-barreled rifle**” means any of the following:

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

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

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

26 (D) Any device which may be readily restored to fire a fixed cartridge which,  
27 when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

28 (E) Any part, or combination of parts, designed and intended to convert a device  
29 into a device defined in subparagraphs (A) to (C), inclusive, or any combination of  
30 parts from which a device defined in subparagraphs (A) to (C), inclusive, may be  
31 readily assembled if those parts are in the possession or under the control of the  
32 same person.

33 (3) As used in this section, a “**nunchaku**” means an instrument consisting of  
34 two or more sticks, clubs, bars or rods to be used as handles, connected by a rope,  
35 cord, wire, or chain, in the design of a weapon used in connection with the practice  
36 of a system of self-defense such as karate.

37 (4) As used in this section, a “**wallet gun**” means any firearm mounted or  
38 enclosed in a case, resembling a wallet, designed to be or capable of being carried  
39 in a pocket or purse, if the firearm may be fired while mounted or enclosed in the  
40 case.

41 (5) As used in this section, a “**cane gun**” means any firearm mounted or  
42 enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable

1 of being used as, an aid in walking, if the firearm may be fired while mounted or  
2 enclosed therein.

3 (6) As used in this section, a “**flechette dart**” means a dart, capable of being  
4 fired from a firearm, that measures approximately one inch in length, with tail fins  
5 that take up approximately five-sixteenths of an inch of the body.

6 (7) As used in this section, “**metal knuckles**” means any device or instrument  
7 made wholly or partially of metal which is worn for purposes of offense or defense  
8 in or on the hand and which either protects the wearer’s hand while striking a blow  
9 or increases the force of impact from the blow or injury to the individual receiving  
10 the blow. The metal contained in the device may help support the hand or fist,  
11 provide a shield to protect it, or consist of projections or studs which would  
12 contact the individual receiving a blow.

13 (8) As used in this section, a “**ballistic knife**” means a device that propels a  
14 knifelike blade as a projectile by means of a coil spring, elastic material, or  
15 compressed gas. Ballistic knife does not include any device which propels an  
16 arrow or a bolt by means of any common bow, compound bow, crossbow, or  
17 underwater speargun.

18 (9) As used in this section, a “**camouflaging firearm container**” means a  
19 container which meets all of the following criteria:

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

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

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

24 “**Camouflaging firearm container**” does not include any camouflaging  
25 covering used while engaged in lawful hunting or while going to or returning from  
26 a lawful hunting expedition.

27 (10) As used in this section, a “**zip gun**” means any weapon or device which  
28 meets all of the following criteria:

29 (A) It was not imported as a firearm by an importer licensed pursuant to Chapter  
30 44 (commencing with Section 921) of Title 18 of the United States Code and the  
31 regulations issued pursuant thereto.

32 (B) It was not originally designed to be a firearm by a manufacturer licensed  
33 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United  
34 States Code and the regulations issued pursuant thereto.

35 (C) No tax was paid on the weapon or device nor was an exemption from paying  
36 tax on that weapon or device granted under Section 4181 and Subchapters F  
37 (commencing with Section 4216) and G (commencing with Section 4221) of  
38 Chapter 32 of Title 26 of the United States Code, as amended, and the regulations  
39 issued pursuant thereto.

40 (D) It is made or altered to expel a projectile by the force of an explosion or  
41 other form of combustion.

42 (11) As used in this section, a “**shuriken**” means any instrument, without  
43 handles, consisting of a metal plate having three or more radiating points with one

1 or more sharp edges and designed in the shape of a polygon, trefoil, cross, star,  
2 diamond, or other geometric shape for use as a weapon for throwing.

3 (12) As used in **this section**, a **“unconventional pistol”** means a firearm that  
4 does not have a rifled bore and has a barrel or barrels of less than 18 inches in  
5 length or has an overall length of less than 26 inches.

6 (13) As used in **this section**, a **“belt buckle knife”** is a knife which is made an  
7 integral part of a belt buckle and consists of a blade with a length of at least 21/2  
8 inches.

9 (14) As used in **this section**, a **“lipstick case knife”** means a knife enclosed  
10 within and made an integral part of a lipstick case.

11 (15) As used in **this section**, a **“cane sword”** means a cane, swagger stick, stick,  
12 staff, rod, pole, umbrella, or similar device, having concealed within it a blade that  
13 may be used as a sword or stiletto.

14 (16) As used in **this section**, a **“shobi-zue”** means a staff, crutch, stick, rod, or  
15 pole concealing a knife or blade within it which may be exposed by a flip of the  
16 wrist or by a mechanical action.

17 (17) As used in **this section**, a **“leaded cane”** means a staff, crutch, stick, rod,  
18 pole, or similar device, unnaturally weighted with lead.

19 (18) As used in **this section**, an **“air gauge knife”** means a device that appears  
20 to be an air gauge but has concealed within it a pointed, metallic shaft that is  
21 designed to be a stabbing instrument which is exposed by mechanical action or  
22 gravity which locks into place when extended.

23 (19) As used in **this section**, a **“writing pen knife”** means a device that appears  
24 to be a writing pen but has concealed within it a pointed, metallic shaft that is  
25 designed to be a stabbing instrument which is exposed by mechanical action or  
26 gravity which locks into place when extended or the pointed, metallic shaft is  
27 exposed by the removal of the cap or cover on the device.

28 (20) As used in **this section**, a **“rifle”** means a weapon designed or redesigned,  
29 made or remade, and intended to be fired from the shoulder and designed or  
30 redesigned and made or remade to use the energy of the explosive in a fixed  
31 cartridge to fire only a single projectile through a rifled bore for each single pull of  
32 the trigger.

33 (21) As used in **this section**, a **“shotgun”** means a weapon designed or  
34 redesigned, made or remade, and intended to be fired from the shoulder and  
35 designed or redesigned and made or remade to use the energy of the explosive in a  
36 fixed shotgun shell to fire through a smooth bore either a number of projectiles  
37 (ball shot) or a single projectile for each pull of the trigger.

38 (22) As used in **this section**, an **“undetectable firearm”** means any weapon  
39 which meets one of the following requirements:

40 (A) When, after removal of grips, stocks, and magazines, it is not as detectable  
41 as the Security Exemplar, by walk-through metal detectors calibrated and operated  
42 to detect the Security Exemplar.

1 (B) When any major component of which, when subjected to inspection by the  
2 types of X-ray machines commonly used at airports, does not generate an image  
3 that accurately depicts the shape of the component. Barium sulfate or other  
4 compounds may be used in the fabrication of the component.

5 (C) For purposes of this paragraph, the terms “**firearm**,” “**major component**,”  
6 and “**Security Exemplar**” have the same meanings as those terms are defined in  
7 Section 922 of Title 18 of the United States Code.

8 All firearm detection equipment newly installed in nonfederal public buildings  
9 in this state shall be of a type identified by either the United States Attorney  
10 General, the Secretary of Transportation, or the Secretary of the Treasury, as  
11 appropriate, as available state-of-the-art equipment capable of detecting an  
12 undetectable firearm, as defined, while distinguishing innocuous metal objects  
13 likely to be carried on one’s person sufficient for reasonable passage of the public.

14 (23) As used in this section, a “**multiburst trigger activator**” means one of the  
15 following devices:

16 (A) A device designed or redesigned to be attached to a semiautomatic firearm  
17 which allows the firearm to discharge two or more shots in a burst by activating  
18 the device.

19 (B) A manual or power-driven trigger activating device constructed and  
20 designed so that when attached to a semiautomatic firearm it increases the rate of  
21 fire of that firearm.

22 (24) As used in this section, a “**dirk**” or “**dagger**” means a knife or other  
23 instrument with or without a handguard that is capable of ready use as a stabbing  
24 weapon that may inflict great bodily injury or death. A nonlocking folding knife, a  
25 folding knife that is not prohibited by Section 653k, or a pocketknife is capable of  
26 ready use as a stabbing weapon that may inflict great bodily injury or death only if  
27 the blade of the knife is exposed and locked into position.

28 (25) As used in this section, “**large-capacity magazine**” means any ammunition  
29 feeding device with the capacity to accept more than 10 rounds, but shall not be  
30 construed to include any of the following:

31 (A) A feeding device that has been permanently altered so that it cannot  
32 accommodate more than 10 rounds.

33 (B) A .22 caliber tube ammunition feeding device.

34 (C) A tubular magazine that is contained in a lever-action firearm.

35 (d) Knives carried in sheaths which are worn openly suspended from the waist  
36 of the wearer are not concealed within the meaning of this section.

37 **Penal Code § 12020.1. Manufacture, import, or sale of hard plastic knuckles**

38 12020.1. Any person in this state who commercially manufactures or causes to  
39 be commercially manufactured, or who knowingly imports into the state for  
40 commercial sale, keeps for commercial sale, or offers or exposes for commercial  
41 sale, any hard plastic knuckles is guilty of a misdemeanor. As used in this section,  
42 “**hard plastic knuckles**” means any device or instrument made wholly or partially

1 of plastic that is not a metal knuckle as defined in paragraph (7) of subdivision (c)  
2 of Section 12020, that is worn for purposes of offense or defense in or on the hand,  
3 and that either protects the wearer's hand while striking a blow or increases the  
4 force of impact from the blow or injury to the individual receiving the blow. The  
5 plastic contained in the device may help support the hand or fist, provide a shield  
6 to protect it, or consist of projections or studs that would contact the individual  
7 receiving a blow.

8 **Penal Code § 12020.3. Bright orange or bright green firearm**

9 12020.3. Any person who, for commercial purposes, purchases, sells,  
10 manufacturers, ships, transports, distributes, or receives a firearm, where the  
11 coloration of the entire exterior surface of the firearm is bright orange or bright  
12 green, either singly, in combination, or as the predominant color in combination  
13 with other colors in any pattern, is liable for a civil fine in an action brought by the  
14 city attorney of the city or the district attorney for the county of not more than ten  
15 thousand dollars (\$10,000).

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

17 12020.5. It shall be unlawful for any person, as defined in Section 12277, to  
18 advertise the sale of any weapon or device whose possession is prohibited by  
19 Section 12020, 12220, 12280, 12303, 12320, 12321, 12355, or 12520 in any  
20 newspaper, magazine, circular, form letter, or open publication that is published,  
21 distributed, or circulated in this state, or on any billboard, card, label, or other  
22 advertising medium, or by means of any other advertising device.

23 **Penal Code § 12021. Firearm acquisition, possession, or control by person convicted of**  
24 **specified offense, addicted to narcotic drug, or subject to injunction**

25 12021. (a)(1) Any person who has been convicted of a felony under the laws of  
26 the United States, the State of California, or any other state, government, or  
27 country or of an offense enumerated in subdivision (a), (b), or (d) of Section  
28 12001.6, or who is addicted to the use of any narcotic drug, and who owns,  
29 purchases, receives, or has in his or her possession or under his or her custody or  
30 control any firearm is guilty of a felony.

31 (2) Any person who has two or more convictions for violating paragraph (2) of  
32 subdivision (a) of Section 417 and who owns, purchases, receives, or has in his or  
33 her possession or under his or her custody or control any firearm is guilty of a  
34 felony.

35 (b) Notwithstanding subdivision (a), any person who has been convicted of a  
36 felony or of an offense enumerated in Section 12001.6, when that conviction  
37 results from certification by the juvenile court for prosecution as an adult in an  
38 adult court under Section 707 of the Welfare and Institutions Code, and who owns  
39 or has in his or her possession or under his or her custody or control any firearm is  
40 guilty of a felony.

1 (c)(1) Except as provided in subdivision (a) or paragraph (2) of this subdivision,  
2 any person who has been convicted of a misdemeanor violation of Section 71, 76,  
3 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d,  
4 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417,  
5 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034,  
6 Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section  
7 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the  
8 Welfare and Institutions Code, any firearm-related offense pursuant to Sections  
9 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished  
10 in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of  
11 the conviction, owns, purchases, receives, or has in his or her possession or under  
12 his or her custody or control, any firearm is guilty of a public offense, which shall  
13 be punishable by imprisonment in a county jail not exceeding one year or in the  
14 state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that  
15 imprisonment and fine. The court, on forms prescribed by the Department of  
16 Justice, shall notify the department of persons subject to this subdivision.  
17 However, the prohibition in this paragraph may be reduced, eliminated, or  
18 conditioned as provided in paragraph (2) or (3).

19 (2) Any person employed as a peace officer described in Section 830.1, 830.2,  
20 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on  
21 the ability to legally possess a firearm, who is subject to the prohibition imposed  
22 by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9,  
23 may petition the court only once for relief from this prohibition. The petition shall  
24 be filed with the court in which the petitioner was sentenced. If possible, the  
25 matter shall be heard before the same judge who sentenced the petitioner. Upon  
26 filing the petition, the clerk of the court shall set the hearing date and shall notify  
27 the petitioner and the prosecuting attorney of the date of the hearing. Upon making  
28 each of the following findings, the court may reduce or eliminate the prohibition,  
29 impose conditions on reduction or elimination of the prohibition, or otherwise  
30 grant relief from the prohibition as the court deems appropriate:

31 (A) Finds by a preponderance of the evidence that the petitioner is likely to use a  
32 firearm in a safe and lawful manner.

33 (B) Finds that the petitioner is not within a prohibited class as specified in  
34 subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not  
35 presented with any credible evidence that the petitioner is a person described in  
36 Section 8100 or 8103 of the Welfare and Institutions Code.

37 (C)(i) Finds that the petitioner does not have a previous conviction under this  
38 subdivision no matter when the prior conviction occurred.

39 (ii) In making its decision, the court shall consider the petitioner's continued  
40 employment, the interest of justice, any relevant evidence, and the totality of the  
41 circumstances. The court shall require, as a condition of granting relief from the  
42 prohibition under this section, that the petitioner agree to participate in counseling  
43 as deemed appropriate by the court. Relief from the prohibition shall not relieve

1 any other person or entity from any liability that might otherwise be imposed. It is  
2 the intent of the Legislature that courts exercise broad discretion in fashioning  
3 appropriate relief under **this paragraph** in cases in which relief is warranted.  
4 However, nothing in **this paragraph** shall be construed to require courts to grant  
5 relief to any particular petitioner. It is the intent of the Legislature to permit  
6 persons who were convicted of an offense specified in **Section 273.5, 273.6, or**  
7 **646.9** to seek relief from the prohibition imposed by **this subdivision**.

8 (3) Any person who is subject to the prohibition imposed by **this subdivision**  
9 because of a conviction of an offense prior to that offense being added to  
10 **paragraph (1)** may petition the court only once for relief from this prohibition. The  
11 petition shall be filed with the court in which the petitioner was sentenced. If  
12 possible, the matter shall be heard before the same judge that sentenced the  
13 petitioner. Upon filing the petition, the clerk of the court shall set the hearing date  
14 and notify the petitioner and the prosecuting attorney of the date of the hearing.  
15 Upon making each of the following findings, the court may reduce or eliminate the  
16 prohibition, impose conditions on reduction or elimination of the prohibition, or  
17 otherwise grant relief from the prohibition as the court deems appropriate:

18 (A) Finds by a preponderance of the evidence that the petitioner is likely to use a  
19 firearm in a safe and lawful manner.

20 (B) Finds that the petitioner is not within a prohibited class as specified in  
21 **subdivision (a), (b), (d), (e), or (g) or Section 12021.1**, and the court is not  
22 presented with any credible evidence that the petitioner is a person described in  
23 **Section 8100 or 8103 of the Welfare and Institutions Code**.

24 (C)(i) Finds that the petitioner does not have a previous conviction under **this**  
25 **subdivision**, no matter when the prior conviction occurred.

26 (ii) In making its decision, the court may consider the interest of justice, any  
27 relevant evidence, and the totality of the circumstances. It is the intent of the  
28 Legislature that courts exercise broad discretion in fashioning appropriate relief  
29 under **this paragraph** in cases in which relief is warranted. However, nothing in  
30 **this paragraph** shall be construed to require courts to grant relief to any particular  
31 petitioner.

32 (4) Law enforcement officials who enforce the prohibition specified in this  
33 subdivision against a person who has been granted relief pursuant to **paragraph (2)**  
34 **or (3)** shall be immune from any liability for false arrest arising from the  
35 enforcement of **this subdivision** unless the person has in his or her possession a  
36 certified copy of the court order that granted the person relief from the prohibition.  
37 This immunity from liability shall not relieve any person or entity from any other  
38 liability that might otherwise be imposed.

39 (d)(1) Any person who, as an express condition of probation, is prohibited or  
40 restricted from owning, possessing, controlling, receiving, or purchasing a firearm  
41 and who owns, purchases, receives, or has in his or her possession or under his or  
42 her custody or control, any firearm but who is not subject to **subdivision (a) or (c)**  
43 is guilty of a public offense, which shall be punishable by imprisonment in a

1 county jail not exceeding one year or in the state prison, by a fine not exceeding  
2 one thousand dollars (\$1,000), or by both that imprisonment and fine. The court,  
3 on forms provided by the Department of Justice, shall notify the department of  
4 persons subject to this subdivision. The notice shall include a copy of the order of  
5 probation and a copy of any minute order or abstract reflecting the order and  
6 conditions of probation.

7 (2) For any person who is subject to subdivision (a), (b), or (c), the court shall, at  
8 the time judgment is imposed, provide on a form supplied by the Department of  
9 Justice, a notice to the defendant prohibited by this section from owning,  
10 purchasing, receiving, possessing or having under his or her custody or control,  
11 any firearm. The notice shall inform the defendant of the prohibition regarding  
12 firearms and include a form to facilitate the transfer of firearms. Failure to provide  
13 the notice shall not be a defense to a violation of this section.

14 (e) Any person who (1) is alleged to have committed an offense listed in  
15 subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense  
16 described in subdivision (b) of Section 1203.073, any offense enumerated in  
17 paragraph (1) of subdivision (c), or any offense described in subdivision (a) of  
18 Section 12025, subdivision (a) of Section 12031, or subdivision (a) of Section  
19 12034, and (2) is subsequently adjudged a ward of the juvenile court within the  
20 meaning of Section 602 of the Welfare and Institutions Code because the person  
21 committed an offense listed in subdivision (b) of Section 707 of the Welfare and  
22 Institutions Code, an offense described in subdivision (b) of Section 1203.073, any  
23 offense enumerated in paragraph (1) of subdivision (c), or any offense described in  
24 subdivision (a) of Section 12025, subdivision (a) of Section 12031, or subdivision  
25 (a) of Section 12034, shall not own, or have in his or her possession or under his  
26 or her custody or control, any firearm until the age of 30 years. A violation of this  
27 subdivision shall be punishable by imprisonment in a county jail not exceeding  
28 one year or in the state prison, by a fine not exceeding one thousand dollars  
29 (\$1,000), or by both that imprisonment and fine. The juvenile court, on forms  
30 prescribed by the Department of Justice, shall notify the department of persons  
31 subject to this subdivision. Notwithstanding any other law, the forms required to  
32 be submitted to the department pursuant to this subdivision may be used to  
33 determine eligibility to acquire a firearm.

34 (f) Subdivision (a) shall not apply to a person who has been convicted of a  
35 felony under the laws of the United States unless either of the following criteria is  
36 satisfied:

37 (1) Conviction of a like offense under California law can only result in  
38 imposition of felony punishment.

39 (2) The defendant was sentenced to a federal correctional facility for more than  
40 30 days, or received a fine of more than one thousand dollars (\$1,000), or received  
41 both punishments.

42 (g)(1) Every person who purchases or receives, or attempts to purchase or  
43 receive, a firearm knowing that he or she is prohibited from doing so by a

1 temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8  
2 of the Code of Civil Procedure, a protective order as defined in Section 6218 of  
3 the Family Code, a protective order issued pursuant to Section 136.2 or 646.91 of  
4 this code, or a protective order issued pursuant to Section 15657.03 of the Welfare  
5 and Institutions Code, is guilty of a public offense, which shall be punishable by  
6 imprisonment in a county jail not exceeding one year or in the state prison, by a  
7 fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment  
8 and fine.

9 (2) Every person who owns or possesses a firearm knowing that he or she is  
10 prohibited from doing so by a temporary restraining order or injunction issued  
11 pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective  
12 order as defined in Section 6218 of the Family Code, a protective order issued  
13 pursuant to Section 136.2 or 646.91 of this code, or a protective order issued  
14 pursuant to Section 15657.03 of the Welfare and Institutions Code, is guilty of a  
15 public offense, which shall be punishable by imprisonment in a county jail not  
16 exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by  
17 both that imprisonment and fine.

18 (3) The Judicial Council shall provide notice on all protective orders that the  
19 respondent is prohibited from owning, possessing, purchasing, receiving, or  
20 attempting to purchase or receive a firearm while the protective order is in effect.  
21 The order shall also state that the firearm shall be relinquished to the local law  
22 enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that  
23 proof of surrender or sale shall be filed within a specified time of receipt of the  
24 order. The order shall state the penalties for a violation of the prohibition. The  
25 order shall also state on its face the expiration date for relinquishment.

26 (4) If probation is granted upon conviction of a violation of this subdivision, the  
27 court shall impose probation consistent with Section 1203.097.

28 (h)(1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of  
29 the following conditions are met:

30 (A) The person found the firearm or took the firearm from a person who was  
31 committing a crime against him or her.

32 (B) The person possessed the firearm no longer than was necessary to deliver or  
33 transport the firearm to a law enforcement agency for that agency's disposition  
34 according to law.

35 (C) If the firearm was transported to a law enforcement agency, it was  
36 transported in accordance with paragraph (18) of subdivision (a) of Section  
37 12026.2.

38 (D) If the firearm is being transported to a law enforcement agency, the person  
39 transporting the firearm has given prior notice to the law enforcement agency that  
40 he or she is transporting the firearm to the law enforcement agency for disposition  
41 according to law.

1 (2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of  
2 fact shall determine whether the defendant was acting within the provisions of the  
3 exemption created by this subdivision.

4 (3) The defendant has the burden of proving by a preponderance of the evidence  
5 that he or she comes within the provisions of the exemption created by this  
6 subdivision.

7 (i) Subject to available funding, the Attorney General, working with the Judicial  
8 Council, the California Alliance Against Domestic Violence, prosecutors, and law  
9 enforcement, probation, and parole officers, shall develop a protocol for the  
10 implementation of the provisions of this section. The protocol shall be designed to  
11 facilitate the enforcement of restrictions on firearm ownership, including  
12 provisions for giving notice to defendants who are restricted, provisions for  
13 informing those defendants of the procedures by which defendants shall dispose of  
14 firearms when required to do so, provisions explaining how defendants shall  
15 provide proof of the lawful disposition of firearms, and provisions explaining how  
16 defendants may obtain possession of seized firearms when legally permitted to do  
17 so pursuant to this section or any other provision of law. The protocol shall be  
18 completed on or before January 1, 2005.

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

20 12021.1. (a) Notwithstanding subdivision (a) of Section 12021, any person who  
21 has been previously convicted of any of the offenses listed in subdivision (b) and  
22 who owns or has in his or her possession or under his or her custody or control any  
23 firearm is guilty of a felony. A dismissal of an accusatory pleading pursuant to  
24 Section 1203.4a involving an offense set forth in subdivision (b) does not affect  
25 the finding of a previous conviction. If probation is granted, or if the imposition or  
26 execution of sentence is suspended, it shall be a condition of the probation or  
27 suspension that the defendant serve at least six months in a county jail.

28 (b) As used in this section, a violent offense includes any of the following:

29 (1) Murder or voluntary manslaughter.

30 (2) Mayhem.

31 (3) Rape.

32 (4) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

33 (5) Oral copulation by force, violence, duress, menace, or threat of great bodily  
34 harm.

35 (6) Lewd acts on a child under the age of 14 years.

36 (7) Any felony punishable by death or imprisonment in the state prison for life.

37 (8) Any other felony in which the defendant inflicts great bodily injury on any  
38 person, other than an accomplice, that has been charged and proven, or any felony  
39 in which the defendant uses a firearm which use has been charged and proven.

40 (9) Attempted murder.

41 (10) Assault with intent to commit rape or robbery.

42 (11) Assault with a deadly weapon or instrument on a peace

- 1 officer.
- 2 (12) Assault by a life prisoner on a noninmate.
- 3 (13) Assault with a deadly weapon by an inmate.
- 4 (14) Arson.
- 5 (15) Exploding a destructive device or any explosive with intent to injure.
- 6 (16) Exploding a destructive device or any explosive causing great bodily injury.
- 7 (17) Exploding a destructive device or any explosive with intent to murder.
- 8 (18) Robbery.
- 9 (19) Kidnapping.
- 10 (20) Taking of a hostage by an inmate of a state prison.
- 11 (21) Attempt to commit a felony punishable by death or imprisonment in the
- 12 state prison for life.
- 13 (22) Any felony in which the defendant personally used a dangerous or deadly
- 14 weapon.
- 15 (23) Escape from a state prison by use of force or violence.
- 16 (24) Assault with a deadly weapon or force likely to produce great bodily injury.
- 17 (25) Any felony violation of Section 186.22.
- 18 (26) Any attempt to commit a crime listed in this subdivision other than an
- 19 assault.
- 20 (27) Any offense enumerated in subdivision (a), (b), or (d) of Section 12001.6.
- 21 (28) Carjacking.
- 22 (29) Any offense enumerated in subdivision (c) of Section 12001.6 if the person
- 23 has two or more convictions for violating paragraph (2) of subdivision (a) of
- 24 Section 417.
- 25 (c) Any person previously convicted of any of the offenses listed in subdivision
- 26 (b) which conviction results from certification by the juvenile court for
- 27 prosecution as an adult in adult court under the provisions of Section 707 of the
- 28 Welfare and Institutions Code, who owns or has in his or her possession or under
- 29 his or her custody or control any firearm is guilty of a felony. If probation is
- 30 granted, or if the imposition or execution of sentence is suspended, it shall be a
- 31 condition of the probation or suspension that the defendant serve at least six
- 32 months in a county jail.
- 33 (d) The court shall apply the minimum sentence as specified in subdivisions (a)
- 34 and (c) except in unusual cases where the interests of justice would best be served
- 35 by granting probation or suspending the imposition or execution of sentence
- 36 without the imprisonment required by subdivisions (a) and (c), or by granting
- 37 probation or suspending the imposition or execution of sentence with conditions
- 38 other than those set forth in subdivisions (a) and (c), in which case the court shall
- 39 specify on the record and shall enter on the minutes the circumstances indicating
- 40 that the interests of justice would best be served by the disposition.

1 **Penal Code § 12021.3. Return or transfer of firearm in custody of court or law enforcement**  
2 **agency**

3 12021.3. (a)(1) Any person who claims title to any firearm that is in the custody  
4 or control of a court or law enforcement agency and who wishes to have the  
5 firearm returned to him or her shall make application for a determination by the  
6 Department of Justice as to whether he or she is eligible to possess a firearm. The  
7 application shall include the following:

8 (A) The applicant's name, date and place of birth, gender, telephone number,  
9 and complete address.

10 (B) Whether the applicant is a United States citizen. If the applicant is not a  
11 United States citizen, he or she shall also provide his or her country of citizenship  
12 and his or her alien registration or I-94 number.

13 (C) If the firearm is a handgun, the firearm's make, model, caliber, barrel length,  
14 handgun type, country of origin, and serial number.

15 (D) For residents of California, the applicant's valid California driver's license  
16 number or valid California identification card number issued by the Department of  
17 Motor Vehicles. For nonresidents of California, a copy of the applicant's military  
18 identification with orders indicating that the individual is stationed in California,  
19 or a copy of the applicant's valid driver's license from the state of residence, or a  
20 copy of the applicant's state identification card from the state of residence. Copies  
21 of the documents provided by non-California residents shall be notarized.

22 (E) The name of the court or law enforcement agency holding the firearm.

23 (F) The signature of the applicant and the date of signature.

24 (G) Any person furnishing a fictitious name or address or knowingly furnishing  
25 any incorrect information or knowingly omitting any information required to be  
26 provided for the application, including any notarized information pursuant to  
27 subparagraph (D) of paragraph (1) of subdivision (a) shall be guilty of a  
28 misdemeanor.

29 (2) A person who owns a firearm that is in the custody of a court or law  
30 enforcement agency and who does not wish to obtain possession of the firearm,  
31 and the firearm is an otherwise legal firearm, and the person otherwise has right to  
32 title of the firearm, shall be entitled to sell or transfer title of the firearm to a  
33 licensed dealer as defined in Section 12071.

34 (3) Any person furnishing a fictitious name or address, or knowingly furnishing  
35 any incorrect information or knowingly omitting any information required to be  
36 provided for the application, including any notarized information pursuant to  
37 subparagraph (D) of paragraph (1) of subdivision (a) is punishable as a  
38 misdemeanor.

39 (b) No law enforcement agency or court that has taken custody of any firearm  
40 may return the firearm to any individual unless the following requirements are  
41 satisfied:

1 (1) That individual presents to the agency or court notification of a  
2 determination by the department pursuant to subdivision (e) that the person is  
3 eligible to possess firearms.

4 (2) If the agency or court has direct access to the Automated Firearms System,  
5 the agency or court has verified that the firearm is not listed as stolen pursuant to  
6 Section 11108, and that the firearm has been recorded in the Automated Firearms  
7 System in the name of the individual who seeks its return.

8 (3) If the firearm has been reported lost or stolen pursuant to Section 11108, a  
9 law enforcement agency shall notify the owner or person entitled to possession  
10 pursuant to Section 11108.5. However, that person shall provide proof of  
11 eligibility to possess a firearm pursuant to subdivision (e). Nothing in this  
12 subdivision shall prevent the local law enforcement agency from charging the  
13 rightful owner or person entitled to possession of the firearm the fees described in  
14 subdivision (j). However, individuals who are applying for a background check to  
15 retrieve a firearm that comes into the custody or control of the court or law  
16 enforcement agency pursuant to subdivision (a) shall be exempt from the fees in  
17 subdivision (c) provided that the court or agency determines the firearm was  
18 reported stolen to a law enforcement agency prior to the date the firearm came into  
19 custody or control of the court or law enforcement agency or within five business  
20 days of the firearm being stolen from its owner. The court or agency shall notify  
21 the Department of Justice of this fee exemption in a manner prescribed by the  
22 department.

23 (c) The Department of Justice shall establish a fee of twenty dollars (\$20) per  
24 request for return of a firearm, plus a three-dollar (\$3) charge for each additional  
25 handgun being processed as part of the request to return a firearm, to cover its  
26 costs for processing firearm clearance determinations submitted pursuant to this  
27 section. The fees shall be deposited into the Dealers' Record of Sale Special  
28 Account. The department may increase the fee by using the California Consumer  
29 Price Index as compiled and reported by the California Department of Industrial  
30 Relations to determine an annual rate of increase. Any fee increase shall be  
31 rounded to the nearest dollar.

32 (d) When the Department of Justice receives a completed application pursuant to  
33 subdivision (a) accompanied with the fee required pursuant to subdivision (c), it  
34 shall conduct an eligibility check of the applicant to determine whether the  
35 applicant is eligible to possess firearms.

36 (e)(1) If the department determines that the applicant is eligible to possess the  
37 firearm, the department shall provide the applicant with written notification that  
38 includes the following:

39 (A) The identity of the applicant.

40 (B) A statement that the applicant is eligible to possess a firearm.

41 (C) If the firearm is a handgun, a description of the handgun by make, model,  
42 and serial number.

1 (2) If the firearm is a handgun, the department shall enter a record of the  
2 handgun into the Automated Firearms System.

3 (3) The department shall have 30 days from the date of receipt to complete the  
4 background check unless delayed by circumstances beyond the control of the  
5 department. The applicant may contact the department to inquire about the reason  
6 for the delay.

7 (f) If the department denies the application, and the firearm is an otherwise legal  
8 firearm, the department shall notify the applicant of the denial and provide a form  
9 for the applicant to use to sell or transfer the firearm to a licensed dealer as defined  
10 in Section 12071. The applicant may contact the department to inquire about the  
11 reason for the denial.

12 (g) Notwithstanding any other provision of law, no law enforcement agency or  
13 court shall be required to retain a firearm for more than 180 days after the owner  
14 of the firearm has been notified by the court or law enforcement agency that the  
15 firearm has been made available for return. An unclaimed firearm may be  
16 disposed of after the 180-day period has expired.

17 (h) Notwithstanding Section 11106, the department may retain personal  
18 information about an applicant in connection with a claim for a firearm that is not  
19 a handgun to allow for law enforcement confirmation of compliance with this  
20 section. The information retained may include personal identifying information  
21 regarding the individual applying for the clearance, but may not include  
22 information that identifies any particular firearm that is not a handgun.

23 (i)(1) If a law enforcement agency determines that the applicant is the legal  
24 owner of any firearm deposited with the law enforcement agency and is prohibited  
25 from possessing any firearm and the firearm is an otherwise legal firearm, the  
26 applicant shall be entitled to sell or transfer the firearm to a licensed dealer as  
27 defined in Section 12071.

28 (2) If the firearm has been lost or stolen, the firearm shall be restored to the  
29 lawful owner pursuant to Section 11108.5 upon his or her identification of the  
30 firearm and proof of ownership, and proof of eligibility to possess a firearm  
31 pursuant to subdivision (e).

32 Nothing in this subdivision shall prevent the local law enforcement agency from  
33 charging the rightful owner of the firearm the fees described in subdivision (j).

34 (3) Subdivision (a) of Section 12070 shall not apply to deliveries, transfers, or  
35 returns of firearms made by a court or a law enforcement agency pursuant to this  
36 section.

37 (4) Subdivision (d) of Section 12072 shall not apply to deliveries, transfers, or  
38 returns of firearms made pursuant to this section.

39 (j)(1) A city, county, or city and county, or a state agency may adopt a  
40 regulation, ordinance, or resolution imposing a charge equal to its administrative  
41 costs relating to the seizure, impounding, storage, or release of firearms. The fees  
42 shall not exceed the actual costs incurred for the expenses directly related to taking  
43 possession of a firearm, storing the firearm, and surrendering possession of the

1 firearm to a licensed firearms dealer or to the owner. Those administrative costs  
2 may be waived by the local or state agency upon verifiable proof that the firearm  
3 was reported stolen at the time the firearm came into the custody or control of the  
4 law enforcement agency.

5 (2) The following apply to any charges imposed for administrative costs  
6 pursuant to this subdivision:

7 (A) The charges shall only be imposed on the person claiming title to the  
8 firearms.

9 (B) Any charges shall be collected by the local or state authority only from the  
10 person claiming title to the firearm.

11 (C) The charges shall be in addition to any other charges authorized or imposed  
12 pursuant to this code.

13 (D) No charge may be imposed for any hearing or appeal relating to the  
14 removal, impound, storage, or release of a firearm unless that hearing or appeal  
15 was requested in writing by the legal owner of the firearm. In addition, the charge  
16 may be imposed only upon the person requesting that hearing or appeal.

17 (3) No costs for any hearing or appeal related to the release of a firearm shall be  
18 charged to the legal owner who redeems the firearm unless the legal owner  
19 voluntarily requests the post storage hearing or appeal. No city, county, city and  
20 county, or state agency shall require a legal owner to request a poststorage hearing  
21 as a requirement for release of the firearm to the legal owner.

22 (k) In a proceeding for the return of a firearm seized and not returned pursuant  
23 to this section, where the defendant or cross-defendant is a law enforcement  
24 agency, the court shall award reasonable attorney's fees to the prevailing party.

25 **Penal Code § 12021.5. Street gang crimes**

26 12021.5. (a) Every person who carries a loaded or unloaded firearm on his or her  
27 person, or in a vehicle, during the commission or attempted commission of any  
28 street gang crimes described in subdivision (a) or (b) of Section 186.22, shall,  
29 upon conviction of the felony or attempted felony, be punished by an additional  
30 term of imprisonment in the state prison for one, two, or three years in the court's  
31 discretion. The court shall impose the middle term unless there are circumstances  
32 in aggravation or mitigation. The court shall state the reasons for its enhancement  
33 choice on the record at the time of sentence.

34 (b) Every person who carries a loaded or unloaded firearm together with a  
35 detachable shotgun magazine, a detachable pistol magazine, a detachable  
36 magazine, or a belt-feeding device on his or her person, or in a vehicle, during the  
37 commission or attempted commission of any street gang crimes described in  
38 subdivision (a) or (b) of Section 186.22, shall, upon conviction of the felony or  
39 attempted felony, be punished by an additional term of imprisonment in the state  
40 prison for two, three, or four years in the court's discretion. The court shall impose  
41 the middle term unless there are circumstances in aggravation or mitigation. The

1 court shall state the reasons for its enhancement choice on the record at the time of  
2 sentence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (5) **“Rifle”** shall have the same meaning as specified in **paragraph (20) of**  
32 **subdivision (c) of Section 12020.**

33 (6) **“Shotgun”** shall have the same meaning as specified in **paragraph (21) of**  
34 **subdivision (c) of Section 12020.**

35 **Penal Code § 12022. Armed with firearm in commission of felony**

36 12022. (a)(1) Except as provided in **subdivisions (c) and (d)**, any person who is  
37 armed with a firearm in the commission of a felony or attempted felony shall be  
38 punished by an additional and consecutive term of imprisonment in the state  
39 prison for one year, unless the arming is an element of that offense. This additional  
40 term shall apply to any person who is a principal in the commission of a felony or  
41 attempted felony if one or more of the principals is armed with a firearm, whether  
42 or not the person is personally armed with a firearm.

1 (2) Except as provided in subdivision (c), and notwithstanding subdivision (d), if  
2 the firearm is an assault weapon, as defined in Section 12276 or Section 12276.1,  
3 or a machinegun, as defined in Section 12200, or a .50 BMG rifle, as defined in  
4 Section 12278, the additional and consecutive term described in this subdivision  
5 shall be three years whether or not the arming is an element of the offense of  
6 which the person was convicted. The additional term provided in this paragraph  
7 shall apply to any person who is a principal in the commission of a felony or  
8 attempted felony if one or more of the principals is armed with an assault weapon  
9 or machinegun, or a .50 BMG rifle, whether or not the person is personally armed  
10 with an assault weapon or machinegun, or a .50 BMG rifle.

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

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

17 (3) When a person is found to have personally used a deadly or dangerous  
18 weapon in the commission of a felony or attempted felony as provided in this  
19 subdivision and the weapon is owned by that person, the court shall order that the  
20 weapon be deemed a nuisance and disposed of in the manner provided in Section  
21 12028.

22 (c) Notwithstanding the enhancement set forth in subdivision (a), any person  
23 who is personally armed with a firearm in the commission of a violation or  
24 attempted violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378,  
25 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code, shall be  
26 punished by an additional and consecutive term of imprisonment in the state  
27 prison for three, four, or five years.

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

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

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

1 **Penal Code § 12022.1. Felony committed during release from custody on bail or on own**  
2 **recognizance**

3 12022.1. (a) For the purposes of **this section** only:

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

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

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

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

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

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

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

40 (g) If the primary offense conviction is reversed on appeal, the enhancement  
41 shall be suspended pending retrial of that felony. Upon retrial and reconviction,  
42 the enhancement shall be reimposed. If the person is no longer in custody for the  
43 secondary offense upon reconviction of the primary offense, the court may, at its

1 discretion, reimpose the enhancement and order him or her recommitted to  
2 custody.

3 **Penal Code § 12022.2. Possession of armor-piercing ammunition or body vest**

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

12 (b) Any person who wears a body vest in the commission or attempted  
13 commission of a violent offense, as defined in subdivision (b) of Section 12021.1,  
14 shall, upon conviction of that felony or attempted felony, in addition and  
15 consecutive to the punishment prescribed for the felony or attempted felony of  
16 which he or she has been convicted, be punished by an additional term of one,  
17 two, or five years. The court shall order the middle term unless there are  
18 circumstances in aggravation or mitigation. The court shall state the reasons for its  
19 enhancement choice on the record at the time of the sentence.

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

22 **Penal Code § 12022.3. Use or possession of weapons in commission of certain sex offenses**

23 12022.3. For each violation or attempted violation of Section 261, 262, 264.1,  
24 286, 288, 288a, or 289, and in addition to the sentence provided, any person shall  
25 receive the following:

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

28 (b) A one-, two-, or five-year enhancement if the person is armed with a firearm  
29 or a deadly weapon. The court shall order the middle term unless there are  
30 circumstances in aggravation or mitigation.

31 The court shall state the reasons for its enhancement choice on the record at the  
32 time of the sentence.

33 **Penal Code § 12022.4. Furnishing firearm in furtherance of felony**

34 12022.4. Any person who, during the commission or attempted commission of a  
35 felony, furnishes or offers to furnish a firearm to another for the purpose of aiding,  
36 abetting, or enabling that person or any other person to commit a felony shall, in  
37 addition and consecutive to the punishment prescribed by the felony or attempted  
38 felony of which the person has been convicted, be punished by an additional term  
39 of one, two, or three years in the state prison. The court shall order the middle  
40 term unless there are circumstances in aggravation or mitigation. The court shall

1 state the reasons for its enhancement choice on the record at the time of the  
2 sentence. The additional term provided in **this section** shall not be imposed unless  
3 the fact of the furnishing is charged in the accusatory pleading and admitted or  
4 found to be true by the trier of fact.

5 **Penal Code § 12022.5. Use of firearm in commission of felony**

6 12022.5. (a) Except as provided in **subdivision (b)**, any person who personally  
7 uses a firearm in the commission of a felony or attempted felony shall be punished  
8 by an additional and consecutive term of imprisonment in the state prison for 3, 4,  
9 or 10 years, unless use of a firearm is an element of that offense.

10 (b) Notwithstanding **subdivision (a)**, any person who personally uses an assault  
11 weapon, as specified in **Section 12276 or Section 12276.1**, or a machinegun, as  
12 defined in **Section 12200**, in the commission of a felony or attempted felony, shall  
13 be punished by an additional and consecutive term of imprisonment in the state  
14 prison for 5, 6, or 10 years.

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

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

24 (e) When a person is found to have personally used a firearm, an assault  
25 weapon, a machinegun, or a .50 BMG rifle, in the commission of a felony or  
26 attempted felony as provided in **this section** and the firearm, assault weapon,  
27 machinegun, or a .50 BMG rifle, is owned by that person, the court shall order that  
28 the firearm be deemed a nuisance and disposed of in the manner provided in  
29 **Section 12028**.

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

32 **Penal Code § 12022.53. Use of weapon in commission of specified violent offenses**

33 12022.53. (a) **This section** applies to the following felonies:

34 (1) **Section 187** (murder).

35 (2) **Section 203 or 205** (mayhem).

36 (3) **Section 207, 209, or 209.5** (kidnapping).

37 (4) **Section 211** (robbery).

38 (5) **Section 215** (carjacking).

39 (6) **Section 220** (assault with intent to commit a specified felony).

40 (7) **Subdivision (d) of Section 245** (assault with a firearm on a peace officer or  
41 firefighter).

- 1 (8) Section 261 or 262 (rape).
- 2 (9) Section 264.1 (rape or sexual penetration in concert).
- 3 (10) Section 286 (sodomy).
- 4 (11) Section 288 or 288.5 (lewd act on a child).
- 5 (12) Section 288a (oral copulation).
- 6 (13) Section 289 (sexual penetration).
- 7 (14) Section 4500 (assault by a life prisoner).
- 8 (15) Section 4501 (assault by a prisoner).
- 9 (16) Section 4503 (holding a hostage by a prisoner).
- 10 (17) Any felony punishable by death or imprisonment in the state prison for life.
- 11 (18) Any attempt to commit a crime listed in this subdivision other than an
- 12 assault.

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

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

22 (d) Notwithstanding any other provision of law, any person who, in the  
23 commission of a felony specified in subdivision (a), Section 246, or subdivision  
24 (c) or (d) of Section 12034, personally and intentionally discharges a firearm and  
25 proximately causes great bodily injury, as defined in Section 12022.7, or death, to  
26 any person other than an accomplice, shall be punished by an additional and  
27 consecutive term of imprisonment in the state prison for 25 years to life.

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

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

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

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

39 (f) Only one additional term of imprisonment under this section shall be  
40 imposed per person for each crime. If more than one enhancement per person is  
41 found true under this section, the court shall impose upon that person the  
42 enhancement that provides the longest term of imprisonment. An enhancement  
43 involving a firearm specified in Section 12021.5, 12022, 12022.3, 12022.4,

1 12022.5, or 12022.55 shall not be imposed on a person in addition to an  
2 enhancement imposed pursuant to this section. An enhancement for great bodily  
3 injury as defined in Section 12022.7, 12022.8, or 12022.9 shall not be imposed on  
4 a person in addition to an enhancement imposed pursuant to subdivision (d).

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

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

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

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

24 (k) When a person is found to have used or discharged a firearm in the  
25 commission of an offense that includes an allegation pursuant to this section and  
26 the firearm is owned by that person, a coparticipant, or a coconspirator, the court  
27 shall order that the firearm be deemed a nuisance and disposed of in the manner  
28 provided in Section 12028.

29 (l) The enhancements specified in this section shall not apply to the lawful use  
30 or discharge of a firearm by a public officer, as provided in Section 196, or by any  
31 person in lawful self-defense, lawful defense of another, or lawful defense of  
32 property, as provided in Sections 197, 198, and 198.5.

33 **Penal Code § 12022.55. Discharge of firearm from motor vehicle**

34 12022.55. Notwithstanding Section 12022.5, any person who, with the intent to  
35 inflict great bodily injury or death, inflicts great bodily injury, as defined in  
36 Section 12022.7, or causes the death of a person, other than an occupant of a  
37 motor vehicle, as a result of discharging a firearm from a motor vehicle in the  
38 commission of a felony or attempted felony, shall be punished by an additional  
39 and consecutive term of imprisonment in the state prison for 5, 6, or 10 years.

1 **Penal Code § 12022.6. Taking, damage, or destruction of property during commission or**  
2 **attempted commission of felony**

3 12022.6. (a) When any person takes, damages, or destroys any property in the  
4 commission or attempted commission of a felony, with the intent to cause that  
5 taking, damage, or destruction, the court shall impose an additional term as  
6 follows:

7 (1) If the loss exceeds fifty thousand dollars (\$50,000), the court, in addition and  
8 consecutive to the punishment prescribed for the felony or attempted felony of  
9 which the defendant has been convicted, shall impose an additional term of one  
10 year.

11 (2) If the loss exceeds one hundred fifty thousand dollars (\$150,000), the court,  
12 in addition and consecutive to the punishment prescribed for the felony or  
13 attempted felony of which the defendant has been convicted, shall impose an  
14 additional term of two years.

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

19 (4) If the loss exceeds two million five hundred thousand dollars (\$2,500,000),  
20 the court, in addition and consecutive to the punishment prescribed for the felony  
21 or attempted felony of which the defendant has been convicted, shall impose an  
22 additional term of four years.

23 (b) In any accusatory pleading involving multiple charges of taking, damage, or  
24 destruction, the additional terms provided in **this section** may be imposed if the  
25 aggregate losses to the victims from all felonies exceed the amounts specified in  
26 **this section** and arise from a common scheme or plan. All pleadings under **this**  
27 **section** shall remain subject to the rules of joinder and severance stated in **Section**  
28 **954**.

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

33 (d) **This section** applies to, but is not limited to, property taken, damaged, or  
34 destroyed in violation of **Section 502** or **subdivision (b) of Section 502.7**. **This**  
35 **section** shall also apply to applicable prosecutions for a violation of **Section 350,**  
36 **653h, 653s, or 653w**.

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

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

41 (2) When counterfeited but unassembled components of computer software  
42 packages are recovered, including, but not limited to, counterfeited computer  
43 diskettes, instruction manuals, or licensing envelopes, the **“loss”** from the

1 counterfeiting of those components of computer software packages shall be  
2 equivalent to the retail price or fair market value of the number of completed  
3 computer software packages that could have been made from those components.

4 (f) It is the intent of the Legislature that the provisions of **this section** be  
5 reviewed within 10 years to consider the effects of inflation on the additional  
6 terms imposed. For that reason, **this section** shall remain in effect only until  
7 January 1, 2008, and as of that date is repealed unless a later enacted statute,  
8 which is enacted before January 1, 2008, deletes or extends that date.

9 **Penal Code § 12022.7. Infliction of great bodily injury**

10 12022.7. (a) Any person who personally inflicts great bodily injury on any  
11 person other than an accomplice in the commission of a felony or attempted felony  
12 shall be punished by an additional and consecutive term of imprisonment in the  
13 state prison for three years.

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

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

25 (d) Any person who personally inflicts great bodily injury on a child under the  
26 age of five years in the commission of a felony or attempted felony shall be  
27 punished by an additional and consecutive term of imprisonment in the state  
28 prison for four, five, or six years.

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

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

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

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

1 **Penal Code § 12022.75. Administering controlled substance against victim's will**

2 12022.75. (a) Except as provided in subdivision (b), any person who, for the  
3 purpose of committing a felony, administers by injection, inhalation, ingestion, or  
4 any other means, any controlled substance listed in Section 11054, 11055, 11056,  
5 11057, or 11058 of the Health and Safety Code, against the victim's will by means  
6 of force, violence, or fear of immediate and unlawful bodily injury to the victim or  
7 another person, shall, in addition and consecutive to the penalty provided for the  
8 felony or attempted felony of which he or she has been convicted, be punished by  
9 an additional term of three years.

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

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

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

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

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

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

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

21 **Penal Code § 12022.8. Infliction of great bodily injury in commission of certain sex offenses**

22 12022.8. Any person who inflicts great bodily injury, as defined in Section  
23 12022.7, on any victim in a violation or attempted violation of paragraph (2), (3),  
24 or (6) of subdivision (a) of Section 261, paragraph (1) or (4) of subdivision (a) of  
25 Section 262, Section 264.1, subdivision (b) of Section 288, subdivision (a) of  
26 Section 289, or sodomy or oral copulation by force, violence, duress, menace, or  
27 fear of immediate and unlawful bodily injury on the victim or another person as  
28 provided in Section 286 or 288a shall receive a five-year enhancement for each  
29 such violation in addition to the sentence provided for the felony conviction.

30 **Penal Code § 12022.85. Sex offense with knowledge of AIDS or HIV infection**

31 12022.85. (a) Any person who violates one or more of the offenses listed in  
32 subdivision (b) with knowledge that he or she has acquired immune deficiency  
33 syndrome (AIDS) or with the knowledge that he or she carries antibodies of the  
34 human immunodeficiency virus at the time of the commission of those offenses,  
35 shall receive a three-year enhancement for each violation in addition to the  
36 sentence provided under those sections.

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

38 (1) Rape in violation of Section 261.

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

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

1 (4) Sodomy in violation of Section 286.

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

3 (c) For purposes of proving the knowledge requirement of this section, the  
4 prosecuting attorney may use test results received under subdivision (c) of Section  
5 1202.1 or subdivision (g) of Section 1202.6.

6 **Penal Code § 12022.9. Intentional infliction of injury causing termination of pregnancy**

7 12022.9. Any person who, during the commission of a felony or attempted  
8 felony, knows or reasonably should know that the victim is pregnant, and who,  
9 with intent to inflict injury, and without the consent of the woman, personally  
10 inflicts injury upon a pregnant woman that results in the termination of the  
11 pregnancy shall be punished by an additional and consecutive term of  
12 imprisonment in the state prison for five years. The additional term provided in  
13 this subdivision shall not be imposed unless the fact of that injury is charged in the  
14 accusatory pleading and admitted or found to be true by the trier of fact.

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

17 **Penal Code § 12022.95. Willful harm or injury resulting in death of child**

18 12022.95. Any person convicted of a violation of Section 273a, who under  
19 circumstances or conditions likely to produce great bodily harm or death, willfully  
20 causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain  
21 or injury that results in death, or having the care or custody of any child, under  
22 circumstances likely to produce great bodily harm or death, willfully causes or  
23 permits that child to be injured or harmed, and that injury or harm results in death,  
24 shall receive a four-year enhancement for each violation, in addition to the  
25 sentence provided for that conviction. Nothing in this paragraph shall be construed  
26 as affecting the applicability of subdivision (a) of Section 187 or Section 192. This  
27 section shall not apply unless the allegation is included within an accusatory  
28 pleading and admitted by the defendant or found to be true by the trier of fact.

29 **Penal Code § 12023. Armed criminal action**

30 12023. (a) Every person who carries a loaded firearm with the intent to commit  
31 a felony is guilty of armed criminal action.

32 (b) Armed criminal action is punishable by imprisonment in a county jail not  
33 exceeding one year, or in the state prison.

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

35 12024. Every person having upon him or her any deadly weapon, with intent to  
36 assault another, is guilty of a misdemeanor.

1 **Penal Code § 12025. Carrying concealed firearm**

2 12025. (a) A person is guilty of carrying a concealed firearm when he or she  
3 does any of the following:

4 (1) Carries concealed within any vehicle which is under his or her control or  
5 direction any pistol, revolver, or other firearm capable of being concealed upon the  
6 person.

7 (2) Carries concealed upon his or her person any pistol, revolver, or other  
8 firearm capable of being concealed upon the person.

9 (3) Causes to be carried concealed within any vehicle in which he or she is an  
10 occupant any pistol, revolver, or other firearm capable of being concealed upon  
11 the person.

12 (b) Carrying a concealed firearm in violation of **this section** is punishable, as  
13 follows:

14 (1) Where the person previously has been convicted of any felony, or of any  
15 crime made punishable by **this chapter**, as a felony.

16 (2) Where the firearm is stolen and the person knew or had reasonable cause to  
17 believe that it was stolen, as a felony.

18 (3) Where the person is an active participant in a criminal street gang, as defined  
19 in **subdivision (a) of Section 186.22, under the Street Terrorism Enforcement and**  
20 **Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part**  
21 **1), as a felony.**

22 (4) Where the person is not in lawful possession of the firearm, as defined in **this**  
23 **section**, or the person is within a class of persons prohibited from possessing or  
24 acquiring a firearm pursuant to **Section 12021 or 12021.1 of this code or Section**  
25 **8100 or 8103 of the Welfare and Institutions Code**, as a felony.

26 (5) Where the person has been convicted of a crime against a person or property,  
27 or of a narcotics or dangerous drug violation, by imprisonment in the state prison,  
28 or by imprisonment in a county jail not to exceed one year, by a fine not to exceed  
29 one thousand dollars (\$1,000), or by both that imprisonment and fine.

30 (6) By imprisonment in the state prison, or by imprisonment in a county jail not  
31 to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by  
32 both that fine and imprisonment if both of the following conditions are met:

33 (A) Both the pistol, revolver, or other firearm capable of being concealed upon  
34 the person and the unexpended ammunition capable of being discharged from that  
35 firearm are either in the immediate possession of the person or readily accessible  
36 to that person, or the pistol, revolver, or other firearm capable of being concealed  
37 upon the person is loaded as defined in **subdivision (g) of Section 12031.**

38 (B) The person is not listed with the Department of Justice pursuant to  
39 **paragraph (1) of subdivision (c) of Section 11106**, as the registered owner of that  
40 pistol, revolver, or other firearm capable of being concealed upon the person.

41 (7) In all cases other than those specified in **paragraphs (1) to (6), inclusive**, by  
42 imprisonment in a county jail not to exceed one year, by a fine not to exceed one  
43 thousand dollars (\$1,000), or by both that imprisonment and fine.

1 (c) A peace officer may arrest a person for a violation of paragraph (6) of  
2 subdivision (b) if the peace officer has probable cause to believe that the person is  
3 not listed with the Department of Justice pursuant to paragraph (1) of subdivision  
4 (c) of Section 11106 as the registered owner of the pistol, revolver, or other  
5 firearm capable of being concealed upon the person, and one or more of the  
6 conditions in subparagraph (A) of paragraph (6) of subdivision (b) is met.

7 (d)(1) Every person convicted under this section who previously has been  
8 convicted of a misdemeanor offense enumerated in Section 12001.6 shall be  
9 punished by imprisonment in a county jail for at least three months and not  
10 exceeding six months, or, if granted probation, or if the execution or imposition of  
11 sentence is suspended, it shall be a condition thereof that he or she be imprisoned  
12 in a county jail for at least three months.

13 (2) Every person convicted under this section who has previously been  
14 convicted of any felony, or of any crime made punishable by this chapter, if  
15 probation is granted, or if the execution or imposition of sentence is suspended, it  
16 shall be a condition thereof that he or she be imprisoned in a county jail for not  
17 less than three months.

18 (e) The court shall apply the three-month minimum sentence as specified in  
19 subdivision (d), except in unusual cases where the interests of justice would best  
20 be served by granting probation or suspending the imposition or execution of  
21 sentence without the minimum imprisonment required in subdivision (d) or by  
22 granting probation or suspending the imposition or execution of sentence with  
23 conditions other than those set forth in subdivision (d), in which case, the court  
24 shall specify on the record and shall enter on the minutes the circumstances  
25 indicating that the interests of justice would best be served by that disposition.

26 (f) Firearms carried openly in belt holsters are not concealed within the meaning  
27 of this section.

28 (g) For purposes of this section, **“lawful possession of the firearm”** means that  
29 the person who has possession or custody of the firearm either lawfully owns the  
30 firearm or has the permission of the lawful owner or a person who otherwise has  
31 apparent authority to possess or have custody of the firearm. A person who takes a  
32 firearm without the permission of the lawful owner or without the permission of a  
33 person who has lawful custody of the firearm does not have lawful possession of  
34 the firearm.

35 (h)(1) The district attorney of each county shall submit annually a report on or  
36 before June 30, to the Attorney General consisting of profiles by race, age, gender,  
37 and ethnicity of any person charged with a felony or a misdemeanor under this  
38 section and any other offense charged in the same complaint, indictment, or  
39 information.

40 (2) The Attorney General shall submit annually, a report on or before December  
41 31, to the Legislature compiling all of the reports submitted pursuant to paragraph  
42 (1).

1 (3) This subdivision shall remain operative until January 1, 2005, and as of that  
2 date shall be repealed.

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

4 12025.5. (a) A violation of Section 12025 is justifiable when a person who  
5 possesses a firearm reasonably believes that he or she is in grave danger because  
6 of circumstances forming the basis of a current restraining order issued by a court  
7 against another person or persons who has or have been found to pose a threat to  
8 his or her life or safety. This section may not apply when the circumstances  
9 involve a mutual restraining order issued pursuant to Division 10 (commencing  
10 with Section 6200) of the Family Code absent a factual finding of a specific threat  
11 to the person's life or safety. It is not the intent of the Legislature to limit, restrict,  
12 or narrow the application of current statutory or judicial authority to apply this or  
13 other justifications to defendants charged with violating Section 12025 or of  
14 committing other similar offenses.

15 (b) Upon trial for violating Section 12025, the trier of fact shall determine  
16 whether the defendant was acting out of a reasonable belief that he or she was in  
17 grave danger.

18 **Penal Code § 12026. Carrying or possession of firearm at one's place of residence, place of  
19 business, or other private property**

20 12026. (a) Section 12025 shall not apply to or affect any citizen of the United  
21 States or legal resident over the age of 18 years who resides or is temporarily  
22 within this state, and who is not within the excepted classes prescribed by Section  
23 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and  
24 Institutions Code, who carries, either openly or concealed, anywhere within the  
25 citizen's or legal resident's place of residence, place of business, or on private  
26 property owned or lawfully possessed by the citizen or legal resident any pistol,  
27 revolver, or other firearm capable of being concealed upon the person.

28 (b) No permit or license to purchase, own, possess, keep, or carry, either openly  
29 or concealed, shall be required of any citizen of the United States or legal resident  
30 over the age of 18 years who resides or is temporarily within this state, and who is  
31 not within the excepted classes prescribed by Section 12021 or 12021.1 of this  
32 code or Section 8100 or 8103 of the Welfare and Institutions Code, to purchase,  
33 own, possess, keep, or carry, either openly or concealed, a pistol, revolver, or other  
34 firearm capable of being concealed upon the person within the citizen's or legal  
35 resident's place of residence, place of business, or on private property owned or  
36 lawfully possessed by the citizen or legal resident.

37 (c) Nothing in this section shall be construed as affecting the application of  
38 Section 12031.

1 **Penal Code § 12026.1. Carrying firearm in locked container**

2 12026.1. (a) Section 12025 shall not be construed to prohibit any citizen of the  
3 United States over the age of 18 years who resides or is temporarily within this  
4 state, and who is not within the excepted classes prescribed by Section 12021 or  
5 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code,  
6 from transporting or carrying any pistol, revolver, or other firearm capable of  
7 being concealed upon the person, provided that the following applies to the  
8 firearm:

9 (1) The firearm is within a motor vehicle and it is locked in the vehicle's trunk  
10 or in a locked container in the vehicle other than the utility or glove compartment.

11 (2) The firearm is carried by the person directly to or from any motor vehicle for  
12 any lawful purpose and, while carrying the firearm, the firearm is contained within  
13 a locked container.

14 (b) The provisions of this section do not prohibit or limit the otherwise lawful  
15 carrying or transportation of any pistol, revolver, or other firearm capable of being  
16 concealed upon the person in accordance with this chapter.

17 (c) As used in this section, "locked container" means a secure container which  
18 is fully enclosed and locked by a padlock, key lock, combination lock, or similar  
19 locking device.

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

22 12026.2. (a) Section 12025 does not apply to, or affect, any of the following:

23 (1) The possession of a firearm by an authorized participant in a motion picture,  
24 television, or video production or entertainment event when the participant  
25 lawfully uses the firearm as part of that production or event or while going directly  
26 to, or coming directly from, that production or event.

27 (2) The possession of a firearm in a locked container by a member of any club or  
28 organization, organized for the purpose of lawfully collecting and lawfully  
29 displaying pistols, revolvers, or other firearms, while the member is at meetings of  
30 the clubs or organizations or while going directly to, and coming directly from,  
31 those meetings.

32 (3) The transportation of a firearm by a participant when going directly to, or  
33 coming directly from, a recognized safety or hunter safety class, or a recognized  
34 sporting event involving that firearm.

35 (4) The transportation of a firearm by a person listed in Section 12026 directly  
36 between any of the places mentioned in Section 12026.

37 (5) The transportation of a firearm by a person when going directly to, or  
38 coming directly from, a fixed place of business or private residential property for  
39 the purpose of the lawful repair or the lawful transfer, sale, or loan of that firearm.

40 (6) The transportation of a firearm by a person listed in Section 12026 when  
41 going directly from the place where that person lawfully received that firearm to

1 that person's place of residence or place of business or to private property owned  
2 or lawfully possessed by that person.

3 (7) The transportation of a firearm by a person when going directly to, or  
4 coming directly from, a gun show, swap meet, or similar event to which the public  
5 is invited, for the purpose of displaying that firearm in a lawful manner.

6 (8) The transportation of a firearm by an authorized employee or agent of a  
7 supplier of firearms when going directly to, or coming directly from, a motion  
8 picture, television, or video production or entertainment event for the purpose of  
9 providing that firearm to an authorized participant to lawfully use as a part of that  
10 production or event.

11 (9) The transportation of a firearm by a person when going directly to, or  
12 coming directly from, a target range, which holds a regulatory or business license,  
13 for the purposes of practicing shooting at targets with that firearm at that target  
14 range.

15 (10) The transportation of a firearm by a person when going directly to, or  
16 coming directly from, a place designated by a person authorized to issue licenses  
17 pursuant to **Section 12050** when done at the request of the issuing agency so that  
18 the issuing agency can determine whether or not a license should be issued to that  
19 person to carry that firearm.

20 (11) The transportation of a firearm by a person when going directly to, or  
21 coming directly from, a lawful camping activity for the purpose of having that  
22 firearm available for lawful personal protection while at the lawful campsite. **This**  
23 **paragraph** shall not be construed to override the statutory authority granted to the  
24 Department of Parks and Recreation or any other state or local governmental  
25 agencies to promulgate rules and regulations governing the administration of parks  
26 and campgrounds.

27 (12) The transportation of a firearm by a person in order to comply with  
28 **subdivision (c) or (i) of Section 12078** as it pertains to that firearm.

29 (13) The transportation of a firearm by a person in order to utilize **subdivision (l)**  
30 **of Section 12078** as it pertains to that firearm.

31 (14) The transportation of a firearm by a person when going directly to, or  
32 coming directly from, a gun show or event, as defined in **Section 478.100 of Title**  
33 **27 of the Code of Federal Regulations**, for the purpose of lawfully transferring,  
34 selling, or loaning that firearm in accordance with **subdivision (d) of Section**  
35 **12072**.

36 (15) The transportation of a firearm by a person in order to utilize **paragraph (6)**  
37 **of subdivision (a) of Section 12078** as it pertains to that firearm.

38 (16) The transportation of a firearm by a person who finds the firearm in order  
39 to comply with **Article 1 (commencing with Section 2080) of Chapter 4 of**  
40 **Division 3 of the Civil Code** as it pertains to that firearm and if that firearm is  
41 being transported to a law enforcement agency, the person gives prior notice to the  
42 law enforcement agency that he or she is transporting the firearm to the law  
43 enforcement agency.

1 (17) The transportation of a firearm by a person in order to comply with  
2 paragraph (2) of subdivision (f) of Section 12072 as it pertains to that firearm.

3 (18) The transportation of a firearm by a person who finds the firearm and is  
4 transporting it to a law enforcement agency for disposition according to law, if he  
5 or she gives prior notice to the law enforcement agency that he or she is  
6 transporting the firearm to the law enforcement agency for disposition according  
7 to law.

8 (19) The transportation of a firearm by a person in order to comply with  
9 paragraph (3) of subdivision (f) of Section 12072 as it pertains to that firearm.

10 (20) The transportation of a firearm by a person for the purpose of obtaining an  
11 identification number or mark assigned for that firearm from the Department of  
12 Justice pursuant to Section 12092.

13 (b) In order for a firearm to be exempted under subdivision (a), while being  
14 transported to or from a place, the firearm shall be unloaded, kept in a locked  
15 container, as defined in subdivision (d), and the course of travel shall include only  
16 those deviations between authorized locations as are reasonably necessary under  
17 the circumstances.

18 (c) This section does not prohibit or limit the otherwise lawful carrying or  
19 transportation of any pistol, revolver, or other firearm capable of being concealed  
20 upon the person in accordance with this chapter.

21 (d) As used in this section, “locked container” means a secure container which  
22 is fully enclosed and locked by a padlock, keylock, combination lock, or similar  
23 locking device. The term “locked container” does not include the utility or glove  
24 compartment of a motor vehicle.

25 **Penal Code § 12027. Additional exemptions from restriction on carrying concealed firearm**

26 12027. Section 12025 does not apply to, or affect, any of the following:

27 (a)(1)(A) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a)  
28 of Section 830.33, whether active or honorably retired, other duly appointed peace  
29 officers, honorably retired peace officers listed in subdivision (c) of Section 830.5,  
30 other honorably retired peace officers who during the course and scope of their  
31 employment as peace officers were authorized to, and did, carry firearms, full-time  
32 paid peace officers of other states and the federal government who are carrying out  
33 official duties while in California, or any person summoned by any of these  
34 officers to assist in making arrests or preserving the peace while he or she is  
35 actually engaged in assisting that officer. Any peace officer described in this  
36 paragraph who has been honorably retired shall be issued an identification  
37 certificate by the law enforcement agency from which the officer has retired. The  
38 issuing agency may charge a fee necessary to cover any reasonable expenses  
39 incurred by the agency in issuing certificates pursuant to this subdivision. As used  
40 in this section and Section 12031, the term “honorably retired” includes all  
41 peace officers who have qualified for, and have accepted, a service or disability  
42 retirement. For purposes of this section and Section 12031, the term “honorably

1 **retired”** does not include an officer who has agreed to a service retirement in lieu  
2 of termination.

3 (B) Any officer, except an officer listed in Section 830.1 or 830.2, subdivision  
4 (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to  
5 January 1, 1981, shall have an endorsement on the identification certificate stating  
6 that the issuing agency approves the officer’s carrying of a concealed firearm.

7 (C) No endorsement or renewal endorsement issued pursuant to paragraph (2)  
8 shall be effective unless it is in the format set forth in subparagraph (D), except  
9 that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision  
10 (c) of Section 830.5, who is retired between January 2, 1981, and on or before  
11 December 31, 1988, and who is authorized to carry a concealed firearm pursuant  
12 to this section, shall not be required to have an endorsement in the format set forth  
13 in subparagraph (D) until the time of the issuance, on or after January 1, 1989, of a  
14 renewal endorsement pursuant to paragraph (2).

15 (D) A certificate issued pursuant to this paragraph for persons who are not listed  
16 in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of  
17 Section 830.5 or for persons retiring after January 1, 1981, shall be in the  
18 following format: it shall be on a 2X3 inch card, bear the photograph of the retiree,  
19 the retiree’s name, address, date of birth, the date that the retiree retired, name and  
20 address of the agency from which the retiree retired, have stamped on it the  
21 endorsement “CCW Approved” and the date the endorsement is to be renewed.

22 (E) For purposes of this section and Section 12031, “CCW” means “carry  
23 concealed weapons.”

24 (2) A retired peace officer, except an officer listed in Section 830.1 or 830.2,  
25 subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired  
26 prior to January 1, 1981, shall petition the issuing agency for the renewal of his or  
27 her privilege to carry a concealed firearm every five years. An honorably retired  
28 peace officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or  
29 subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be  
30 required to obtain an endorsement from the issuing agency to carry a concealed  
31 firearm. The agency from which a peace officer is honorably retired may, upon  
32 initial retirement of that peace officer, or at any time subsequent thereto, deny or  
33 revoke for good cause the retired officer’s privilege to carry a concealed firearm.  
34 A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section  
35 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981,  
36 shall have his or her privilege to carry a concealed firearm denied or revoked by  
37 having the agency from which the officer retired stamp on the officer’s  
38 identification certificate “No CCW privilege.”

39 (3) An honorably retired peace officer who is listed in subdivision (c) of Section  
40 830.5 and authorized to carry concealed firearms by this subdivision shall meet the  
41 training requirements of Section 832 and shall qualify with the firearm at least  
42 annually. The individual retired peace officer shall be responsible for maintaining  
43 his or her eligibility to carry a concealed firearm. The Department of Justice shall

1 provide subsequent arrest notification pursuant to **Section 11105.2** regarding  
2 honorably retired peace officers listed in **subdivision (c) of Section 830.5** to the  
3 agency from which the officer has retired.

4 (b) The possession or transportation of unloaded pistols, revolvers, or other  
5 firearms capable of being concealed upon the person as merchandise by a person  
6 who is engaged in the business of manufacturing, importing, wholesaling,  
7 repairing, or dealing in firearms and who is licensed to engage in that business or  
8 the authorized representative or authorized agent of that person while engaged in  
9 the lawful course of the business.

10 (c) Members of the Army, Navy, Air Force, Coast Guard, or Marine Corps of  
11 the United States, or the National Guard, when on duty, or organizations which are  
12 by law authorized to purchase or receive those weapons from the United States or  
13 this state.

14 (d) The carrying of unloaded pistols, revolvers, or other firearms capable of  
15 being concealed upon the person by duly authorized military or civil organizations  
16 while parading, or the members thereof when going to and from the places of  
17 meeting of their respective organizations.

18 (e) Guards or messengers of common carriers, banks, and other financial  
19 institutions while actually employed in and about the shipment, transportation, or  
20 delivery of any money, treasure, bullion, bonds, or other thing of value within this  
21 state.

22 (f) Members of any club or organization organized for the purpose of practicing  
23 shooting at targets upon established target ranges, whether public or private, while  
24 the members are using pistols, revolvers, or other firearms capable of being  
25 concealed upon the person upon the target ranges, or transporting these firearms  
26 unloaded when going to and from the ranges.

27 (g) Licensed hunters or fishermen carrying pistols, revolvers, or other firearms  
28 capable of being concealed upon the person while engaged in hunting or fishing,  
29 or transporting those firearms unloaded when going to or returning from the  
30 hunting or fishing expedition.

31 (h) Transportation of unloaded firearms by a person operating a licensed  
32 common carrier or an authorized agent or employee thereof when transported in  
33 conformance with applicable federal law.

34 (i) Upon approval of the sheriff of the county in which they reside, honorably  
35 retired federal officers or agents of federal law enforcement agencies, including,  
36 but not limited to, the Federal Bureau of Investigation, the Secret Service, the  
37 United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and  
38 Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration,  
39 the United States Border Patrol, and officers or agents of the Internal Revenue  
40 Service who were authorized to carry weapons while on duty, who were assigned  
41 to duty within the state for a period of not less than one year, or who retired from  
42 active service in the state.

1 Retired federal officers or agents shall provide the sheriff with certification from  
2 the agency from which they retired certifying their service in the state, the nature  
3 of their retirement, and indicating the agency's concurrence that the retired federal  
4 officer or agent should be accorded the privilege of carrying a concealed firearm.

5 Upon that approval, the sheriff shall issue a permit to the retired federal officer  
6 or agent indicating that he or she may carry a concealed firearm in accordance  
7 with this subdivision. The permit shall be valid for a period not exceeding five  
8 years, shall be carried by the retiree while carrying a concealed firearm, and may  
9 be revoked for good cause.

10 The sheriff of the county in which the retired federal officer or agent resides  
11 may require recertification prior to a permit renewal, and may suspend the  
12 privilege for cause. The sheriff may charge a fee necessary to cover any  
13 reasonable expenses incurred by the county.

14 (j) The carrying of a pistol, revolver, or other firearm capable of being concealed  
15 upon the person by a person who is authorized to carry that weapon in a concealed  
16 manner pursuant to Article 3 (commencing with Section 12050).

17 **Penal Code § 12027.1. Identification certificate authorizing peace officer or retired peace**  
18 **officer to carry concealed and loaded firearm**

19 12027.1. (a)(1)(A)(i) Any peace officer employed by an agency and listed in  
20 Section 830.1 or 830.2 or subdivision (c) of Section 830.5 who retired after  
21 January 1, 1981, shall have an endorsement on the identification certificate stating  
22 that the issuing agency approves the officer's carrying of a concealed and loaded  
23 firearm.

24 (ii) Any peace officer listed in Section 830.1 or 830.2 or subdivision (c) of  
25 Section 830.5 who retired prior to January 1, 1981, is authorized to carry a  
26 concealed and loaded firearm if the agency issued the officer an identification  
27 certificate and the certificate has not been stamped as specified in paragraph (2) of  
28 subdivision (a) of Section 12027.

29 (iii) Peace officers not listed in clause (i) or (ii) who were authorized to, and did,  
30 carry firearms during the course and scope of their employment as peace officers,  
31 shall have an endorsement on the identification certificate stating that the issuing  
32 agency approves the officer's carrying of a concealed and loaded firearm.

33 (B) An identification certificate authorizing the officer to carry a concealed and  
34 loaded firearm or an endorsement on the certificate may be revoked or denied by  
35 the issuing agency only upon a showing of good cause. Good cause shall be  
36 determined at a hearing, as specified in subdivision (d).

37 (2) A retired peace officer may have his or her privilege to carry a concealed and  
38 loaded firearm revoked or denied by violating any departmental rule, or state or  
39 federal law that, if violated by an officer on active duty, would result in that  
40 officer's arrest, suspension, or removal from the agency.

41 (b)(1) An identification certificate authorizing the officer to carry a concealed  
42 and loaded firearm or an endorsement may be revoked or denied by the issuing

1 agency only upon a showing of good cause. Good cause shall be determined at a  
2 hearing, as specified in subdivision (d).

3 (2) An identification certificate authorizing the officer to carry a concealed and  
4 loaded firearm or an endorsement may be revoked only after a hearing, as  
5 specified in subdivision (d). Any retired peace officer whose identification  
6 certificate authorizing the officer to carry a concealed and loaded firearm or an  
7 endorsement is to be revoked shall have 15 days to respond to the notice of the  
8 hearing. Notice of the hearing shall be served either personally on the retiree or  
9 sent by first-class mail, postage prepaid, return receipt requested to the retiree's  
10 last known place of residence. Upon the date the agency receives the signed  
11 registered receipt or upon the date the notice is served personally on the retiree,  
12 the retiree shall have 15 days to respond to the notification. A retired peace officer  
13 who fails to respond to the notice of the hearing shall forfeit his or her right to  
14 respond.

15 (3) An identification certificate authorizing the officer to carry a concealed and  
16 loaded firearm or an endorsement may be denied prior to a hearing. If a hearing is  
17 not conducted prior to the denial of an endorsement, a retired peace officer, within  
18 15 days of the denial, shall have the right to request a hearing. A retired peace  
19 officer who fails to request a hearing pursuant to this paragraph shall forfeit his or  
20 her right to the hearing.

21 (c) A retired peace officer, when notified of the revocation of his or her privilege  
22 to carry a concealed and loaded firearm, after the hearing, or upon forfeiting his or  
23 her right to a hearing, shall immediately surrender to the issuing agency his or her  
24 identification certificate. The issuing agency shall reissue a new identification  
25 certificate without an endorsement. However, if the peace officer retired prior to  
26 January 1, 1981, and was at the time of his or her retirement a peace officer listed  
27 in Section 830.1 or 830.2 or subdivision (c) of Section 830.5, the issuing agency  
28 shall stamp on the identification certificate "No CCW privilege."

29 (d) Any hearing conducted under this section shall be held before a three-  
30 member hearing board. One member of the board shall be selected by the agency  
31 and one member shall be selected by the retired peace officer or his or her  
32 employee organization. The third member shall be selected jointly by the agency  
33 and the retired peace officer or his or her employee organization.

34 Any decision by the board shall be binding on the agency and the retired peace  
35 officer.

36 (e) No peace officer who is retired after January 1, 1989, because of a  
37 psychological disability shall be issued an endorsement to carry a concealed and  
38 loaded firearm pursuant to this section.

39 **Penal Code § 12028. Unlawful concealed carrying of specified weapons as nuisance**

40 12028. (a) The unlawful concealed carrying upon the person of any explosive  
41 substance, other than fixed ammunition, dirk, or dagger, as provided in Section  
42 12020, the unlawful carrying of any handguns in violation of Section 12025, and

1 the unlawful possession or carrying of any item in violation of Section 653k is a  
2 nuisance.

3 (b)(1) Except as provided in paragraph (2), a firearm of any nature owned or  
4 possessed in violation of Section 12021, 12021.1, or 12101 of this code, or  
5 Chapter 3 (commencing with Section 8100) of Division 5 of the Welfare and  
6 Institutions Code, or used in the commission of any misdemeanor as provided in  
7 this code, any felony, or an attempt to commit any misdemeanor as provided in  
8 this code or any felony, is, upon a conviction of the defendant or upon a juvenile  
9 court finding that an offense which would be a misdemeanor or felony if  
10 committed by an adult was committed or attempted by the juvenile with the use of  
11 a firearm, a nuisance. A finding that the defendant was guilty of the offense but  
12 was insane at the time the offense was committed is a conviction for the purposes  
13 of this section.

14 (2) A firearm is not a nuisance pursuant to this subdivision if the firearm owner  
15 disposes of his or her firearm pursuant to paragraph (2) of subdivision (d) of  
16 Section 12021.

17 (c) Any weapon described in subdivision (a), or, upon conviction of the  
18 defendant or upon a juvenile court finding that an offense which would be a  
19 misdemeanor or felony if committed by an adult was committed or attempted by  
20 the juvenile with the use of a firearm, any weapon described in subdivision (b)  
21 shall be surrendered to the sheriff of a county or the chief of police or other head  
22 of a municipal police department of any city or city and county or the chief of  
23 police of any campus of the University of California or the California State  
24 University or the Commissioner of the California Highway Patrol. For purposes of  
25 this subdivision, the Commissioner of the California Highway Patrol shall receive  
26 only weapons that were confiscated by a member of the California Highway  
27 Patrol. The officers to whom the weapons are surrendered, except upon the  
28 certificate of a judge of a court of record, or of the district attorney of the county,  
29 that the retention thereof is necessary or proper to the ends of justice, may  
30 annually, between the 1st and 10th days of July, in each year, offer the weapons,  
31 which the officers in charge of them consider to have value with respect to  
32 sporting, recreational, or collection purposes, for sale at public auction to persons  
33 licensed pursuant to Section 12071 to engage in businesses involving any weapon  
34 purchased. If any weapon has been stolen and is thereafter recovered from the  
35 thief or his or her transferee, or is used in a manner as to constitute a nuisance  
36 pursuant to subdivision (a) or (b) without the prior knowledge of its lawful owner  
37 that it would be so used, it shall not be so offered for sale but shall be restored to  
38 the lawful owner, as soon as its use as evidence has been served, upon his or her  
39 identification of the weapon and proof of ownership, and after the law  
40 enforcement agency has complied with Section 12021.3.

41 (d) If, under this section, a weapon is not of the type that can be sold to the  
42 public, generally, or is not sold pursuant to subdivision (c), the weapon, in the  
43 month of July, next succeeding, or sooner, if necessary to conserve local resources

1 including space and utilization of personnel who maintain files and security of  
2 those weapons, shall be destroyed so that it can no longer be used as such a  
3 weapon except upon the certificate of a judge of a court of record, or of the district  
4 attorney of the county, that the retention of it is necessary or proper to the ends of  
5 justice.

6 (e) This section does not apply to any firearm in the possession of the  
7 Department of Fish and Game or which was used in the violation of any provision  
8 of the Fish and Game Code or any regulation adopted pursuant thereto, or which is  
9 forfeited pursuant to Section 5008.6 of the Public Resources Code.

10 (f) No stolen weapon shall be sold or destroyed pursuant to subdivision (c) or (d)  
11 unless reasonable notice is given to its lawful owner, if his or her identity and  
12 address can be reasonably ascertained.

13 **Penal Code § 12028.5. Seizure of firearm or other deadly weapon at scene of domestic**  
14 **violence**

15 12028.5. (a) As used in this section, the following definitions shall apply:

16 (1) “Abuse” means any of the following:

17 (A) Intentionally or recklessly to cause or attempt to cause bodily injury.

18 (B) Sexual assault.

19 (C) To place a person in reasonable apprehension of imminent serious bodily  
20 injury to that person or to another.

21 (D) To molest, attack, strike, stalk, destroy personal property, or violate the  
22 terms of a domestic violence protective order issued pursuant to Part 4  
23 (commencing with Section 6300) of Division 10 of the Family Code.

24 (2) “Domestic violence” means abuse perpetrated against any of the following  
25 persons:

26 (A) A spouse or former spouse.

27 (B) A cohabitant or former cohabitant, as defined in Section 6209 of the Family  
28 Code.

29 (C) A person with whom the respondent is having or has had a dating or  
30 engagement relationship.

31 (D) A person with whom the respondent has had a child, where the presumption  
32 applies that the male parent is the father of the child of the female parent under the  
33 Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of  
34 the Family Code).

35 (E) A child of a party or a child who is the subject of an action under the  
36 Uniform Parentage Act, where the presumption applies that the male parent is the  
37 father of the child to be protected.

38 (F) Any other person related by consanguinity or affinity within the second  
39 degree.

40 (3) “Deadly weapon” means any weapon, the possession or concealed carrying  
41 of which is prohibited by Section 12020.

1 (b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police  
2 officer of a city, as defined in subdivision (a) of Section 830.1, a peace officer of  
3 the Department of the California Highway Patrol, as defined in subdivision (a) of  
4 Section 830.2, a member of the University of California Police Department, as  
5 defined in subdivision (b) of Section 830.2, an officer listed in Section 830.6 while  
6 acting in the course and scope of his or her employment as a peace officer, a  
7 member of a California State University Police Department, as defined in  
8 subdivision (c) of Section 830.2, a peace officer of the Department of Parks and  
9 Recreation, as defined in subdivision (f) of Section 830.2, a peace officer, as  
10 defined in subdivision (d) of Section 830.31, a peace officer, as defined in  
11 subdivisions (a) and (b) of Section 830.32, and a peace officer, as defined in  
12 Section 830.5, who is at the scene of a domestic violence incident involving a  
13 threat to human life or a physical assault, shall take temporary custody of any  
14 firearm or other deadly weapon in plain sight or discovered pursuant to a  
15 consensual or other lawful search as necessary for the protection of the peace  
16 officer or other persons present. Upon taking custody of a firearm or other deadly  
17 weapon, the officer shall give the owner or person who possessed the firearm a  
18 receipt. The receipt shall describe the firearm or other deadly weapon and list any  
19 identification or serial number on the firearm. The receipt shall indicate where the  
20 firearm or other deadly weapon can be recovered, the time limit for recovery as  
21 required by this section, and the date after which the owner or possessor can  
22 recover the firearm or other deadly weapon. No firearm or other deadly weapon  
23 shall be held less than 48 hours. Except as provided in subdivision (f), if a firearm  
24 or other deadly weapon is not retained for use as evidence related to criminal  
25 charges brought as a result of the domestic violence incident or is not retained  
26 because it was illegally possessed, the firearm or other deadly weapon shall be  
27 made available to the owner or person who was in lawful possession 48 hours after  
28 the seizure or as soon thereafter as possible, but no later than five business days  
29 after the owner or person who was in lawful possession demonstrates compliance  
30 with Section 12021.3. In any civil action or proceeding for the return of firearms  
31 or ammunition or other deadly weapon seized by any state or local law  
32 enforcement agency and not returned within five business days following the  
33 initial seizure, except as provided in subdivision (d), the court shall allow  
34 reasonable attorney's fees to the prevailing party.

35 (c) Any peace officer, as defined in subdivisions (a) and (b) of Section 830.32,  
36 who takes custody of a firearm or deadly weapon pursuant to this section shall  
37 deliver the firearm within 24 hours to the city police department or county  
38 sheriff's office in the jurisdiction where the college or school is located.

39 (d) Any firearm or other deadly weapon that has been taken into custody that has  
40 been stolen shall be restored to the lawful owner, as soon as its use for evidence  
41 has been served, upon his or her identification of the firearm or other deadly  
42 weapon and proof of ownership, and after the law enforcement agency has  
43 complied with Section 12021.3.

1 (e) Any firearm or other deadly weapon taken into custody and held by a police,  
2 university police, or sheriff's department or by a marshal's office, by a peace  
3 officer of the Department of the California Highway Patrol, as defined in  
4 subdivision (a) of Section 830.2, by a peace officer of the Department of Parks and  
5 Recreation, as defined in subdivision (f) of Section 830.2, by a peace officer, as  
6 defined in subdivision (d) of Section 830.31, or by a peace officer, as defined in  
7 Section 830.5, for longer than 12 months and not recovered by the owner or  
8 person who has lawful possession at the time it was taken into custody, shall be  
9 considered a nuisance and sold or destroyed as provided in subdivision (c) of  
10 Section 12028. Firearms or other deadly weapons not recovered within 12 months  
11 due to an extended hearing process as provided in subdivision (j), are not subject  
12 to destruction until the court issues a decision, and then only if the court does not  
13 order the return of the firearm or other deadly weapon to the owner.

14 (f) In those cases in which a law enforcement agency has reasonable cause to  
15 believe that the return of a firearm or other deadly weapon would be likely to  
16 result in endangering the victim or the person reporting the assault or threat, the  
17 agency shall advise the owner of the firearm or other deadly weapon, and within  
18 60 days of the date of seizure, initiate a petition in superior court to determine if  
19 the firearm or other deadly weapon should be returned. The law enforcement  
20 agency may make an ex parte application stating good cause for an order  
21 extending the time to file a petition. Including any extension of time granted in  
22 response to an ex parte request, a petition must be filed within 90 days of the date  
23 of seizure of the firearm or other deadly weapon.

24 (g) The law enforcement agency shall inform the owner or person who had  
25 lawful possession of the firearm or other deadly weapon, at that person's last  
26 known address by registered mail, return receipt requested, that he or she has 30  
27 days from the date of receipt of the notice to respond to the court clerk to confirm  
28 his or her desire for a hearing, and that the failure to respond shall result in a  
29 default order forfeiting the confiscated firearm or other deadly weapon. For the  
30 purposes of this subdivision, the person's last known address shall be presumed to  
31 be the address provided to the law enforcement officer by that person at the time  
32 of the family violence incident. In the event the person whose firearm or other  
33 deadly weapon was seized does not reside at the last address provided to the  
34 agency, the agency shall make a diligent, good faith effort to learn the  
35 whereabouts of the person and to comply with these notification requirements.

36 (h) If the person requests a hearing, the court clerk shall set a hearing no later  
37 than 30 days from receipt of that request. The court clerk shall notify the person,  
38 the law enforcement agency involved, and the district attorney of the date, time,  
39 and place of the hearing. Unless it is shown by a preponderance of the evidence  
40 that the return of the firearm or other deadly weapon would result in endangering  
41 the victim or the person reporting the assault or threat, the court shall order the  
42 return of the firearm or other deadly weapon and shall award reasonable attorney's  
43 fees to the prevailing party.

1 (i) If the person does not request a hearing or does not otherwise respond within  
2 30 days of the receipt of the notice, the law enforcement agency may file a petition  
3 for an order of default and may dispose of the firearm or other deadly weapon as  
4 provided in Section 12028.

5 (j) If, at the hearing, the court does not order the return of the firearm or other  
6 deadly weapon to the owner or person who had lawful possession, that person may  
7 petition the court for a second hearing within 12 months from the date of the initial  
8 hearing. If there is a petition for a second hearing, unless it is shown by clear and  
9 convincing evidence that the return of the firearm or other deadly weapon would  
10 result in endangering the victim or the person reporting the assault or threat, the  
11 court shall order the return of the firearm or other deadly weapon and shall award  
12 reasonable attorney's fees to the prevailing party. If the owner or person who had  
13 lawful possession does not petition the court within this 12-month period for a  
14 second hearing or is unsuccessful at the second hearing in gaining return of the  
15 firearm or other deadly weapon, the firearm or other deadly weapon may be  
16 disposed of as provided in Section 12028.

17 (k) The law enforcement agency, or the individual law enforcement officer, shall  
18 not be liable for any act in the good faith exercise of this section.

19 **Penal Code § 12028.7. Receipt for firearm taken into custody by law enforcement officer**

20 12028.7. (a) When a firearm is taken into custody by a law enforcement officer,  
21 the officer shall issue the person who possessed the firearm a receipt describing  
22 the firearm, and listing any serial number or other identification on the firearm.

23 (b) The receipt shall indicate where the firearm may be recovered, any  
24 applicable time limit for recovery, and the date after which the owner or possessor  
25 may recover the firearm pursuant to Section 12021.3.

26 (c) Nothing in this section is intended to displace any existing law regarding the  
27 seizure or return of firearms.

28 **Penal Code § 12029. Deadly weapons that constitute nuisance**

29 12029. Except as provided in Section 12020, blackjacks, slungshots, billies,  
30 nunchakus, sandclubs, sandbags, shurikens, metal knuckles, short-barreled  
31 shotguns or short-barreled rifles as defined in Section 12020, and any other item  
32 which is listed in subdivision (a) of Section 12020 and is not listed in subdivision  
33 (a) of Section 12028 are nuisances, and the Attorney General, district attorney, or  
34 city attorney may bring an action to enjoin the manufacture of, importation of,  
35 keeping for sale of, offering or exposing for sale, giving, lending, or possession of,  
36 any of the foregoing items. These weapons shall be subject to confiscation and  
37 summary destruction whenever found within the state. These weapons shall be  
38 destroyed in the same manner as other weapons described in Section 12028,  
39 except that upon the certification of a judge or of the district attorney that the ends  
40 of justice will be subserved thereby, the weapon shall be preserved until the  
41 necessity for its use ceases.

1 **Penal Code § 12030. Permissible uses of firearm in custody of law enforcement officer**

2 12030. (a) The officer having custody of any firearms which may be useful to  
3 the California National Guard, the Coast Guard Auxiliary, or to any military or  
4 naval agency of the federal or state government, including, but not limited to, the  
5 California National Guard military museum and resource center, may, upon the  
6 authority of the legislative body of the city, city and county, or county by which he  
7 or she is employed and the approval of the Adjutant General, deliver the firearms  
8 to the commanding officer of a unit of the California National Guard, the Coast  
9 Guard Auxiliary, or any other military agency of the state or federal government in  
10 lieu of destruction as required by **this chapter**. The officer delivering the firearms  
11 shall take a receipt for them containing a complete description thereof and shall  
12 keep the receipt on file in his or her office as a public record.

13 (b) Any law enforcement agency which has custody of any firearms, or any parts  
14 of any firearms, which are subject to destruction as required by **this chapter** may,  
15 in lieu of destroying the weapons, retain and use any of them as may be useful in  
16 carrying out the official duties of the agency, or upon approval of a court, may  
17 release them to any other law enforcement agency for use in carrying out the  
18 official duties of that agency, or may turn over to the criminalistics laboratory of  
19 the Department of Justice or the criminalistics laboratory of a police department,  
20 sheriff's office, or district attorney's office any weapons which may be useful in  
21 carrying out the official duties of their respective agencies.

22 (c) Any firearm, or part of any firearm, which, rather than being destroyed, is  
23 used for official purposes pursuant to **this section** shall be destroyed by the agency  
24 using the weapon when it is no longer needed by the agency for use in carrying out  
25 its official duties. In the case of firearms or weaponry donated to the California  
26 National Guard military museum and resource center, they may be disposed of  
27 pursuant to **Section 179 of the Military and Veterans Code**.

28 (d) Any law enforcement agency which has custody of any firearms, or any parts  
29 of any firearms, which are subject to destruction as required by **this chapter** may,  
30 in lieu of destroying the firearms, obtain an order from the superior court directing  
31 the release of the firearms to the sheriff. The sheriff shall enter those weapons into  
32 the Automated Firearms System (AFS), via the California Law Enforcement  
33 Telecommunications System, with a complete description of each weapon,  
34 including the make, type, category, caliber, and serial number of the firearms, and  
35 the name of the academy receiving the weapon entered into the AFS  
36 miscellaneous field. The sheriff shall then release the firearms to the basic training  
37 academy certified by the Commission on Peace Officer Standards and Training, so  
38 that the firearms may be used for instructional purposes in the certified courses. As  
39 used in **this section**, the term **"firearms"** shall not include destructive devices, as  
40 defined in **Section 12301**. All firearms released to an academy shall be under the  
41 care, custody, and control of the particular academy.

42 Any firearm, or part of any firearm, which is not destroyed, and is used for the  
43 purposes authorized by **this section**, shall be returned to the law enforcement

1 agency which had original custody of the firearm when it is no longer needed by  
2 the basic training academy, or when the basic training academy is no longer  
3 certified by the commission. When those firearms are returned, the law  
4 enforcement agency to whom the firearms are returned, shall on the date of the  
5 return, enter into the Automated Firearms System (AFS), via the California Law  
6 Enforcement Telecommunications System, a complete description of each  
7 weapon, including the make, type, category, caliber, and serial number of the  
8 firearms, and the name of the entity returning the firearm.

9 (e) Any law enforcement agency that retains custody of any firearm pursuant to  
10 this section or that destroys a firearm pursuant to Section 12028 shall notify the  
11 Department of Justice of the retention or destruction. This notification shall consist  
12 of a complete description of each firearm, including the name of the manufacturer  
13 or brand name, model, caliber, and serial number.

14 **Penal Code § 12031. Carrying loaded firearm**

15 12031. (a)(1) A person is guilty of carrying a loaded firearm when he or she  
16 carries a loaded firearm on his or her person or in a vehicle while in any public  
17 place or on any public street in an incorporated city or in any public place or on  
18 any public street in a prohibited area of unincorporated territory.

19 (2) Carrying a loaded firearm in violation of this section is punishable, as  
20 follows:

21 (A) Where the person previously has been convicted of any felony, or of any  
22 crime made punishable by this chapter, as a felony.

23 (B) Where the firearm is stolen and the person knew or had reasonable cause to  
24 believe that it was stolen, as a felony.

25 (C) Where the person is an active participant in a criminal street gang, as  
26 defined in subdivision (a) of Section 186.22, under the Street Terrorism  
27 Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20)  
28 of Title 7 of Part 1), as a felony.

29 (D) Where the person is not in lawful possession of the firearm, as defined in  
30 this section, or is within a class of persons prohibited from possessing or acquiring  
31 a firearm pursuant to Section 12021 or 12021.1 of this code or Section 8100 or  
32 8103 of the Welfare and Institutions Code, as a felony.

33 (E) Where the person has been convicted of a crime against a person or  
34 property, or of a narcotics or dangerous drug violation, by imprisonment in the  
35 state prison, or by imprisonment in a county jail not to exceed one year, by a fine  
36 not to exceed one thousand dollars (\$1,000), or by both that imprisonment and  
37 fine.

38 (F) Where the person is not listed with the Department of Justice pursuant to  
39 Section 11106, as the registered owner of the pistol, revolver, or other firearm  
40 capable of being concealed upon the person, by imprisonment in the state prison,  
41 or by imprisonment in a county jail not to exceed one year, or by a fine not to  
42 exceed one thousand dollars (\$1,000), or both that fine and imprisonment.

1 (G) In all cases other than those specified in subparagraphs (A) to (F), inclusive,  
2 as a misdemeanor, punishable by imprisonment in a county jail not to exceed one  
3 year, by a fine not to exceed one thousand dollars (\$1,000), or by both that  
4 imprisonment and fine.

5 (3) For purposes of this section, **“lawful possession of the firearm”** means that  
6 the person who has possession or custody of the firearm either lawfully acquired  
7 and lawfully owns the firearm or has the permission of the lawful owner or person  
8 who otherwise has apparent authority to possess or have custody of the firearm. A  
9 person who takes a firearm without the permission of the lawful owner or without  
10 the permission of a person who has lawful custody of the firearm does not have  
11 lawful possession of the firearm.

12 (4) Nothing in this section shall preclude prosecution under Sections 12021 and  
13 12021.1 of this code, Section 8100 or 8103 of the Welfare and Institutions Code,  
14 or any other law with a greater penalty than this section.

15 (5)(A) Notwithstanding paragraphs (2) and (3) of subdivision (a) of Section 836,  
16 a peace officer may make an arrest without a warrant:

17 (i) When the person arrested has violated this section, although not in the  
18 officer’s presence.

19 (ii) Whenever the officer has reasonable cause to believe that the person to be  
20 arrested has violated this section, whether or not this section has, in fact, been  
21 violated.

22 (B) A peace officer may arrest a person for a violation of subparagraph (F) of  
23 paragraph (2), if the peace officer has probable cause to believe that the person is  
24 carrying a loaded pistol, revolver, or other firearm capable of being concealed  
25 upon the person in violation of this section and that person is not listed with the  
26 Department of Justice pursuant to paragraph (1) of subdivision (c) of Section  
27 11106 as the registered owner of that pistol, revolver, or other firearm capable of  
28 being concealed upon the person.

29 (6)(A) Every person convicted under this section who has previously been  
30 convicted of an offense enumerated in Section 12001.6, or of any crime made  
31 punishable under this chapter, shall serve a term of at least three months in a  
32 county jail, or, if granted probation or if the execution or imposition of sentence is  
33 suspended, it shall be a condition thereof that he or she be imprisoned for a period  
34 of at least three months.

35 (B) The court shall apply the three-month minimum sentence except in unusual  
36 cases where the interests of justice would best be served by granting probation or  
37 suspending the imposition or execution of sentence without the minimum  
38 imprisonment required in this subdivision or by granting probation or suspending  
39 the imposition or execution of sentence with conditions other than those set forth  
40 in this subdivision, in which case, the court shall specify on the record and shall  
41 enter on the minutes the circumstances indicating that the interests of justice  
42 would best be served by that disposition.

1 (7) A violation of this section which is punished by imprisonment in a county  
2 jail not exceeding one year shall not constitute a conviction of a crime punishable  
3 by imprisonment for a term exceeding one year for the purposes of determining  
4 federal firearms eligibility under Section 922(g)(1) of Title 18 of the United States  
5 Code.

6 (b) Subdivision (a) shall not apply to any of the following: (1) Peace officers  
7 listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether  
8 active or honorably retired, other duly appointed peace officers, honorably retired  
9 peace officers listed in subdivision (c) of Section 830.5, other honorably retired  
10 peace officers who during the course and scope of their employment as peace  
11 officers were authorized to, and did, carry firearms, full-time paid peace officers  
12 of other states and the federal government who are carrying out official duties  
13 while in California, or any person summoned by any of those officers to assist in  
14 making arrests or preserving the peace while the person is actually engaged in  
15 assisting that officer. Any peace officer described in this paragraph who has been  
16 honorably retired shall be issued an identification certificate by the law  
17 enforcement agency from which the officer has retired. The issuing agency may  
18 charge a fee necessary to cover any reasonable expenses incurred by the agency in  
19 issuing certificates pursuant to this paragraph and paragraph (3).

20 Any officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of  
21 Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1,  
22 1981, shall have an endorsement on the identification certificate stating that the  
23 issuing agency approves the officer's carrying of a loaded firearm.

24 No endorsement or renewal endorsement issued pursuant to paragraph (2) shall  
25 be effective unless it is in the format set forth in subparagraph (D) of paragraph (1)  
26 of subdivision (a) of Section 12027, except that any peace officer listed in  
27 subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is  
28 retired between January 2, 1981, and on or before December 31, 1988, and who is  
29 authorized to carry a loaded firearm pursuant to this section, shall not be required  
30 to have an endorsement in the format set forth in subparagraph (D) of paragraph  
31 (1) of subdivision (a) of Section 12027 until the time of the issuance, on or after  
32 January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

33 (2) A retired peace officer, except an officer listed in Section 830.1 or 830.2,  
34 subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired  
35 prior to January 1, 1981, shall petition the issuing agency for renewal of his or her  
36 privilege to carry a loaded firearm every five years. An honorably retired peace  
37 officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or  
38 subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be  
39 required to obtain an endorsement from the issuing agency to carry a loaded  
40 firearm. The agency from which a peace officer is honorably retired may, upon  
41 initial retirement of the peace officer, or at any time subsequent thereto, deny or  
42 revoke for good cause the retired officer's privilege to carry a loaded firearm. A  
43 peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section

1 830.33, or subdivision (c) of Section 830.5 who is retired prior to January 1, 1981,  
2 shall have his or her privilege to carry a loaded firearm denied or revoked by  
3 having the agency from which the officer retired stamp on the officer's  
4 identification certificate "No CCW privilege."

5 (3) An honorably retired peace officer who is listed in subdivision (c) of Section  
6 830.5 and authorized to carry loaded firearms by this subdivision shall meet the  
7 training requirements of Section 832 and shall qualify with the firearm at least  
8 annually. The individual retired peace officer shall be responsible for maintaining  
9 his or her eligibility to carry a loaded firearm. The Department of Justice shall  
10 provide subsequent arrest notification pursuant to Section 11105.2 regarding  
11 honorably retired peace officers listed in subdivision (c) of Section 830.5 to the  
12 agency from which the officer has retired.

13 (4) Members of the military forces of this state or of the United States engaged  
14 in the performance of their duties.

15 (5) Persons who are using target ranges for the purpose of practice shooting with  
16 a firearm or who are members of shooting clubs while hunting on the premises of  
17 those clubs.

18 (6) The carrying of pistols, revolvers, or other firearms capable of being  
19 concealed upon the person by persons who are authorized to carry those weapons  
20 pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of  
21 Part 4.

22 (7) Armored vehicle guards, as defined in Section 7521 of the Business and  
23 Professions Code, (A) if hired prior to January 1, 1977, or (B) if hired on or after  
24 that date, if they have received a firearms qualification card from the Department  
25 of Consumer Affairs, in each case while acting within the course and scope of  
26 their employment.

27 (8) Upon approval of the sheriff of the county in which they reside, honorably  
28 retired federal officers or agents of federal law enforcement agencies, including,  
29 but not limited to, the Federal Bureau of Investigation, the Secret Service, the  
30 United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and  
31 Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration,  
32 the United States Border Patrol, and officers or agents of the Internal Revenue  
33 Service who were authorized to carry weapons while on duty, who were assigned  
34 to duty within the state for a period of not less than one year, or who retired from  
35 active service in the state.

36 Retired federal officers or agents shall provide the sheriff with certification from  
37 the agency from which they retired certifying their service in the state, the nature  
38 of their retirement, and indicating the agency's concurrence that the retired federal  
39 officer or agent should be accorded the privilege of carrying a loaded firearm.

40 Upon approval, the sheriff shall issue a permit to the retired federal officer or  
41 agent indicating that he or she may carry a loaded firearm in accordance with this  
42 paragraph. The permit shall be valid for a period not exceeding five years, shall be

1 carried by the retiree while carrying a loaded firearm, and may be revoked for  
2 good cause.

3 The sheriff of the county in which the retired federal officer or agent resides  
4 may require recertification prior to a permit renewal, and may suspend the  
5 privilege for cause. The sheriff may charge a fee necessary to cover any  
6 reasonable expenses incurred by the county.

7 (c) Subdivision (a) shall not apply to any of the following who have completed a  
8 regular course in firearms training approved by the Commission on Peace Officer  
9 Standards and Training:

10 (1) Patrol special police officers appointed by the police commission of any city,  
11 county, or city and county under the express terms of its charter who also, under  
12 the express terms of the charter, (A) are subject to suspension or dismissal after a  
13 hearing on charges duly filed with the commission after a fair and impartial trial,  
14 (B) are not less than 18 years of age or more than 40 years of age, (C) possess  
15 physical qualifications prescribed by the commission, and (D) are designated by  
16 the police commission as the owners of a certain beat or territory as may be fixed  
17 from time to time by the police commission.

18 (2) The carrying of weapons by animal control officers or zookeepers, regularly  
19 compensated as such by a governmental agency when acting in the course and  
20 scope of their employment and when designated by a local ordinance or, if the  
21 governmental agency is not authorized to act by ordinance, by a resolution, either  
22 individually or by class, to carry the weapons, or by persons who are authorized to  
23 carry the weapons pursuant to Section 14502 of the Corporations Code, while  
24 actually engaged in the performance of their duties pursuant to that section.

25 (3) Harbor police officers designated pursuant to Section 663.5 of the Harbors  
26 and Navigation Code.

27 (d) Subdivision (a) shall not apply to any of the following who have been issued  
28 a certificate pursuant to Section 12033. The certificate shall not be required of any  
29 person who is a peace officer, who has completed all training required by law for  
30 the exercise of his or her power as a peace officer, and who is employed while not  
31 on duty as a peace officer.

32 (1) Guards or messengers of common carriers, banks, and other financial  
33 institutions while actually employed in and about the shipment, transportation, or  
34 delivery of any money, treasure, bullion, bonds, or other thing of value within this  
35 state.

36 (2) Guards of contract carriers operating armored vehicles pursuant to California  
37 Highway Patrol and Public Utilities Commission authority (A) if hired prior to  
38 January 1, 1977, or (B) if hired on or after January 1, 1977, if they have completed  
39 a course in the carrying and use of firearms which meets the standards prescribed  
40 by the Department of Consumer Affairs.

41 (3) Private investigators and private patrol operators who are licensed pursuant  
42 to Chapter 11.5 (commencing with Section 7512) of, and alarm company  
43 operators who are licensed pursuant to Chapter 11.6 (commencing with Section

1 7590) of, Division 3 of the Business and Professions Code, while acting within the  
2 course and scope of their employment.

3 (4) Uniformed security guards or night watch persons employed by any public  
4 agency, while acting within the scope and course of their employment.

5 (5) Uniformed security guards, regularly employed and compensated in that  
6 capacity by persons engaged in any lawful business, and uniformed alarm agents  
7 employed by an alarm company operator, while actually engaged in protecting and  
8 preserving the property of their employers or on duty or en route to or from their  
9 residences or their places of employment, and security guards and alarm agents en  
10 route to or from their residences or employer-required range training. Nothing in  
11 this paragraph shall be construed to prohibit cities and counties from enacting  
12 ordinances requiring alarm agents to register their names.

13 (6) Uniformed employees of private patrol operators and private investigators  
14 licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3  
15 of the Business and Professions Code, while acting within the course and scope of  
16 their employment.

17 (e) In order to determine whether or not a firearm is loaded for the purpose of  
18 enforcing this section, peace officers are authorized to examine any firearm carried  
19 by anyone on his or her person or in a vehicle while in any public place or on any  
20 public street in an incorporated city or prohibited area of an unincorporated  
21 territory. Refusal to allow a peace officer to inspect a firearm pursuant to this  
22 section constitutes probable cause for arrest for violation of this section.

23 (f) As used in this section, “prohibited area” means any place where it is  
24 unlawful to discharge a weapon.

25 (g) A firearm shall be deemed to be loaded for the purposes of this section when  
26 there is an unexpended cartridge or shell, consisting of a case that holds a charge  
27 of powder and a bullet or shot, in, or attached in any manner to, the firearm,  
28 including, but not limited to, in the firing chamber, magazine, or clip thereof  
29 attached to the firearm; except that a muzzle-loader firearm shall be deemed to be  
30 loaded when it is capped or primed and has a powder charge and ball or shot in the  
31 barrel or cylinder.

32 (h) Nothing in this section shall prevent any person engaged in any lawful  
33 business, including a nonprofit organization, or any officer, employee, or agent  
34 authorized by that person for lawful purposes connected with that business, from  
35 having a loaded firearm within the person’s place of business, or any person in  
36 lawful possession of private property from having a loaded firearm on that  
37 property.

38 (i) Nothing in this section shall prevent any person from carrying a loaded  
39 firearm in an area within an incorporated city while engaged in hunting, provided  
40 that the hunting at that place and time is not prohibited by the city council.

41 (j)(1) Nothing in this section is intended to preclude the carrying of any loaded  
42 firearm, under circumstances where it would otherwise be lawful, by a person who  
43 reasonably believes that the person or property of himself or herself or of another

1 is in immediate, grave danger and that the carrying of the weapon is necessary for  
2 the preservation of that person or property. As used in this subdivision,  
3 “immediate” means the brief interval before and after the local law enforcement  
4 agency, when reasonably possible, has been notified of the danger and before the  
5 arrival of its assistance.

6 (2) A violation of this section is justifiable when a person who possesses a  
7 firearm reasonably believes that he or she is in grave danger because of  
8 circumstances forming the basis of a current restraining order issued by a court  
9 against another person or persons who has or have been found to pose a threat to  
10 his or her life or safety. This paragraph may not apply when the circumstances  
11 involve a mutual restraining order issued pursuant to Division 10 (commencing  
12 with Section 6200) of the Family Code absent a factual finding of a specific threat  
13 to the person’s life or safety. It is not the intent of the Legislature to limit, restrict,  
14 or narrow the application of current statutory or judicial authority to apply this or  
15 other justifications to defendants charged with violating Section 12025 or of  
16 committing other similar offenses. Upon trial for violating this section, the trier of  
17 fact shall determine whether the defendant was acting out of a reasonable belief  
18 that he or she was in grave danger.

19 (k) Nothing in this section is intended to preclude the carrying of a loaded  
20 firearm by any person while engaged in the act of making or attempting to make a  
21 lawful arrest.

22 (l) Nothing in this section shall prevent any person from having a loaded  
23 weapon, if it is otherwise lawful, at his or her place of residence, including any  
24 temporary residence or campsite.

25 (m)(1) The district attorney of each county shall submit annually a report on or  
26 before June 30, to the Attorney General consisting of profiles by race, age, gender,  
27 and ethnicity of any person charged with a felony or a misdemeanor under this  
28 section and any other offense charged in the same complaint, indictment, or  
29 information.

30 (2) The Attorney General shall submit annually, a report on or before December  
31 31, to the Legislature compiling all of the reports submitted pursuant to paragraph  
32 (1).

33 (3) This subdivision shall remain operative only until January 1, 2005.

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

35 12031.1. Nothing in Section 12031 shall prevent any person from storing aboard  
36 any vessel or aircraft any loaded or unloaded rocket, rocket propelled projectile  
37 launcher, or similar device designed primarily for emergency or distress signaling  
38 purposes, or from possessing such a device while in a permitted hunting area or  
39 traveling to or from such area and carrying a valid California permit or license to  
40 hunt.

1 **Penal Code § 12032. Unclaimed firearm or firearm no longer needed as exhibit in criminal**  
2 **case**

3 12032. Notwithstanding any provision of law or of any local ordinance to the  
4 contrary, when any firearm is in the possession of any officer of the state, or of a  
5 county, city and county or city, or of any campus of the University of California or  
6 the California State University, and the firearm is an exhibit filed in any criminal  
7 action or proceeding which is no longer needed or is unclaimed or abandoned  
8 property, which has been in the possession of the officer for at least 180 days, the  
9 firearm shall be sold, or destroyed, as provided for in Section 12028.

10 This section shall not apply to any firearm in the possession of the Department  
11 of Fish and Game or which was used in the violation of any provision of law, or  
12 regulation thereunder, in the Fish and Game Code.

13 **Penal Code § 12033. Certificate for carrying loaded firearm**

14 12033. The Department of Consumer Affairs may issue a certificate to any  
15 person referred to in subdivision (d) of Section 12031, upon notification by the  
16 school where the course was completed, that the person has successfully  
17 completed a course in the carrying and use of firearms and a course of training in  
18 the exercise of the powers of arrest which meet the standards prescribed by the  
19 department pursuant to Section 7583.5 of the Business and Professions Code.

20 **Penal Code § 12034. Firearm in motor vehicle**

21 12034. (a) It is a misdemeanor for a driver of any motor vehicle or the owner of  
22 any motor vehicle, whether or not the owner of the vehicle is occupying the  
23 vehicle, knowingly to permit any other person to carry into or bring into the  
24 vehicle a firearm in violation of Section 12031 of this code or Section 2006 of the  
25 Fish and Game Code.

26 (b) Any driver or owner of any vehicle, whether or not the owner of the vehicle  
27 is occupying the vehicle, who knowingly permits any other person to discharge  
28 any firearm from the vehicle is punishable by imprisonment in the county jail for  
29 not more than one year or in state prison for 16 months or two or three years.

30 (c) Any person who willfully and maliciously discharges a firearm from a motor  
31 vehicle at another person other than an occupant of a motor vehicle is guilty of a  
32 felony punishable by imprisonment in state prison for three, five, or seven years.

33 (d) Except as provided in Section 3002 of the Fish and Game Code, any person  
34 who willfully and maliciously discharges a firearm from a motor vehicle is guilty  
35 of a public offense punishable by imprisonment in the county jail for not more  
36 than one year or in the state prison.

37 **Penal Code § 12035. Criminal storage of firearm**

38 12035. (a) As used in this section, the following definitions apply:

39 (1) **“Locking device”** means a device that is designed to prevent the firearm  
40 from functioning and when applied to the firearm, renders the firearm inoperable.

1 (2) **“Loaded firearm”** has the same meaning as set forth in subdivision (g) of  
2 Section 12031.

3 (3) **“Child”** means a person under 18 years of age.

4 (4) **“Great bodily injury”** has the same meaning as set forth in Section  
5 12022.7.

6 (5) **“Locked container”** has the same meaning as set forth in subdivision (d) of  
7 Section 12026.2.

8 (b)(1) Except as provided in subdivision (c), a person commits the crime of  
9 **“criminal storage of a firearm of the first degree”** if he or she keeps any loaded  
10 firearm within any premises that are under his or her custody or control and he or  
11 she knows or reasonably should know that a child is likely to gain access to the  
12 firearm without the permission of the child’s parent or legal guardian and the child  
13 obtains access to the firearm and thereby causes death or great bodily injury to  
14 himself, herself, or any other person.

15 (2) Except as provided in subdivision (c), a person commits the crime of  
16 **“criminal storage of a firearm of the second degree”** if he or she keeps any  
17 loaded firearm within any premises that are under his or her custody or control and  
18 he or she knows or reasonably should know that a child is likely to gain access to  
19 the firearm without the permission of the child’s parent or legal guardian and the  
20 child obtains access to the firearm and thereby causes injury, other than great  
21 bodily injury, to himself, herself, or any other person, or carries the firearm either  
22 to a public place or in violation of Section 417.

23 (c) Subdivision (b) shall not apply whenever any of the following occurs:

24 (1) The child obtains the firearm as a result of an illegal entry to any premises by  
25 any person.

26 (2) The firearm is kept in a locked container or in a location that a reasonable  
27 person would believe to be secure.

28 (3) The firearm is carried on the person or within such a close proximity thereto  
29 that the individual can readily retrieve and use the firearm as if carried on the  
30 person.

31 (4) The firearm is locked with a locking device that has rendered the firearm  
32 inoperable.

33 (5) The person is a peace officer or a member of the armed forces or National  
34 Guard and the child obtains the firearm during, or incidental to, the performance  
35 of the person’s duties.

36 (6) The child obtains, or obtains and discharges, the firearm in a lawful act of  
37 self-defense or defense of another person, or persons.

38 (7) The person who keeps a loaded firearm on any premise that is under his or  
39 her custody or control has no reasonable expectation, based on objective facts and  
40 circumstances, that a child is likely to be present on the premises.

41 (d) Criminal storage of a firearm is punishable as follows:

42 (1) Criminal storage of a firearm in the first degree, by imprisonment in the state  
43 prison for 16 months, or two or three years, by a fine not exceeding ten thousand

1 dollars (\$10,000), or by both that imprisonment and fine; or by imprisonment in a  
2 county jail not exceeding one year, by a fine not exceeding one thousand dollars  
3 (\$1,000), or by both that fine and imprisonment.

4 (2) Criminal storage of a firearm in the second degree, by imprisonment in a  
5 county jail not exceeding one year, by a fine not exceeding one thousand dollars  
6 (\$1,000), or by both that imprisonment and fine.

7 (e) If the person who allegedly violated **this section** is the parent or guardian of a  
8 child who is injured or who dies as the result of an accidental shooting, the district  
9 attorney shall consider, among other factors, the impact of the injury or death on  
10 the person alleged to have violated **this section** when deciding whether to  
11 prosecute an alleged violation. It is the Legislature's intent that a parent or  
12 guardian of a child who is injured or who dies as the result of an accidental  
13 shooting shall be prosecuted only in those instances in which the parent or  
14 guardian behaved in a grossly negligent manner or where similarly egregious  
15 circumstances exist. **This subdivision** shall not otherwise restrict, in any manner,  
16 the factors that a district attorney may consider when deciding whether to  
17 prosecute alleged violations of **this section**.

18 (f) If the person who allegedly violated **this section** is the parent or guardian of a  
19 child who is injured or who dies as the result of an accidental shooting, no arrest  
20 of the person for the alleged violation of **this section** shall occur until at least seven  
21 days after the date upon which the accidental shooting occurred.

22 In addition to the limitation contained in **this subdivision**, a law enforcement  
23 officer shall consider the health status of a child who suffers great bodily injury as  
24 the result of an accidental shooting prior to arresting a person for a violation of  
25 **this section**, if the person to be arrested is the parent or guardian of the injured  
26 child. The intent of **this subdivision** is to encourage law enforcement officials to  
27 delay the arrest of a parent or guardian of a seriously injured child while the child  
28 remains on life-support equipment or is in a similarly critical medical condition.

29 (g)(1) The fact that the person who allegedly violated **this section** attended a  
30 firearm safety training course prior to the purchase of the firearm that is obtained  
31 by a child in violation of **this section** shall be considered a mitigating factor by a  
32 district attorney when he or she is deciding whether to prosecute the alleged  
33 violation.

34 (2) In any action or trial commenced under **this section**, the fact that the person  
35 who allegedly violated **this section** attended a firearm safety training course prior  
36 to the purchase of the firearm that is obtained by a child in violation of **this**  
37 **section**, shall be admissible.

38 (h) Every person licensed under **Section 12071** shall post within the licensed  
39 premises the notice required by **paragraph (7) of subdivision (b) of that section**,  
40 disclosing the duty imposed by **this section** upon any person who keeps a loaded  
41 firearm.

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

3 12036. (a) As used in **this section**, the following definitions shall apply:

4 (1) **“Locking device”** means a device that is designed to prevent the firearm  
5 from functioning and when applied to the firearm, renders the firearm inoperable.

6 (2) **“Child”** means a person under the age of 18 years.

7 (3) **“Off-premises”** means premises other than the premises where the firearm  
8 was stored.

9 (4) **“Locked container”** has the same meaning as set forth in **subdivision (d) of**  
10 **Section 12026.2**.

11 (b) A person who keeps a pistol, revolver, or other firearm capable of being  
12 concealed upon the person, loaded or unloaded, within any premises that are under  
13 his or her custody or control and he or she knows or reasonably should know that a  
14 child is likely to gain access to that firearm without the permission of the child’s  
15 parent or legal guardian and the child obtains access to that firearm and thereafter  
16 carries that firearm off-premises, shall be punished by imprisonment in a county  
17 jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000),  
18 or by both that imprisonment and fine.

19 (c) A person who keeps any firearm within any premises that is under his or her  
20 custody or control and he or she knows or reasonably should know that a child is  
21 likely to gain access to the firearm without the permission of the child’s parent or  
22 legal guardian and the child obtains access to the firearm and thereafter carries that  
23 firearm off-premises to any public or private preschool, elementary school, middle  
24 school, high school, or to any school-sponsored event, activity, or performance  
25 whether occurring on school grounds or elsewhere, shall be punished by  
26 imprisonment in a county jail not exceeding one year, by a fine not exceeding five  
27 thousand dollars (\$5,000), or by both that imprisonment and fine.

28 (d) A pistol, revolver, or other firearm capable of being concealed upon the  
29 person that a child gains access to and carries off-premises in violation of **this**  
30 **section** shall be deemed **“used in the commission of any misdemeanor as**  
31 **provided in this code or any felony”** for the purpose of **subdivision (b) of**  
32 **Section 12028** regarding the authority to confiscate firearms and other deadly  
33 weapons as a nuisance.

34 (e) **This section** shall not apply if any one of the following circumstances exists:

35 (1) The child obtains the firearm as a result of an illegal entry into any premises  
36 by any person.

37 (2) The firearm is kept in a locked container or in a location that a reasonable  
38 person would believe to be secure.

39 (3) The firearm is locked with a locking device that has rendered the firearm  
40 inoperable.

41 (4) The firearm is carried on the person within such a close range that the  
42 individual can readily retrieve and use the firearm as if carried on the person.

1 (5) The person is a peace officer or a member of the Armed Forces or National  
2 Guard and the child obtains the firearm during, or incidental to, the performance  
3 of the person's duties.

4 (6) The child obtains, or obtains and discharges, the firearm in a lawful act of  
5 self-defense or defense of another person or persons.

6 (7) The person who keeps a firearm has no reasonable expectation, based on  
7 objective facts and circumstances, that a child is likely to be present on the  
8 premises.

9 (f) If the person who allegedly violated **this section** is the parent or guardian of a  
10 child who is injured or who dies as the result of an accidental shooting, the district  
11 attorney shall consider, among other factors, the impact of the injury or death on  
12 the person alleged to have violated **this section** when deciding whether to  
13 prosecute the alleged violation. It is the Legislature's intent that a parent or  
14 guardian of a child who is injured or who dies as the result of an accidental  
15 shooting shall be prosecuted only in those instances in which the parent or  
16 guardian behaved in a grossly negligent manner or where similarly egregious  
17 circumstances exist. **This subdivision** shall not otherwise restrict, in any manner,  
18 the factors that a district attorney may consider when deciding whether to  
19 prosecute alleged violations of **this section**.

20 (g) If the person who allegedly violated **this section** is the parent or guardian of a  
21 child who is injured or who dies as the result of an accidental shooting, no arrest  
22 of the person for the alleged violation of **this section** shall occur until at least seven  
23 days after the date upon which the accidental shooting occurred.

24 In addition to the limitation contained in **this subdivision**, a law enforcement  
25 officer shall consider the health status of a child who suffers great bodily injury as  
26 the result of an accidental shooting prior to arresting a person for a violation of  
27 **this section**, if the person to be arrested is the parent or guardian of the injured  
28 child. The intent of **this subdivision** is to encourage law enforcement officials to  
29 delay the arrest of a parent or guardian of a seriously injured child while the child  
30 remains on life-support equipment or is in a similarly critical medical condition.

31 (h)(1) The fact that the person who allegedly violated **this section** attended a  
32 firearm safety training course prior to the purchase of the firearm that is obtained  
33 by a child in violation of **this section** shall be considered a mitigating factor by a  
34 district attorney when he or she is deciding whether to prosecute the alleged  
35 violation.

36 (2) In any action or trial commenced under **this section**, the fact that the person  
37 who allegedly violated **this section** attended a firearm safety training course prior  
38 to the purchase of the firearm that is obtained by a child in violation of **this**  
39 **section**, shall be admissible.

40 (i) Every person licensed under **Section 12071** shall post within the licensed  
41 premises the notice required by **paragraph (7) of subdivision (b) of that section**,  
42 disclosing the duty imposed by **this section** upon any person who keeps any  
43 firearm.

1 **Penal Code § 12039. Annual report by Attorney General on firearm use in crimes**

2 12039. The Attorney General shall provide the Legislature on or before April 15  
3 of each year, commencing in 1998, a written report on the specific types of  
4 firearms used in the commission of crimes based upon information obtained from  
5 state and local crime laboratories. The report shall include all of the following  
6 information regarding crimes in which firearms were used:

7 (a) A description of the relative occurrence of firearms most frequently used in  
8 the commission of violent crimes, distinguishing whether the firearms used were  
9 handguns, rifles, shotguns, assault weapons, or other related types of weapons.

10 (b) A description of specific types of firearms that are used in homicides or  
11 street gang and drug trafficking crimes.

12 (c) The frequency with which stolen firearms were used in the commission of  
13 the crimes.

14 (d) The frequency with which fully automatic firearms were used in the  
15 commission of the crimes.

16 (e) Any trends of importance such as those involving specialized ammunition or  
17 firearms modifications, such as conversion to a fully automatic weapon, removal  
18 of serial number, shortening of barrel, or use of a suppressor.

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

20 12040. (a) A person commits criminal possession of a firearm when he or she  
21 carries a firearm in a public place or on any public street while masked so as to  
22 hide his or her identity.

23 (b) Criminal possession of a firearm is punishable by imprisonment in the state  
24 prison or by imprisonment in a county jail not to exceed one year.

25 (c) Subdivision (a) shall not apply to the following:

26 (1) A peace officer who is in the performance of his or her duties.

27 (2) Full-time paid peace officers of other states and the federal government who  
28 are carrying out official duties while in this state.

29 (3) Any person summoned by any of the officers enumerated in paragraph (1) or  
30 (2) to assist in making arrests or preserving the peace while he or she is actually  
31 engaged in assisting that officer.

32 (4) The possession of an unloaded firearm or a firearm loaded with blank  
33 ammunition by an authorized participant in, or while rehearsing for, a motion  
34 picture, television, video production, entertainment event, entertainment activity,  
35 or lawfully organized and conducted activity when the participant lawfully uses  
36 the firearm as part of that production, event, or activity.

37 (5) The possession of a firearm by a licensed hunter while actually engaged in  
38 lawful hunting, or while going directly to or returning directly from the hunting  
39 expedition.

1 Article 3. Licenses to Carry Pistols and Revolvers

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

4 12050. (a)(1)(A) The sheriff of a county, upon proof that the person applying is  
5 of good moral character, that good cause exists for the issuance, and that the  
6 person applying satisfies any one of the conditions specified in subparagraph (D)  
7 and has completed a course of training as described in subparagraph (E), may  
8 issue to that person a license to carry a pistol, revolver, or other firearm capable of  
9 being concealed upon the person in either one of the following formats:

10 (i) A license to carry concealed a pistol, revolver, or other firearm capable of  
11 being concealed upon the person.

12 (ii) Where the population of the county is less than 200,000 persons according to  
13 the most recent federal decennial census, a license to carry loaded and exposed in  
14 that county a pistol, revolver, or other firearm capable of being concealed upon the  
15 person.

16 (B) The chief or other head of a municipal police department of any city or city  
17 and county, upon proof that the person applying is of good moral character, that  
18 good cause exists for the issuance, and that the person applying is a resident of that  
19 city and has completed a course of training as described in subparagraph (E), may  
20 issue to that person a license to carry a pistol, revolver, or other firearm capable of  
21 being concealed upon the person in either one of the following formats:

22 (i) A license to carry concealed a pistol, revolver, or other firearm capable of  
23 being concealed upon the person.

24 (ii) Where the population of the county in which the city is located is less than  
25 200,000 persons according to the most recent federal decennial census, a license to  
26 carry loaded and exposed in that county a pistol, revolver, or other firearm capable  
27 of being concealed upon the person.

28 (C) The sheriff of a county or the chief or other head of a municipal police  
29 department of any city or city and county, upon proof that the person applying is  
30 of good moral character, that good cause exists for the issuance, and that the  
31 person applying is a person who has been deputized or appointed as a peace  
32 officer pursuant to subdivision (a) or (b) of Section 830.6 by that sheriff or that  
33 chief of police or other head of a municipal police department, may issue to that  
34 person a license to carry concealed a pistol, revolver, or other firearm capable of  
35 being concealed upon the person. Direct or indirect fees for the issuance of a  
36 license pursuant to this subparagraph may be waived. The fact that an applicant for  
37 a license to carry a pistol, revolver, or other firearm capable of being concealed  
38 upon the person has been deputized or appointed as a peace officer pursuant to  
39 subdivision (a) or (b) of Section 830.6 shall be considered only for the purpose of  
40 issuing a license pursuant to this subparagraph, and shall not be considered for the  
41 purpose of issuing a license pursuant to subparagraph (A) or (B).

1 (D) For the purpose of **subparagraph (A)**, the applicant shall satisfy any one of  
2 the following:

3 (i) Is a resident of the county or a city within the county.

4 (ii) Spends a substantial period of time in the applicant's principal place of  
5 employment or business in the county or a city within the county.

6 (E)(i) For new license applicants, the course of training may be any course  
7 acceptable to the licensing authority, shall not exceed 16 hours, and shall include  
8 instruction on at least firearm safety and the law regarding the permissible use of a  
9 firearm. Notwithstanding **this clause**, the licensing authority may require a  
10 community college course certified by the Commission on Peace Officer  
11 Standards and Training, up to a maximum of 24 hours, but only if required  
12 uniformly of all license applicants without exception.

13 (ii) For license renewal applicants, the course of training may be any course  
14 acceptable to the licensing authority, shall be no less than four hours, and shall  
15 include instruction on at least firearm safety and the law regarding the permissible  
16 use of a firearm. No course of training shall be required for any person certified by  
17 the licensing authority as a trainer for purposes of **this subparagraph**, in order for  
18 that person to renew a license issued pursuant to **this section**.

19 (2)(A)(i) Except as otherwise provided in **clause (ii)**, **subparagraphs (C) and (D)**  
20 **of this paragraph**, and **subparagraph (B) of paragraph (4) of subdivision (f)**, a  
21 license issued pursuant to **subparagraph (A) or (B) of paragraph (1)** is valid for any  
22 period of time not to exceed two years from the date of the license.

23 (ii) If the licensee's place of employment or business was the basis for issuance  
24 of the license pursuant to **subparagraph (A) of paragraph (1)**, the license is valid  
25 for any period of time not to exceed 90 days from the date of the license. The  
26 license shall be valid only in the county in which the license was originally issued.  
27 The licensee shall give a copy of this license to the licensing authority of the city,  
28 county, or city and county in which he or she resides. The licensing authority that  
29 originally issued the license shall inform the licensee verbally and in writing in at  
30 least 16-point type of this obligation to give a copy of the license to the licensing  
31 authority of the city, county, or city and county of residence. Any application to  
32 renew or extend the validity of, or reissue, the license may be granted only upon  
33 the concurrence of the licensing authority that originally issued the license and the  
34 licensing authority of the city, county, or city and county in which the licensee  
35 resides.

36 (B) A license issued pursuant to **subparagraph (C) of paragraph (1)** to a peace  
37 officer appointed pursuant to **Section 830.6** is valid for any period of time not to  
38 exceed four years from the date of the license, except that the license shall be  
39 invalid upon the conclusion of the person's appointment pursuant to **Section 830.6**  
40 if the four-year period has not otherwise expired or any other condition imposed  
41 pursuant to **this section** does not limit the validity of the license to a shorter time  
42 period.

1 (C) A license issued pursuant to subparagraph (A) or (B) of paragraph (1) is  
2 valid for any period of time not to exceed three years from the date of the license  
3 if the license is issued to any of the following individuals:

- 4 (i) A judge of a California court of record.
- 5 (ii) A full-time court commissioner of a California court of record.
- 6 (iii) A judge of a federal court.
- 7 (iv) A magistrate of a federal court.

8 (D) A license issued pursuant to subparagraph (A) or (B) of paragraph (1) is  
9 valid for any period of time not to exceed four years from the date of the license if  
10 the license is issued to a custodial officer who is an employee of the sheriff as  
11 provided in Section 831.5, except that the license shall be invalid upon the  
12 conclusion of the person's employment pursuant to Section 831.5 if the four-year  
13 period has not otherwise expired or any other condition imposed pursuant to this  
14 section does not limit the validity of the license to a shorter time period.

15 (3) For purposes of this subdivision, a city or county may be considered an  
16 applicant's "**principal place of employment or business**" only if the applicant is  
17 physically present in the jurisdiction during a substantial part of his or her working  
18 hours for purposes of that employment or business.

19 (b) A license may include any reasonable restrictions or conditions which the  
20 issuing authority deems warranted, including restrictions as to the time, place,  
21 manner, and circumstances under which the person may carry a pistol, revolver, or  
22 other firearm capable of being concealed upon the person.

23 (c) Any restrictions imposed pursuant to subdivision (b) shall be indicated on  
24 any license issued.

25 (d) A license shall not be issued if the Department of Justice determines that the  
26 person is within a prohibited class described in Section 12021 or 12021.1 of this  
27 code or Section 8100 or 8103 of the Welfare and Institutions Code.

28 (e)(1) The license shall be revoked by the local licensing authority if at any time  
29 either the local licensing authority is notified by the Department of Justice that a  
30 licensee is within a prohibited class described in Section 12021 or 12021.1 of this  
31 code or Section 8100 or 8103 of the Welfare and Institutions Code, or the local  
32 licensing authority determines that the person is within a prohibited class  
33 described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the  
34 Welfare and Institutions Code.

35 (2) If at any time the Department of Justice determines that a licensee is within a  
36 prohibited class described in Section 12021 or 12021.1 of this code or Section  
37 8100 or 8103 of the Welfare and Institutions Code, the department shall  
38 immediately notify the local licensing authority of the determination.

39 (3) If the local licensing authority revokes the license, the Department of Justice  
40 shall be notified of the revocation pursuant to Section 12053. The licensee shall  
41 also be immediately notified of the revocation in writing.

1 (f)(1) A person issued a license pursuant to **this section** may apply to the  
2 licensing authority for an amendment to the license to do one or more of the  
3 following:

4 (A) Add or delete authority to carry a particular pistol, revolver, or other firearm  
5 capable of being concealed upon the person.

6 (B) Authorize the licensee to carry concealed a pistol, revolver, or other firearm  
7 capable of being concealed upon the person.

8 (C) If the population of the county is less than 200,000 persons according to the  
9 most recent federal decennial census, authorize the licensee to carry loaded and  
10 exposed in that county a pistol, revolver, or other firearm capable of being  
11 concealed upon the person.

12 (D) Change any restrictions or conditions on the license, including restrictions as  
13 to the time, place, manner, and circumstances under which the person may carry a  
14 pistol, revolver, or other firearm capable of being concealed upon the person.

15 (2) When the licensee changes his or her address, the license shall be amended  
16 to reflect the new address and a new license shall be issued pursuant to **paragraph**  
17 **(3)**.

18 (3) If the licensing authority amends the license, a new license shall be issued to  
19 the licensee reflecting the amendments.

20 (4)(A) The licensee shall notify the licensing authority in writing within 10 days  
21 of any change in the licensee's place of residence.

22 (B) If the license is one to carry concealed a pistol, revolver, or other firearm  
23 capable of being concealed upon the person, then it may not be revoked solely  
24 because the licensee changes his or her place of residence to another county if the  
25 licensee has not breached any conditions or restrictions set forth in the license or  
26 has not fallen into a prohibited class described in **Section 12021 or 12021.1 of this**  
27 **code or Section 8100 or 8103 of the Welfare and Institutions Code**. However, any  
28 license issued pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision  
29 **(a)** shall expire 90 days after the licensee moves from the county of issuance if the  
30 licensee's place of residence was the basis for issuance of the license.

31 (C) If the license is one to carry loaded and exposed a pistol, revolver, or other  
32 firearm capable of being concealed upon the person, the license shall be revoked  
33 immediately if the licensee changes his or her place of residence to another  
34 county.

35 (5) An amendment to the license does not extend the original expiration date of  
36 the license and the license shall be subject to renewal at the same time as if the  
37 license had not been amended.

38 (6) An application to amend a license does not constitute an application for  
39 renewal of the license.

40 (g) Nothing in **this article** shall preclude the chief or other head of a municipal  
41 police department of any city from entering an agreement with the sheriff of the  
42 county in which the city is located for the sheriff to process all applications for  
43 licenses, renewals of licenses, and amendments to licenses, pursuant to **this article**.

1 **Penal Code § 12050.2. Written policy**

2 12050.2. Within three months of the effective date of the act adding this section,  
3 each licensing authority shall publish and make available a written policy  
4 summarizing the provisions of subparagraphs (A) and (B) of paragraph (1) of  
5 subdivision (a) of Section 12050.

6 **Penal Code § 12051. License application**

7 12051. (a)(1) The standard application form for licenses described in paragraph  
8 (3) shall require information from the applicant including, but not limited to, the  
9 name, occupation, residence and business address of the applicant, his or her age,  
10 height, weight, color of eyes and hair, and reason for desiring a license to carry the  
11 weapon. Applications for licenses shall be filed in writing, and signed by the  
12 applicant. Any license issued upon the application shall set forth the licensee's  
13 name, occupation, residence and business address, his or her age, height, weight,  
14 color of eyes and hair, the reason for desiring a license to carry the weapon, and  
15 shall, in addition, contain a description of the weapon or weapons authorized to be  
16 carried, giving the name of the manufacturer, the serial number, and the caliber.  
17 The license issued to the licensee may be laminated.

18 (2) Applications for amendments to licenses shall be filed in writing and signed  
19 by the applicant, and shall state what type of amendment is sought pursuant to  
20 subdivision (f) of Section 12050 and the reason for desiring the amendment.

21 (3)(A) Applications for amendments to licenses, applications for licenses,  
22 amendments to licenses, and licenses shall be uniform throughout the state, upon  
23 forms to be prescribed by the Attorney General. The Attorney General shall  
24 convene a committee composed of one representative of the California State  
25 Sheriffs' Association, one representative of the California Police Chiefs'  
26 Association, and one representative of the Department of Justice to review, and as  
27 deemed appropriate, revise the standard application form for licenses. The  
28 committee shall meet for this purpose if two of the committee's members deem  
29 that necessary. The application shall include a section summarizing the statutory  
30 provisions of state law that result in the automatic denial of a license.

31 (B) The forms shall contain a provision whereby the applicant attests to the truth  
32 of statements contained in the application.

33 (C) An applicant shall not be required to complete any additional application or  
34 form for a license, or to provide any information other than that necessary to  
35 complete the standard application form described in subparagraph (A), except to  
36 clarify or interpret information provided by the applicant on the standard  
37 application form.

38 (D) The standard application form described in subparagraph (A) is deemed to  
39 be a local form expressly exempt from the requirements of the Administrative  
40 Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of  
41 Division 3 of Title 2 of the Government Code.

1 (b) Any person who files an application required by subdivision (a) knowing  
2 that statements contained therein are false is guilty of a misdemeanor.

3 (c) Any person who knowingly makes a false statement on the application  
4 regarding any of the following shall be guilty of a felony:

5 (1) The denial or revocation of a license, or the denial of an amendment to a  
6 license, issued pursuant to Section 12050.

7 (2) A criminal conviction.

8 (3) A finding of not guilty by reason of insanity.

9 (4) The use of a controlled substance.

10 (5) A dishonorable discharge from military service.

11 (6) A commitment to a mental institution.

12 (7) A renunciation of United States citizenship.

13 **Penal Code § 12052. Fingerprinting and Department of Justice report**

14 12052. (a) The fingerprints of each applicant shall be taken and two copies on  
15 forms prescribed by the Department of Justice shall be forwarded to the  
16 department. Upon receipt of the fingerprints and the fee as prescribed in Section  
17 12054, the department shall promptly furnish the forwarding licensing authority a  
18 report of all data and information pertaining to any applicant of which there is a  
19 record in its office, including information as to whether the person is prohibited  
20 under Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the  
21 Welfare and Institutions Code from possessing, receiving, owning, or purchasing a  
22 firearm. No license shall be issued by any licensing authority until after receipt of  
23 the report from the department.

24 (b) However, if the license applicant has previously applied to the same  
25 licensing authority for a license to carry firearms pursuant to Section 12050 and  
26 the applicant's fingerprints and fee have been previously forwarded to the  
27 Department of Justice, as provided by this section, the licensing authority shall  
28 note the previous identification numbers and other data that would provide  
29 positive identification in the files of the Department of Justice on the copy of any  
30 subsequent license submitted to the department in conformance with Section  
31 12053 and no additional application form or fingerprints shall be required.

32 (c) If the license applicant has a license issued pursuant to Section 12050 and the  
33 applicant's fingerprints have been previously forwarded to the Department of  
34 Justice, as provided in this section, the licensing authority shall note the previous  
35 identification numbers and other data that would provide positive identification in  
36 the files of the Department of Justice on the copy of any subsequent license  
37 submitted to the department in conformance with Section 12053 and no additional  
38 fingerprints shall be required.

39 **Penal Code § 12052.5. Notification of applicant**

40 12052.5. The licensing authority shall give written notice to the applicant  
41 indicating if the license is approved or denied within 90 days of the initial

1 application for a new license or a license renewal or 30 days after receipt of the  
2 applicant's criminal background check from the Department of Justice, whichever  
3 is later.

4 **Penal Code § 12053. Duties of licensing authority**

5 12053. (a) A record of the following shall be maintained in the office of the  
6 licensing authority:

- 7 (1) The denial of a license.
- 8 (2) The denial of an amendment to a license.
- 9 (3) The issuance of a license.
- 10 (4) The amendment of a license.
- 11 (5) The revocation of a license.

12 (b) Copies of each of the following shall be filed immediately by the issuing  
13 officer or authority with the Department of Justice:

- 14 (1) The denial of a license.
- 15 (2) The denial of an amendment to a license.
- 16 (3) The issuance of a license.
- 17 (4) The amendment of a license.
- 18 (5) The revocation of a license.

19 (c) Commencing on or before January 1, 2000, and annually thereafter, each  
20 licensing authority shall submit to the Attorney General the total number of  
21 licenses issued to peace officers, pursuant to subparagraph (C) of paragraph (1) of  
22 subdivision (a) of Section 12050, and to judges, pursuant to subparagraph (A) or  
23 (B) of paragraph (1) of subdivision (a) of Section 12050. The Attorney General  
24 shall collect and record the information submitted pursuant to this subdivision by  
25 county and licensing authority.

26 **Penal Code § 12054. Application fee**

27 12054. (a) Each applicant for a new license or for the renewal of a license shall  
28 pay at the time of filing his or her application a fee determined by the Department  
29 of Justice not to exceed the application processing costs of the Department of  
30 Justice for the direct costs of furnishing the report required by Section 12052.

31 After the department establishes fees sufficient to reimburse the department for  
32 processing costs, fees charged shall increase at a rate not to exceed the  
33 legislatively approved annual cost-of-living adjustments for the department's  
34 budget. The officer receiving the application and the fee shall transmit the fee,  
35 with the fingerprints if required, to the Department of Justice. The licensing  
36 authority of any city, city and county, or county may charge an additional fee in an  
37 amount equal to the actual costs for processing the application for a new license,  
38 excluding fingerprint and training costs, but in no case to exceed one hundred  
39 dollars (\$100), and shall transmit the additional fee, if any, to the city, city and  
40 county, or county treasury. The first 20 percent of this additional local fee may be

1 collected upon filing of the initial application. The balance of the fee shall be  
2 collected only upon issuance of the license.

3 The licensing authority may charge an additional fee, not to exceed twenty-five  
4 dollars (\$25), for processing the application for a license renewal, and shall  
5 transmit an additional fee, if any, to the city, city and county, or county treasury.  
6 These local fees may be increased at a rate not to exceed any increase in the  
7 California Consumer Price Index as compiled and reported by the California  
8 Department of Industrial Relations.

9 (b) In the case of an amended license pursuant to subdivision (f) of Section  
10 12050, the licensing authority of any city, city and county, or county may charge a  
11 fee, not to exceed ten dollars (\$10), except that the fee may be increased at a rate  
12 not to exceed any increase in the California Consumer Price Index as compiled  
13 and reported by the California Department of Industrial Relations, for processing  
14 the amended license and shall transmit the fee to the city, city and county, or  
15 county treasury.

16 (c) If psychological testing on the initial application is required by the licensing  
17 authority, the license applicant shall be referred to a licensed psychologist used by  
18 the licensing authority for the psychological testing of its own employees. The  
19 applicant may be charged for the actual cost of the testing in an amount not to  
20 exceed one hundred fifty dollars (\$150). Additional psychological testing of an  
21 applicant seeking license renewal shall be required only if there is compelling  
22 evidence to indicate that a test is necessary. The cost to the applicant for this  
23 additional testing shall not exceed one hundred fifty dollars (\$150).

24 (d) Except as authorized pursuant to subdivisions (a), (b), and (c), no  
25 requirement, charge, assessment, fee, or condition that requires the payment of any  
26 additional funds by the applicant may be imposed by any licensing authority as a  
27 condition of the application for a license.

#### 28 Article 4. Licenses to Sell Firearms

##### 29 Penal Code § 12070. License requirement for sale, lease, or transfer of firearms

30 12070. (a) No person shall sell, lease, or transfer firearms unless he or she has  
31 been issued a license pursuant to Section 12071. Any person violating this section  
32 is guilty of a misdemeanor.

33 (b) Subdivision (a) does not include any of the following:

34 (1) The sale, lease, or transfer of any firearm by a person acting pursuant to  
35 operation of law, a court order, or pursuant to the Enforcement of Judgments Law  
36 (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil  
37 Procedure), or by a person who liquidates a personal firearm collection to satisfy a  
38 court judgment.

39 (2) A person acting pursuant to subdivision (e) of Section 186.22a or  
40 subdivision (c) of Section 12028.

1 (3) The sale, lease, or transfer of a firearm by a person who obtains title to the  
2 firearm by intestate succession or by bequest or as a surviving spouse pursuant to  
3 Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate  
4 Code, provided the person disposes of the firearm within 60 days of receipt of the  
5 firearm.

6 (4) The infrequent sale, lease, or transfer of firearms.

7 (5) The sale, lease, or transfer of used firearms other than pistols, revolvers, or  
8 other firearms capable of being concealed upon the person, at gun shows or  
9 events, as specified in Section 12071, by a person other than a licensee or dealer,  
10 provided the person has a valid federal firearms license and a current certificate of  
11 eligibility issued by the Department of Justice, as specified in Section 12071, and  
12 provided all the sales, leases, or transfers fully comply with subdivision (d) of  
13 Section 12072. However, the person shall not engage in the sale, lease, or transfer  
14 of used firearms other than pistols, revolvers, or other firearms capable of being  
15 concealed upon the person at more than 12 gun shows or events in any calendar  
16 year and shall not sell, lease, or transfer more than 15 used firearms other than  
17 pistols, revolvers, or other firearms capable of being concealed upon the person at  
18 any single gun show or event. In no event shall the person sell more than 75 used  
19 firearms other than pistols, revolvers, or other firearms capable of being concealed  
20 upon the person in any calendar year.

21 A person described in this paragraph shall be known as a “**Gun Show Trader.**”

22 The Department of Justice shall adopt regulations to administer this program  
23 and shall recover the full costs of administration from fees assessed applicants.

24 As used in this paragraph, the term “**used firearm**” means a firearm that has  
25 been sold previously at retail and is more than three years old.

26 (6) Deliveries, sales, or transfers of firearms between or to importers and  
27 manufacturers of firearms licensed to engage in business pursuant to Chapter 44  
28 (commencing with Section 921) of Title 18 of the United States Code and the  
29 regulations issued pursuant thereto.

30 (7) The sale, delivery, or transfer of firearms by manufacturers or importers  
31 licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the  
32 United States Code and the regulations issued pursuant thereto to dealers or  
33 wholesalers.

34 (8) Deliveries and transfers of firearms made pursuant to Section 12028,  
35 12028.5, or 12030.

36 (9) The loan of a firearm for the purposes of shooting at targets, if the loan  
37 occurs on the premises of a target facility which holds a business or regulatory  
38 license or on the premises of any club or organization organized for the purposes  
39 of practicing shooting at targets upon established ranges, whether public or  
40 private, if the firearm is at all times kept within the premises of the target range or  
41 on the premises of the club or organization.

42 (10) Sales, deliveries, or transfers of firearms by manufacturers, importers, or  
43 wholesalers licensed pursuant to Chapter 44 (commencing with Section 921) of

1 Title 18 of the United States Code and the regulations issued pursuant thereto to  
2 persons who reside outside this state who are licensed pursuant to Chapter 44  
3 (commencing with Section 921) of Title 18 of the United States Code and the  
4 regulations issued pursuant thereto, if the sale, delivery, or transfer is in  
5 accordance with Chapter 44 (commencing with Section 921) of Title 18 of the  
6 United States Code and the regulations issued pursuant thereto.

7 (11) Sales, deliveries, or transfers of firearms by persons who reside outside this  
8 state and are licensed outside this state pursuant to Chapter 44 (commencing with  
9 Section 921) of Title 18 of the United States Code and the regulations issued  
10 pursuant thereto to wholesalers, manufacturers, or importers, if the sale, delivery,  
11 or transfer is in accordance with Chapter 44 (commencing with Section 921) of  
12 Title 18 of the United States Code and the regulations issued pursuant thereto.

13 (12) Sales, deliveries, or transfers of firearms by wholesalers to dealers.

14 (13) Sales, deliveries, or transfers of firearms by persons who reside outside this  
15 state to persons licensed pursuant to Section 12071, if the sale, delivery, or transfer  
16 is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of  
17 the United States Code, and the regulations issued pursuant thereto.

18 (14) Sales, deliveries, or transfers of firearms by persons who reside outside this  
19 state and are licensed pursuant to Chapter 44 (commencing with Section 921) of  
20 Title 18 of the United States Code and the regulations issued pursuant thereto to  
21 dealers, if the sale, delivery, or transfer is in accordance with Chapter 44  
22 (commencing with Section 921) of Title 18 of the United States Code and the  
23 regulations issued pursuant thereto.

24 (15) The delivery, sale, or transfer of an unloaded firearm by one wholesaler to  
25 another wholesaler if that firearm is intended as merchandise in the receiving  
26 wholesaler's business.

27 (16) The loan of an unloaded firearm or the loan of a firearm loaded with blank  
28 cartridges for use solely as a prop for a motion picture, television, or video  
29 production or entertainment or theatrical event.

30 (17) The delivery of an unloaded firearm that is a curio or relic, as defined in  
31 Section 478.11 of Title 27 of the Code of Federal Regulations, by a person  
32 licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of  
33 Title 18 of the United States Code and the regulations issued pursuant thereto with  
34 a current certificate of eligibility issued pursuant to Section 12071 to a dealer.

35 (c)(1) As used in this section, **“infrequent”** means:

36 (A) For pistols, revolvers, and other firearms capable of being concealed upon  
37 the person, less than six transactions per calendar year. For this purpose,  
38 **“transaction”** means a single sale, lease, or transfer of any number of pistols,  
39 revolvers, or other firearms capable of being concealed upon the person.

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

42 (2) As used in this section, **“operation of law”** includes, but is not limited to,  
43 any of the following:

- 1 (A) The executor or administrator of an estate, if the estate includes firearms.  
2 (B) A secured creditor or an agent or employee thereof when the firearms are  
3 possessed as collateral for, or as a result of, a default under a security agreement  
4 under the Commercial Code.  
5 (C) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the  
6 Code of Civil Procedure.  
7 (D) A receiver performing his or her functions as a receiver, if the receivership  
8 estate includes firearms.  
9 (E) A trustee in bankruptcy performing his or her duties, if the bankruptcy estate  
10 includes firearms.  
11 (F) An assignee for the benefit of creditors performing his or her functions as an  
12 assignee, if the assignment includes firearms.  
13 (G) A transmutation of property between spouses pursuant to Section 850 of the  
14 Family Code.  
15 (H) Firearms received by the family of a police officer or deputy sheriff from a  
16 local agency pursuant to Section 50081 of the Government Code.  
17 (I) The transfer of a firearm by a law enforcement agency to the person who  
18 found the firearm where the delivery is to the person as the finder of the firearm  
19 pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3  
20 of the Civil Code.

21 **Penal Code § 12071. Issuance, forfeiture, and conditions of license to sell firearms at retail**

22 12071. (a)(1) As used in this chapter, the term “licensee,” “person licensed  
23 pursuant to Section 12071,” or “dealer” means a person who has all of the  
24 following:

- 25 (A) A valid federal firearms license.  
26 (B) Any regulatory or business license, or licenses, required by local  
27 government.  
28 (C) A valid seller’s permit issued by the State Board of Equalization.  
29 (D) A certificate of eligibility issued by the Department of Justice pursuant to  
30 paragraph (4).  
31 (E) A license issued in the format prescribed by paragraph (6).  
32 (F) Is among those recorded in the centralized list specified in subdivision (e).  
33 (2) The duly constituted licensing authority of a city, county, or a city and  
34 county shall accept applications for, and may grant licenses permitting, licensees  
35 to sell firearms at retail within the city, county, or city and county. The duly  
36 constituted licensing authority shall inform applicants who are denied licenses of  
37 the reasons for the denial in writing.  
38 (3) No license shall be granted to any applicant who fails to provide a copy of  
39 his or her valid federal firearms license, valid seller’s permit issued by the State  
40 Board of Equalization, and the certificate of eligibility described in paragraph (4).  
41 (4) A person may request a certificate of eligibility from the Department of  
42 Justice and the Department of Justice shall issue a certificate to an applicant if the

1 department's records indicate that the applicant is not a person who is prohibited  
2 from possessing firearms.

3 (5) The department shall adopt regulations to administer the certificate of  
4 eligibility program and shall recover the full costs of administering the program by  
5 imposing fees assessed to applicants who apply for those certificates.

6 (6) A license granted by the duly constituted licensing authority of any city,  
7 county, or city and county, shall be valid for not more than one year from the date  
8 of issuance and shall be in one of the following forms:

9 (A) In the form prescribed by the Attorney General.

10 (B) A regulatory or business license that states on its face "Valid for Retail Sales  
11 of Firearms" and is endorsed by the signature of the issuing authority.

12 (C) A letter from the duly constituted licensing authority having primary  
13 jurisdiction for the applicant's intended business location stating that the  
14 jurisdiction does not require any form of regulatory or business license or does not  
15 otherwise restrict or regulate the sale of firearms.

16 (7) Local licensing authorities may assess fees to recover their full costs of  
17 processing applications for licenses.

18 (b) A license is subject to forfeiture for a breach of any of the following  
19 prohibitions and requirements:

20 (1)(A) Except as provided in subparagraphs (B) and (C), the business shall be  
21 conducted only in the buildings designated in the license.

22 (B) A person licensed pursuant to subdivision (a) may take possession of  
23 firearms and commence preparation of registers for the sale, delivery, or transfer  
24 of firearms at gun shows or events, as defined in Section 478.100 of Title 27 of the  
25 Code of Federal Regulations, or its successor, if the gun show or event is not  
26 conducted from any motorized or towed vehicle. A person conducting business  
27 pursuant to this subparagraph shall be entitled to conduct business as authorized  
28 herein at any gun show or event in the state without regard to the jurisdiction  
29 within this state that issued the license pursuant to subdivision (a), provided the  
30 person complies with (i) all applicable laws, including, but not limited to, the  
31 waiting period specified in subparagraph (A) of paragraph (3), and (ii) all  
32 applicable local laws, regulations, and fees, if any.

33 A person conducting business pursuant to this subparagraph shall publicly  
34 display his or her license issued pursuant to subdivision (a), or a facsimile thereof,  
35 at any gun show or event, as specified in this subparagraph.

36 (C) A person licensed pursuant to subdivision (a) may engage in the sale and  
37 transfer of firearms other than pistols, revolvers, or other firearms capable of being  
38 concealed upon the person, at events specified in subdivision (g) of Section 12078,  
39 subject to the prohibitions and restrictions contained in that subdivision.

40 A person licensed pursuant to subdivision (a) also may accept delivery of  
41 firearms other than pistols, revolvers, or other firearms capable of being concealed  
42 upon the person, outside the building designated in the license, provided the

1 firearm is being donated for the purpose of sale or transfer at an auction or similar  
2 event specified in subdivision (g) of Section 12078.

3 (D) The firearm may be delivered to the purchaser, transferee, or person being  
4 loaned the firearm at one of the following places:

5 (i) The building designated in the license.

6 (ii) The places specified in subparagraph (B) or (C).

7 (iii) The place of residence of, the fixed place of business of, or on private  
8 property owned or lawfully possessed by, the purchaser, transferee, or person  
9 being loaned the firearm.

10 (2) The license or a copy thereof, certified by the issuing authority, shall be  
11 displayed on the premises where it can easily be seen.

12 (3) No firearm shall be delivered:

13 (A) Within 10 days of the application to purchase, or, after notice by the  
14 department pursuant to subdivision (d) of Section 12076, within 10 days of the  
15 submission to the department of any correction to the application, or within 10  
16 days of the submission to the department of any fee required pursuant to  
17 subdivision (e) of Section 12076, whichever is later.

18 (B) Unless unloaded and securely wrapped or unloaded and in a locked  
19 container.

20 (C) Unless the purchaser, transferee, or person being loaned the firearm presents  
21 clear evidence of his or her identity and age to the dealer.

22 (D) Whenever the dealer is notified by the Department of Justice that the person  
23 is in a prohibited class described in Section 12021 or 12021.1 of this code or  
24 Section 8100 or 8103 of the Welfare and Institutions Code. The dealer shall make  
25 available to the person in the prohibited class a prohibited notice and transfer  
26 form, provided by the department, stating that the person is prohibited from  
27 owning or possessing a firearm, and that the person may obtain from the  
28 department the reason for the prohibition.

29 (4) No pistol, revolver, or other firearm or imitation thereof capable of being  
30 concealed upon the person, or placard advertising the sale or other transfer thereof,  
31 shall be displayed in any part of the premises where it can readily be seen from the  
32 outside.

33 (5) The licensee shall agree to and shall act properly and promptly in processing  
34 firearms transactions pursuant to Section 12082.

35 (6) The licensee shall comply with Sections 12073, 12076, and 12077,  
36 subdivisions (a) and (b) and paragraph (1) of subdivision (f) of Section 12072, and  
37 subdivision (a) of Section 12316.

38 (7) The licensee shall post conspicuously within the licensed premises the  
39 following warnings in block letters not less than one inch in height:

40 (A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES  
41 UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18  
42 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR  
43 DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF

1 A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM  
2 IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A  
3 LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

4 (B) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM  
5 CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY  
6 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON  
7 UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND  
8 CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A  
9 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED  
10 CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO  
11 KEEP IT FROM TEMPORARILY FUNCTIONING.”

12 (C) “IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER  
13 YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF  
14 AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-  
15 PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY  
16 BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE  
17 THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN  
18 A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING  
19 DEVICE.”

20 (D) “DISCHARGING FIREARMS IN POORLY VENTILATED AREAS,  
21 CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN  
22 EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH  
23 DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL  
24 INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH  
25 HANDS THOROUGHLY AFTER EXPOSURE.”

26 (E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE  
27 PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING  
28 OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL  
29 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO  
30 THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN  
31 ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

32 (F) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE  
33 MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE  
34 OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY  
35 PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO  
36 HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL,  
37 REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED  
38 UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

39 (8)(A) Commencing April 1, 1994, and until January 1, 2003, no pistol,  
40 revolver, or other firearm capable of being concealed upon the person shall be  
41 delivered unless the purchaser, transferee, or person being loaned the firearm  
42 presents to the dealer a basic firearms safety certificate.

1 (B) Commencing January 1, 2003, no dealer may deliver a handgun unless the  
2 person receiving the handgun presents to the dealer a valid handgun safety  
3 certificate. The firearms dealer shall retain a photocopy of the handgun safety  
4 certificate as proof of compliance with this requirement.

5 (C) Commencing January 1, 2003, no handgun may be delivered unless the  
6 purchaser, transferee, or person being loaned the firearm presents documentation  
7 indicating that he or she is a California resident. Satisfactory documentation shall  
8 include a utility bill from within the last three months, a residential lease, a  
9 property deed, or military permanent duty station orders indicating assignment  
10 within this state, or other evidence of residency as permitted by the Department of  
11 Justice. The firearms dealer shall retain a photocopy of the documentation as proof  
12 of compliance with this requirement.

13 (D) Commencing January 1, 2003, except as authorized by the department, no  
14 firearms dealer may deliver a handgun unless the recipient performs a safe  
15 handling demonstration with that handgun. The demonstration shall commence  
16 with the handgun unloaded and locked with the firearm safety device with which it  
17 is required to be delivered, if applicable. While maintaining muzzle awareness,  
18 that is, the firearm is pointed in a safe direction, preferably down at the ground,  
19 and trigger discipline, that is, the trigger finger is outside of the trigger guard and  
20 along side of the handgun frame, at all times, the handgun recipient shall correctly  
21 and safely perform the following:

22 (i) If the handgun is a semiautomatic pistol:

23 (I) Remove the magazine.

24 (II) Lock the slide back. If the model of firearm does not allow the slide to be  
25 locked back, pull the slide back, visually and physically check the chamber to  
26 ensure that it is clear.

27 (III) Visually and physically inspect the chamber, to ensure that the handgun is  
28 unloaded.

29 (IV) Remove the firearm safety device, if applicable. If the firearm safety device  
30 prevents any of the previous steps, remove the firearm safety device during the  
31 appropriate step.

32 (V) Load one bright orange, red, or other readily identifiable dummy round into  
33 the magazine. If no readily identifiable dummy round is available, an empty  
34 cartridge casing with an empty primer pocket may be used.

35 (VI) Insert the magazine into the magazine well of the firearm.

36 (VII) Manipulate the slide release or pull back and release the slide.

37 (VIII) Remove the magazine.

38 (IX) Visually inspect the chamber to reveal that a round can be chambered with  
39 the magazine removed.

40 (X) Lock the slide back to eject the bright orange, red, or other readily  
41 identifiable dummy round. If the handgun is of a model that does not allow the  
42 slide to be locked back, pull the slide back and physically check the chamber to

1 ensure that the chamber is clear. If no readily identifiable dummy round is  
2 available, an empty cartridge casing with an empty primer pocket may be used.

3 (XI) Apply the safety, if applicable.

4 (XII) Apply the firearm safety device, if applicable. This requirement shall not  
5 apply to an Olympic competition pistol if no firearms safety device, other than a  
6 cable lock that the department has determined would damage the barrel of the  
7 pistol, has been approved for the pistol, and the pistol is either listed in paragraph  
8 (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of  
9 subdivision (h) of Section 12132.

10 (ii) If the handgun is a double-action revolver:

11 (I) Open the cylinder.

12 (II) Visually and physically inspect each chamber, to ensure that the revolver is  
13 unloaded.

14 (III) Remove the firearm safety device. If the firearm safety device prevents any  
15 of the previous steps, remove the firearm safety device during the appropriate step.

16 (IV) While maintaining muzzle awareness and trigger discipline, load one bright  
17 orange, red, or other readily identifiable dummy round into a chamber of the  
18 cylinder and rotate the cylinder so that the round is in the next-to-fire position. If  
19 no readily identifiable dummy round is available, an empty cartridge casing with  
20 an empty primer pocket may be used.

21 (V) Close the cylinder.

22 (VI) Open the cylinder and eject the round.

23 (VII) Visually and physically inspect each chamber to ensure that the revolver is  
24 unloaded.

25 (VIII) Apply the firearm safety device, if applicable. This requirement shall not  
26 apply to an Olympic competition pistol if no firearms safety device, other than a  
27 cable lock that the department has determined would damage the barrel of the  
28 pistol, has been approved for the pistol, and the pistol is either listed in paragraph  
29 (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of  
30 subdivision (h) of Section 12132.

31 (iii) If the handgun is a single-action revolver:

32 (I) Open the loading gate.

33 (II) Visually and physically inspect each chamber, to ensure that the revolver is  
34 unloaded.

35 (III) Remove the firearm safety device required to be sold with the handgun. If  
36 the firearm safety device prevents any of the previous steps, remove the firearm  
37 safety device during the appropriate step.

38 (IV) Load one bright orange, red, or other readily identifiable dummy round into  
39 a chamber of the cylinder, close the loading gate and rotate the cylinder so that the  
40 round is in the next-to-fire position. If no readily identifiable dummy round is  
41 available, an empty cartridge casing with an empty primer pocket may be used.

42 (V) Open the loading gate and unload the revolver.

1 (VI) Visually and physically inspect each chamber to ensure that the revolver is  
2 unloaded.

3 (VII) Apply the firearm safety device, if applicable. This requirement shall not  
4 apply to an Olympic competition pistol if no firearms safety device, other than a  
5 cable lock that the department has determined would damage the barrel of the  
6 pistol, has been approved for the pistol, and the pistol is either listed in paragraph  
7 (2) of subdivision (h) of Section 12132 or is subject to paragraph (3) of  
8 subdivision (h) of Section 12132.

9 (E) The recipient shall receive instruction regarding how to render that handgun  
10 safe in the event of a jam.

11 (F) The firearms dealer shall sign and date an affidavit stating that the  
12 requirements of subparagraph (D) have been met. The firearms dealer shall  
13 additionally obtain the signature of the handgun purchaser on the same affidavit.  
14 The firearms dealer shall retain the original affidavit as proof of compliance with  
15 this requirement.

16 (G) The recipient shall perform the safe handling demonstration for a  
17 department-certified instructor.

18 (H) No demonstration shall be required if the dealer is returning the handgun to  
19 the owner of the handgun.

20 (I) Department-certified instructors who may administer the safe handling  
21 demonstration shall meet the requirements set forth in subdivision (j) of Section  
22 12804.

23 (J) The persons who are exempt from the requirements of subdivision (b) of  
24 Section 12801, pursuant to Section 12807, are also exempt from performing the  
25 safe handling demonstration.

26 (9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser  
27 or transferee of a firearm, or person being loaned a firearm, with a copy of the  
28 pamphlet described in Section 12080 and may add the cost of the pamphlet, if any,  
29 to the sales price of the firearm.

30 (10) The licensee shall not commit an act of collusion as defined in Section  
31 12072.

32 (11) The licensee shall post conspicuously within the licensed premises a  
33 detailed list of each of the following:

34 (A) All charges required by governmental agencies for processing firearm  
35 transfers required by Sections 12076, 12082, and 12806.

36 (B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

37 (12) The licensee shall not misstate the amount of fees charged by a  
38 governmental agency pursuant to Sections 12076, 12082, and 12806.

39 (13) Except as provided in subparagraphs (B) and (C) of paragraph (1) of  
40 subdivision (b), all firearms that are in the inventory of the licensee shall be kept  
41 within the licensed location. The licensee shall report the loss or theft of any  
42 firearm that is merchandise of the licensee, any firearm that the licensee takes  
43 possession of pursuant to Section 12082, or any firearm kept at the licensee's

1 place of business within 48 hours of discovery to the appropriate law enforcement  
2 agency in the city, county, or city and county where the licensee's business  
3 premises are located.

4 (14) Except as provided in subparagraphs (B) and (C) of paragraph (1) of  
5 subdivision (b), any time when the licensee is not open for business, all inventory  
6 firearms shall be stored in the licensed location. All firearms shall be secured  
7 using one of the following methods as to each particular firearm:

8 (A) Store the firearm in a secure facility that is a part of, or that constitutes, the  
9 licensee's business premises.

10 (B) Secure the firearm with a hardened steel rod or cable of at least one-eighth  
11 inch in diameter through the trigger guard of the firearm. The steel rod or cable  
12 shall be secured with a hardened steel lock that has a shackle. The lock and  
13 shackle shall be protected or shielded from the use of a boltcutter and the rod or  
14 cable shall be anchored in a manner that prevents the removal of the firearm from  
15 the premises.

16 (C) Store the firearm in a locked fireproof safe or vault in the licensee's business  
17 premises.

18 (15) The licensing authority in an unincorporated area of a county or within a  
19 city may impose security requirements that are more strict or are at a higher  
20 standard than those specified in paragraph (14).

21 (16) Commencing January 1, 1994, the licensee shall, upon the issuance or  
22 renewal of a license, submit a copy of the same to the Department of Justice.

23 (17) The licensee shall maintain and make available for inspection during  
24 business hours to any peace officer, authorized local law enforcement employee,  
25 or Department of Justice employee designated by the Attorney General, upon the  
26 presentation of proper identification, a firearms transaction record.

27 (18)(A) On the date of receipt, the licensee shall report to the Department of  
28 Justice in a format prescribed by the department the acquisition by the licensee of  
29 the ownership of a pistol, revolver, or other firearm capable of being concealed  
30 upon the person.

31 (B) The provisions of this paragraph shall not apply to any of the following  
32 transactions:

33 (i) A transaction subject to the provisions of subdivision (n) of Section 12078.

34 (ii) The dealer acquired the firearm from a wholesaler.

35 (iii) The dealer is also licensed as a secondhand dealer pursuant to Article 4  
36 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and  
37 Professions Code.

38 (iv) The dealer acquired the firearm from a person who is licensed as a  
39 manufacturer or importer to engage in those activities pursuant to Chapter 44  
40 (commencing with Section 921) of Title 18 of the United States Code and any  
41 regulations issued pursuant thereto.

1 (v) The dealer acquired the firearm from a person who resides outside this state  
2 who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18  
3 of the United States Code and any regulations issued pursuant thereto.

4 (19) The licensee shall forward in a format prescribed by the Department of  
5 Justice, information as required by the department on any firearm that is not  
6 delivered within the time period set forth in Section 478.102 (c) of Title 27 of the  
7 Code of Federal Regulations.

8 (20)(A) Firearms dealers may require any agent who handles, sells, or delivers  
9 firearms to obtain and provide to the dealer a certificate of eligibility from the  
10 department pursuant to paragraph (4) of subdivision (a). The agent or employee  
11 shall provide on the application, the name and California firearms dealer number  
12 of the firearms dealer with whom he or she is employed.

13 (B) The department shall notify the firearms dealer in the event that the agent or  
14 employee who has a certificate of eligibility is or becomes prohibited from  
15 possessing firearms.

16 (C) If the local jurisdiction requires a background check of the agents or  
17 employees of the firearms dealer, the agent or employee shall obtain a certificate  
18 of eligibility pursuant to subparagraph (A).

19 (D) Nothing in this paragraph shall be construed to preclude a local jurisdiction  
20 from conducting an additional background check pursuant to Section 11105 or  
21 prohibiting employment based on criminal history that does not appear as part of  
22 obtaining a certificate of eligibility, provided however, that the local jurisdiction  
23 may not charge a fee for the additional criminal history check.

24 (E) The licensee shall prohibit any agent who the licensee knows or reasonably  
25 should know is within a class of persons prohibited from possessing firearms  
26 pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the  
27 Welfare and Institutions Code, from coming into contact with any firearm that is  
28 not secured and from accessing any key, combination, code, or other means to  
29 open any of the locking devices described in clause (ii) of subparagraph (G) of this  
30 paragraph.

31 (F) Nothing in this paragraph shall be construed as preventing a local  
32 government from enacting an ordinance imposing additional conditions on  
33 licensees with regard to agents.

34 (G) For purposes of this section, the following definitions shall apply:

35 (i) An “agent” is an employee of the licensee.

36 (ii) “Secured” means a firearm that is made inoperable in one or more of the  
37 following ways:

38 (I) The firearm is inoperable because it is secured by a firearms safety device  
39 listed on the department’s roster of approved firearms safety devices pursuant to  
40 subdivision (d) of Section 12088 of this chapter.

41 (II) The firearm is stored in a locked gun safe or long-gun safe which meets the  
42 standards for department-approved gun safes set forth in Section 12088.2.

1 (III) The firearm is stored in a distinct locked room or area in the building that is  
2 used to store firearms that can only be unlocked by a key, a combination, or  
3 similar means.

4 (IV) The firearm is secured with a hardened steel rod or cable that is at least  
5 one-eighth of an inch in diameter through the trigger guard of the firearm. The  
6 steel rod or cable shall be secured with a hardened steel lock that has a shackle.  
7 The lock and shackle shall be protected or shielded from the use of a boltcutter  
8 and the rod or cable shall be anchored in a manner that prevents the removal of the  
9 firearm from the premises.

10 (c)(1) As used in this article, **“clear evidence of his or her identity and age”**  
11 means either of the following:

12 (A) A valid California driver’s license.

13 (B) A valid California identification card issued by the Department of Motor  
14 Vehicles.

15 (2) As used in this section, a **“secure facility”** means a building that meets all of  
16 the following specifications:

17 (A) All perimeter doorways shall meet one of the following:

18 (i) A windowless steel security door equipped with both a dead bolt and a  
19 doorknob lock.

20 (ii) A windowed metal door that is equipped with both a dead bolt and a  
21 doorknob lock. If the window has an opening of five inches or more measured in  
22 any direction, the window shall be covered with steel bars of at least 1/2-inch  
23 diameter or metal grating of at least 9 gauge affixed to the exterior or interior of  
24 the door.

25 (iii) A metal grate that is padlocked and affixed to the licensee’s premises  
26 independent of the door and doorframe.

27 (B) All windows are covered with steel bars.

28 (C) Heating, ventilating, air-conditioning, and service openings are secured with  
29 steel bars, metal grating, or an alarm system.

30 (D) Any metal grates have spaces no larger than six inches wide measured in  
31 any direction.

32 (E) Any metal screens have spaces no larger than three inches wide measured in  
33 any direction.

34 (F) All steel bars shall be no further than six inches apart.

35 (3) As used in this section, **“licensed premises,” “licensed place of business,”**  
36 **“licensee’s place of business,”** or **“licensee’s business premises”** means the  
37 building designated in the license.

38 (4) For purposes of paragraph (17) of subdivision (b):

39 (A) A **“firearms transaction record”** is a record containing the same  
40 information referred to in subdivision (a) of Section 478.124, Section 478.124a,  
41 and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal  
42 Regulations.

1 (B) A licensee shall be in compliance with the provisions of paragraph (17) of  
2 subdivision (b) if he or she maintains and makes available for inspection during  
3 business hours to any peace officer, authorized local law enforcement employee,  
4 or Department of Justice employee designated by the Attorney General, upon the  
5 presentation of proper identification, the bound book containing the same  
6 information referred to in Section 478.124a and subdivision (e) of Section 478.125  
7 of Title 27 of the Code of Federal Regulations and the records referred to in  
8 subdivision (a) of Section 478.124 of Title 27 of the Code of Federal Regulations.

9 (d) Upon written request from a licensee, the licensing authority may grant an  
10 exemption from compliance with the requirements of paragraph (14) of  
11 subdivision (b) if the licensee is unable to comply with those requirements because  
12 of local ordinances, covenants, lease conditions, or similar circumstances not  
13 under the control of the licensee.

14 (e)(1) Except as otherwise provided in this paragraph, the Department of Justice  
15 shall keep a centralized list of all persons licensed pursuant to subparagraphs (A)  
16 to (E), inclusive, of paragraph (1) of subdivision (a). The department may remove  
17 from this list any person who knowingly or with gross negligence violates this  
18 article. Upon removal of a dealer from this list, notification shall be provided to  
19 local law enforcement and licensing authorities in the jurisdiction where the  
20 dealer's business is located.

21 (2) The department shall remove from the centralized list any person whose  
22 federal firearms license has expired or has been revoked.

23 (3) Information compiled from the list shall be made available, upon request, for  
24 the following purposes only:

25 (A) For law enforcement purposes.

26 (B) When the information is requested by a person licensed pursuant to Chapter  
27 44 (commencing with Section 921) of Title 18 of the United States Code for  
28 determining the validity of the license for firearm shipments.

29 (C) When information is requested by a person promoting, sponsoring,  
30 operating, or otherwise organizing a show or event as defined in Section 478.100  
31 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a  
32 valid certificate of eligibility issued pursuant to Section 12071.1, if that  
33 information is requested by the person to determine the eligibility of a prospective  
34 participant in a gun show or event to conduct transactions as a firearms dealer  
35 pursuant to subparagraph (B) of paragraph (1) of subdivision (b).

36 (4) Information provided pursuant to paragraph (3) shall be limited to  
37 information necessary to corroborate an individual's current license status as being  
38 one of the following:

39 (A) A person licensed pursuant to subparagraphs (A) to (E), inclusive, of  
40 paragraph (1) of subdivision (a).

41 (B) A person licensed pursuant to Chapter 44 (commencing with Section 921) of  
42 Title 18 of the United States Code and who is not subject to the requirement that

1 he or she be licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph  
2 (1) of subdivision (a).

3 (f) The Department of Justice may inspect dealers to ensure compliance with  
4 this article. The department may assess an annual fee, not to exceed one hundred  
5 fifteen dollars (\$115), to cover the reasonable cost of maintaining the list  
6 described in subdivision (e), including the cost of inspections. Dealers whose  
7 place of business is in a jurisdiction that has adopted an inspection program to  
8 ensure compliance with firearms law shall be exempt from that portion of the  
9 department's fee that relates to the cost of inspections. The applicant is responsible  
10 for providing evidence to the department that the jurisdiction in which the business  
11 is located has the inspection program.

12 (g) The Department of Justice shall maintain and make available upon request  
13 information concerning the number of inspections conducted and the amount of  
14 fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as  
15 defined in subdivision (f), the number of dealers removed from the centralized list  
16 defined in subdivision (e), and the number of dealers found to have violated this  
17 article with knowledge or gross negligence.

18 (h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee  
19 organized as a nonprofit public benefit or mutual benefit corporation organized  
20 pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with  
21 Section 7110) of Division 2 of the Corporations Code, if both of the following  
22 conditions are satisfied:

23 (1) The nonprofit public benefit or mutual benefit corporation obtained the  
24 dealer's license solely and exclusively to assist that corporation or local chapters  
25 of that corporation in conducting auctions or similar events at which firearms are  
26 auctioned off to fund the activities of that corporation or the local chapters of the  
27 corporation.

28 (2) The firearms are not pistols, revolvers, or other firearms capable of being  
29 concealed upon the person.

30 **Penal Code § 12071.1. Gun show or event**

31 12071.1. (a) No person shall produce, promote, sponsor, operate, or otherwise  
32 organize a gun show or event, as specified in subparagraph (B) of paragraph (1) of  
33 subdivision (b) of Section 12071, unless that person possesses a valid certificate of  
34 eligibility from the Department of Justice. Unless the department's records  
35 indicate that the applicant is a person prohibited from possessing firearms, a  
36 certificate of eligibility shall be issued by the Department of Justice to an applicant  
37 provided the applicant does all of the following:

38 (1) Certifies that he or she is familiar with the provisions of this section and  
39 Section 12071.4.

40 (2) Ensures that liability insurance is in effect for the duration of an event or  
41 show in an amount of not less than one million dollars (\$1,000,000).

1 (3) Provides an annual list of the gun shows or events that the applicant plans to  
2 promote, produce, sponsor, operate, or otherwise organize during the year for  
3 which the certificate of eligibility is issued, including the date, time, and location  
4 of the gun shows or events.

5 (b) If during that year the information required by paragraph (3) of subdivision  
6 (a) changes, or additional gun shows or events will be promoted, produced,  
7 sponsored, operated, or otherwise organized by the applicant, the producer shall  
8 notify the Department of Justice no later than 30 days prior to the gun show or  
9 event.

10 (c) As used in this section, a **“licensed gun show producer”** means a person  
11 who has been issued a certificate of eligibility by the Department of Justice  
12 pursuant to subdivision (a). No regulations shall be required to implement this  
13 subdivision.

14 (d) The Department of Justice shall adopt regulations to administer the  
15 certificate of eligibility program under this section and shall recover the full costs  
16 of administering the program by fees assessed applicants who apply for  
17 certificates. A licensed gun show producer shall be assessed an annual fee of  
18 eighty-five dollars (\$85) by the department.

19 (e)(1) A willful failure by a gun show producer to comply with any of the  
20 requirements of this section, except for the posting of required signs, shall be a  
21 misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000),  
22 and shall render the producer ineligible for a gun show producer license for one  
23 year from the date of the conviction.

24 (2) The willful failure of a gun show producer to post signs as required by this  
25 section shall be a misdemeanor punishable by a fine not to exceed one thousand  
26 dollars (\$1,000) for the first offense and not to exceed two thousand dollars  
27 (\$2,000) for the second or subsequent offense, and with respect to the second or  
28 subsequent offense, shall render the producer ineligible for a gun show producer  
29 license for one year from the date of the conviction.

30 (3) Multiple violations charged pursuant to paragraph (1) arising from more than  
31 one gun show or event shall be grounds for suspension of a producer’s certificate  
32 of eligibility pending adjudication of the violations.

33 (f) Prior to the commencement of a gun show or event, the producer thereof  
34 shall, upon written request, within 48 hours, or a later time specified by the  
35 requesting law enforcement agency, make available to the requesting law  
36 enforcement agency with jurisdiction over the facility, a complete and accurate list  
37 of all persons, entities, and organizations that have leased or rented, or are known  
38 to the producer to intend to lease or rent, any table, display space, or area at the  
39 gun show or event for the purpose of selling, leasing, or transferring firearms.

40 The producer shall thereafter, upon written request, for every day the gun show  
41 or event operates, within 24 hours, or a later time specified by the requesting law  
42 enforcement agency, make available to the requesting law enforcement agency  
43 with jurisdiction over the facility, an accurate, complete, and current list of the

1 persons, entities, and organizations that have leased or rented, or are known to the  
2 producer to intend to lease or rent, any table, display space, or area at the gun  
3 show or event for the purpose of selling, leasing, or transferring firearms.

4 **This subdivision** applies to persons, entities, and organizations whether or not  
5 they participate in the entire gun show or event, or only a portion thereof.

6 (g) The information that may be requested by the law enforcement agency with  
7 jurisdiction over the facility, and that shall be provided by the producer upon  
8 request, may include, but is not limited to, the following information relative to a  
9 vendor who offers for sale firearms manufactured after December 31, 1898: his or  
10 her complete name, and a driver's license or identification card number.

11 (h) The producer and facility manager shall prepare an annual event and security  
12 plan and schedule that shall include, at a minimum, the following:

13 (1) The type of shows or events including, but not limited to, antique or general  
14 firearms.

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

16 (3) The estimated number of attendees.

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

18 (5) The location, dates, and times of the shows or events.

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

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

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

25 (i) The annual event and security plan shall be submitted by either the producer  
26 or the facility's manager to the Department of Justice and the law enforcement  
27 agency with jurisdiction over the facility. Not later than 15 days prior to the  
28 commencement of the gun show or event, the producer shall submit to the  
29 department, the law enforcement agency with jurisdiction over the facility site,  
30 and the facility's manager a revised event and security plan if significant changes  
31 have been made since the annual plan was submitted, including a revised list of  
32 vendors that the producer knows, or reasonably should know, will be renting  
33 tables, space, or otherwise participating in the gun show or event. The event and  
34 security plan shall be approved by the facility's manager prior to the event or show  
35 after consultation with the law enforcement agency with jurisdiction over the  
36 facility. No gun show or event shall commence unless the requirements of **this**  
37 **subdivision** are met.

38 (j) The producer shall be responsible for informing prospective gun show  
39 vendors of the requirements of **this section** and of **Section 12071.4** that apply to  
40 vendors.

41 (k) The producer shall, within seven calendar days of the commencement of the  
42 show or event, but not later than noon on Friday for a show or event held on a  
43 weekend, submit a list of all prospective vendors and designated firearms transfer

1 agents who are licensed firearms dealers to the Department of Justice for the  
2 purpose of determining whether these prospective vendors and designated firearms  
3 transfer agents possess valid licenses and are thus eligible to participate as licensed  
4 dealers at the show or event. The department shall examine its records and if it  
5 determines that a dealer's license is not valid, it shall notify the show or event  
6 producer of that fact prior to the commencement of the show or event.

7 (l) If a licensed firearms dealer fails to cooperate with a producer or fails to  
8 comply with the applicable requirements of this section or Section 12071.4, that  
9 person shall not be allowed to participate in that show or event.

10 (m) If a producer fails to comply with subdivision (j) or (k), the gun show or  
11 event shall not commence until those requirements are met.

12 (n) All producers shall have written contracts with all gun show vendors selling  
13 firearms at the show or event.

14 (o) The producer shall require that signs be posted in a readily visible location at  
15 each public entrance to the show containing, but not limited to, the following  
16 notices:

17 (1) This gun show follows all federal, state, and local firearms and weapons  
18 laws without exception.

19 (2) All firearms carried onto the premises by members of the public will be  
20 checked, cleared of any ammunition, secured in a manner that prevents them from  
21 being operated, and an identification tag or sticker will be attached to the firearm  
22 prior to the person being allowed admittance to the show.

23 (3) No member of the public under the age of 18 years shall be admitted to the  
24 show unless accompanied by a parent, grandparent, or legal guardian.

25 (4) All firearms transfers between private parties at the show shall be conducted  
26 through a licensed dealer in accordance with applicable state and federal laws.

27 (5) Persons possessing firearms on this facility must have in their immediate  
28 possession government-issued photo identification, and display it upon request to  
29 any security officer or any peace officer, as defined in Section 830.

30 (p) The show producer shall post, in a readily visible location at each entrance to  
31 the parking lot at the show, signage that states: "The transfer of firearms on the  
32 parking lot of this facility is a crime."

33 (q) It is the intent of the Legislature that the certificate of eligibility program  
34 established pursuant to this section be incorporated into the certificate of eligibility  
35 program established pursuant to Section 12071 to the maximum extent practicable.

36 **Penal Code § 12071.4. Gun Show Enforcement and Security Act of 2000**

37 12071.4. (a) This section shall be known, and may be cited as, the Gun Show  
38 Enforcement and Security Act of 2000.

39 (b) All gun show or event vendors shall certify in writing to the producer that  
40 they:

41 (1) Will not display, possess, or offer for sale any firearms, knives, or weapons  
42 for which possession or sale is prohibited.

1 (2) Acknowledge that they are responsible for knowing and complying with all  
2 applicable federal, state, and local laws dealing with the possession and transfer of  
3 firearms.

4 (3) Will not engage in activities that incite or encourage hate crimes.

5 (4) Will process all transfers of firearms through licensed firearms dealers as  
6 required by state law.

7 (5) Will verify that all firearms in their possession at the show or event will be  
8 unloaded, and that the firearms will be secured in a manner that prevents them  
9 from being operated except for brief periods when the mechanical condition of a  
10 firearm is being demonstrated to a prospective buyer.

11 (6) Have complied with the requirements of subdivision (e).

12 (7) Will not display or possess black powder, or offer it for sale.

13 (c) All firearms transfers at the gun show or event shall be in accordance with  
14 applicable state and federal laws.

15 (d) Except for purposes of showing ammunition to a prospective buyer,  
16 ammunition at a gun show or event may be displayed only in closed original  
17 factory boxes or other closed containers.

18 (e) Prior to the commencement of a gun show or event, each vendor shall  
19 provide to the producer all of the following information relative to the vendor, the  
20 vendor's employees, and other persons, compensated or not, who will be working  
21 or otherwise providing services to the public at the vendor's display space if  
22 firearms manufactured after December 31, 1898, will be offered for sale:

23 (1) His or her complete name.

24 (2) His or her driver's license or state-issued identification card number.

25 (3) His or her date of birth.

26 The producer shall keep the information at the show's or event's onsite  
27 headquarters for the duration of the show or event, and at the producer's regular  
28 place of business for two weeks after the conclusion of the show or event, and  
29 shall make the information available upon request to any sworn peace officer for  
30 purposes of the officer's official law enforcement duties.

31 (f) Vendors and employees of vendors shall wear name tags indicating first and  
32 last name.

33 (g) No person at a gun show or event, other than security personnel or sworn  
34 peace officers, shall possess at the same time both a firearm and ammunition that  
35 is designed to be fired in the firearm. Vendors having those items at the show for  
36 sale or exhibition are exempt from this prohibition.

37 (h) No member of the public who is under the age of 18 years shall be admitted  
38 to, or be permitted to remain at, a gun show or event unless accompanied by a  
39 parent or legal guardian. Any member of the public who is under the age of 18  
40 shall be accompanied by his or her parent, grandparent, or legal guardian while at  
41 the show or event.

42 (i) Persons other than show or event security personnel, sworn peace officers, or  
43 vendors, who bring firearms onto the gun show or event premises shall sign in ink

1 the tag or sticker that is attached to the firearm prior to being allowed admittance  
2 to the show or event, as provided for in subdivision (j).

3 (j) All firearms carried onto the premises of a gun show or event by members of  
4 the public shall be checked, cleared of any ammunition, secured in a manner that  
5 prevents them from being operated, and an identification tag or sticker shall be  
6 attached to the firearm, prior to the person being allowed admittance to the show.  
7 The identification tag or sticker shall state that all firearms transfers between  
8 private parties at the show or event shall be conducted through a licensed dealer in  
9 accordance with applicable state and federal laws. The person possessing the  
10 firearm shall complete the following information on the tag before it is attached to  
11 the firearm:

12 (1) The gun owner's signature.

13 (2) The gun owner's printed name.

14 (3) The identification number from the gun owner's government-issued photo  
15 identification.

16 (k) All persons possessing firearms at the gun show or event shall have in his or  
17 her immediate possession, government-issued photo identification, and display it  
18 upon request, to any security officer, or any peace officer.

19 (l) Unless otherwise specified, a first violation of this section is an infraction.  
20 Any second or subsequent violation is a misdemeanor. Any person who commits  
21 an act which he or she knows to be a violation of this section is guilty of a  
22 misdemeanor for a first offense.

23 **Penal Code § 12072. Prohibited and required acts relating to firearms**

24 12072. (a)(1) No person, corporation, or firm shall knowingly supply, deliver,  
25 sell, or give possession or control of a firearm to any person within any of the  
26 classes prohibited by Section 12021 or 12021.1.

27 (2) No person, corporation, or dealer shall sell, supply, deliver, or give  
28 possession or control of a firearm to any person whom he or she has cause to  
29 believe to be within any of the classes prohibited by Section 12021 or 12021.1 of  
30 this code or Section 8100 or 8103 of the Welfare and Institutions Code.

31 (3)(A) No person, corporation, or firm shall sell, loan, or transfer a firearm to a  
32 minor, nor sell a handgun to an individual under 21 years of age.

33 (B) Subparagraph (A) shall not apply to or affect those circumstances set forth  
34 in subdivision (p) of Section 12078.

35 (4) No person, corporation, or dealer shall sell, loan, or transfer a firearm to any  
36 person whom he or she knows or has cause to believe is not the actual purchaser or  
37 transferee of the firearm, or to any person who is not the person actually being  
38 loaned the firearm, if the person, corporation, or dealer has either of the following:

39 (A) Knowledge that the firearm is to be subsequently loaned, sold, or transferred  
40 to avoid the provisions of subdivision (c) or (d).

1 (B) Knowledge that the firearm is to be subsequently loaned, sold, or transferred  
2 to avoid the requirements of any exemption to the provisions of subdivision (c) or  
3 (d).

4 (5) No person, corporation, or dealer shall acquire a firearm for the purpose of  
5 selling, transferring, or loaning the firearm, if the person, corporation, or dealer  
6 has either of the following:

7 (A) In the case of a dealer, intent to violate subdivision (b) or (c).

8 (B) In any other case, intent to avoid either of the following:

9 (i) The provisions of subdivision (d).

10 (ii) The requirements of any exemption to the provisions of subdivision (d).

11 (6) The dealer shall comply with the provisions of paragraph (18) of subdivision  
12 (b) of Section 12071.

13 (7) The dealer shall comply with the provisions of paragraph (19) of subdivision  
14 (b) of Section 12071.

15 (8) No person shall sell or otherwise transfer his or her ownership in a pistol,  
16 revolver, or other firearm capable of being concealed upon the person unless the  
17 firearm bears either:

18 (A) The name of the manufacturer, the manufacturer's make or model, and a  
19 manufacturer's serial number assigned to that firearm.

20 (B) The identification number or mark assigned to the firearm by the  
21 Department of Justice pursuant to Section 12092.

22 (9)(A) No person shall make an application to purchase more than one pistol,  
23 revolver, or other firearm capable of being concealed upon the person within any  
24 30-day period.

25 (B) Subparagraph (A) shall not apply to any of the following:

26 (i) Any law enforcement agency.

27 (ii) Any agency duly authorized to perform law enforcement duties.

28 (iii) Any state or local correctional facility.

29 (iv) Any private security company licensed to do business in California.

30 (v) Any person who is properly identified as a full-time paid peace officer, as  
31 defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and  
32 who is authorized to, and does carry a firearm during the course and scope of his  
33 or her employment as a peace officer.

34 (vi) Any motion picture, television, or video production company or  
35 entertainment or theatrical company whose production by its nature involves the  
36 use of a firearm.

37 (vii) Any person who may, pursuant to Section 12078, claim an exemption from  
38 the waiting period set forth in subdivision (c) of this section.

39 (viii) Any transaction conducted through a licensed firearms dealer pursuant to  
40 Section 12082.

41 (ix) Any person who is licensed as a collector pursuant to Chapter 44  
42 (commencing with Section 921) of Title 18 of the United States Code and the

1 regulations issued pursuant thereto and who has a current certificate of eligibility  
2 issued to him or her by the Department of Justice pursuant to Section 12071.

3 (x) The exchange of a pistol, revolver, or other firearm capable of being  
4 concealed upon the person where the dealer purchased that firearm from the  
5 person seeking the exchange within the 30-day period immediately preceding the  
6 date of exchange or replacement.

7 (xi) The replacement of a pistol, revolver, or other firearm capable of being  
8 concealed upon the person when the person's pistol, revolver, or other firearm  
9 capable of being concealed upon the person was lost or stolen, and the person  
10 reported that firearm lost or stolen prior to the completion of the application to  
11 purchase to any local law enforcement agency of the city, county, or city and  
12 county in which he or she resides.

13 (xii) The return of any pistol, revolver, or other firearm capable of being  
14 concealed upon the person to its owner.

15 (b) No person licensed under Section 12071 shall supply, sell, deliver, or give  
16 possession or control of a pistol, revolver, or firearm capable of being concealed  
17 upon the person to any person under the age of 21 years or any other firearm to a  
18 person under the age of 18 years.

19 (c) No dealer, whether or not acting pursuant to Section 12082, shall deliver a  
20 firearm to a person, as follows:

21 (1) Within 10 days of the application to purchase, or, after notice by the  
22 department pursuant to subdivision (d) of Section 12076, within 10 days of the  
23 submission to the department of any correction to the application, or within 10  
24 days of the submission to the department of any fee required pursuant to  
25 subdivision (e) of Section 12076, whichever is later.

26 (2) Unless unloaded and securely wrapped or unloaded and in a locked  
27 container.

28 (3) Unless the purchaser, transferee, or person being loaned the firearm presents  
29 clear evidence of his or her identity and age, as defined in Section 12071, to the  
30 dealer.

31 (4) Whenever the dealer is notified by the Department of Justice that the person  
32 is in a prohibited class described in Section 12021 or 12021.1 of this code or  
33 Section 8100 or 8103 of the Welfare and Institutions Code.

34 (5)(A) Commencing April 1, 1994, and until January 1, 2003, no pistol,  
35 revolver, or other firearm capable of being concealed upon the person shall be  
36 delivered unless the purchaser, transferee, or person being loaned the firearm  
37 presents to the dealer a basic firearms safety certificate.

38 (B) Commencing January 1, 2003, no handgun shall be delivered unless the  
39 purchaser, transferee, or person being loaned the handgun presents a handgun  
40 safety certificate to the dealer.

41 (6) No pistol, revolver, or other firearm capable of being concealed upon the  
42 person shall be delivered whenever the dealer is notified by the Department of  
43 Justice that within the preceding 30-day period the purchaser has made another

1 application to purchase a pistol, revolver, or other firearm capable of being  
2 concealed upon the person and that the previous application to purchase involved  
3 none of the entities specified in subparagraph (B) of paragraph (9) of subdivision  
4 (a).

5 (d) Where neither party to the transaction holds a dealer's license issued  
6 pursuant to Section 12071, the parties to the transaction shall complete the sale,  
7 loan, or transfer of that firearm through a licensed firearms dealer pursuant to  
8 Section 12082.

9 (e) No person may commit an act of collusion relating to Article 8 (commencing  
10 with Section 12800) of Chapter 6. For purposes of this section and Section 12071,  
11 collusion may be proven by any one of the following factors:

12 (1) Answering a test applicant's questions during an objective test relating to  
13 firearms safety.

14 (2) Knowingly grading the examination falsely.

15 (3) Providing an advance copy of the test to an applicant.

16 (4) Taking or allowing another person to take the basic firearms safety course  
17 for one who is the applicant for a basic firearms safety certificate or a handgun  
18 safety certificate.

19 (5) Allowing another to take the objective test for the applicant, purchaser, or  
20 transferee.

21 (6) Using or allowing another to use one's identification, proof of residency, or  
22 thumbprint.

23 (7) Allowing others to give unauthorized assistance during the examination.

24 (8) Reference to unauthorized materials during the examination and cheating by  
25 the applicant.

26 (9) Providing originals or photocopies of the objective test, or any version  
27 thereof, to any person other than as authorized by the department.

28 (f)(1)(A) Commencing July 1, 2008, a person who is licensed pursuant to  
29 Chapter 44 (commencing with Section 921) of Title 18 of the United States Code  
30 may not deliver, sell, or transfer a firearm to a person in California who is licensed  
31 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United  
32 States Code unless, prior to delivery, the person intending to deliver, sell, or  
33 transfer the firearm obtains a verification number via the Internet for the intended  
34 delivery, sale, or transfer, from the department. If Internet service is unavailable to  
35 either the department or the licensee due to a technical or other malfunction, or a  
36 federal firearms licensee who is located outside of California does not possess a  
37 computer or have Internet access, alternate means of communication, including  
38 facsimile or telephone, shall be made available for a licensee to obtain a  
39 verification number in order to comply with this section. This subdivision shall not  
40 apply to the delivery, sale, or transfer of a short-barreled rifle, or short-barreled  
41 shotgun, as defined in Section 12020, or to a machinegun as defined in Section  
42 12200, or to an assault weapon as defined in Sections 12276, 12276.1, and  
43 12276.5.

1 (B) For every identification number request received pursuant to **this section**, the  
2 department shall determine whether the intended recipient is on the centralized list  
3 of firearms dealers pursuant to **this section**, or the centralized list of exempted  
4 federal firearms licensees pursuant to subdivision (a) of Section 12083, or the  
5 centralized list of firearms manufacturers pursuant to **subdivision (f) of Section**  
6 **12086**.

7 (C) If the department finds that the intended recipient is on one of these lists, the  
8 department shall issue to the inquiring party, a unique identification number for  
9 the intended delivery, sale, or transfer. In addition to the unique verification  
10 number, the department may provide to the inquiring party information necessary  
11 for determining the eligibility of the intended recipient to receive the firearm. The  
12 person intending to deliver, sell, or transfer the firearm shall provide the unique  
13 verification number to the recipient along with the firearm upon delivery, in a  
14 manner to be determined by the department.

15 (D) If the department finds that the intended recipient is not on one of these lists,  
16 the department shall notify the inquiring party that the intended recipient is  
17 ineligible to receive the firearm.

18 (E) The department shall prescribe the manner in which the verification numbers  
19 may be requested via the Internet, or by alternate means of communication, such  
20 as by facsimile or telephone, including all required enrollment information and  
21 procedures.

22 (2)(A) On or after January 1, 1998, within 60 days of bringing a pistol, revolver,  
23 or other firearm capable of being concealed upon the person into this state, a  
24 personal handgun importer shall do one of the following:

25 (i) Forward by prepaid mail or deliver in person to the Department of Justice, a  
26 report prescribed by the department including information concerning that  
27 individual and a description of the firearm in question.

28 (ii) Sell or transfer the firearm in accordance with the provisions of **subdivision**  
29 **(d)** or in accordance with the provisions of an exemption from **subdivision (d)**.

30 (iii) Sell or transfer the firearm to a dealer licensed pursuant to **Section 12071**.

31 (iv) Sell or transfer the firearm to a sheriff or police department.

32 (B) If the personal handgun importer sells or transfers the pistol, revolver, or  
33 other firearm capable of being concealed upon the person pursuant to **subdivision**  
34 **(d) of Section 12072** and the sale or transfer cannot be completed by the dealer to  
35 the purchaser or transferee, and the firearm can be returned to the personal  
36 handgun importer, the personal handgun importer shall have complied with the  
37 provisions of **this paragraph**.

38 (C) The provisions of **this paragraph** are cumulative and shall not be construed  
39 as restricting the application of any other law.

40 However, an act or omission punishable in different ways by **this section** and  
41 different provisions of **the Penal Code** shall not be punished under more than one  
42 provision.

1 (D)(i) On and after January 1, 1998, the department shall conduct a public  
2 education and notification program regarding this paragraph to ensure a high  
3 degree of publicity of the provisions of this paragraph.

4 (ii) As part of the public education and notification program described in this  
5 subparagraph, the department shall do all of the following:

6 (I) Work in conjunction with the Department of Motor Vehicles to ensure that  
7 any person who is subject to this paragraph is advised of the provisions of this  
8 paragraph, and provided with blank copies of the report described in clause (i) of  
9 subparagraph (A) at the time that person applies for a California driver's license or  
10 registers his or her motor vehicle in accordance with the Vehicle Code.

11 (II) Make the reports referred to in clause (i) of subparagraph (A) available to  
12 dealers licensed pursuant to Section 12071.

13 (III) Make the reports referred to in clause (i) of subparagraph (A) available to  
14 law enforcement agencies.

15 (IV) Make persons subject to the provisions of this paragraph aware of the fact  
16 that reports referred to in clause (i) of subparagraph (A) may be completed at  
17 either the licensed premises of dealers licensed pursuant to Section 12071 or at  
18 law enforcement agencies, that it is advisable to do so for the sake of accuracy and  
19 completeness of the reports, that prior to transporting a pistol, revolver, or other  
20 firearm capable of being concealed upon the person to a law enforcement agency  
21 in order to comply with subparagraph (A), the person should give prior notice to  
22 the law enforcement agency that he or she is doing so, and that in any event, the  
23 pistol, revolver, or other firearm capable of being concealed upon the person  
24 should be transported unloaded and in a locked container.

25 (iii) Any costs incurred by the department to implement this paragraph shall be  
26 absorbed by the department within its existing budget and the fees in the Dealers'  
27 Record of Sale Special Account allocated for implementation of this subparagraph  
28 pursuant to Section 12076.

29 (3) Where a person who is licensed as a collector pursuant to Chapter 44  
30 (commencing with Section 921) of Title 18 of the United States Code and the  
31 regulations issued pursuant thereto, whose licensed premises are within this state,  
32 acquires a pistol, revolver, or other firearm capable of being concealed upon the  
33 person that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code  
34 of Federal Regulations, outside of this state, takes actual possession of that firearm  
35 outside of this state pursuant to the provisions of subsection (j) of Section 923 of  
36 Title 18 of the United States Code, as amended by Public Law 104-208, and  
37 transports that firearm into this state, within five days of that licensed collector  
38 transporting that firearm into this state, he or she shall report to the department in a  
39 format prescribed by the department his or her acquisition of that firearm.

40 (4)(A) It is the intent of the Legislature that a violation of paragraph (2) or (3)  
41 shall not constitute a "continuing offense" and the statute of limitations for  
42 commencing a prosecution for a violation of paragraph (2) or (3) commences on  
43 the date that the applicable grace period specified in paragraph (2) or (3) expires.

1 (B) Paragraphs (2) and (3) shall not apply to a person who reports his or her  
2 ownership of a pistol, revolver, or other firearm capable of being concealed upon  
3 the person after the applicable grace period specified in paragraph (2) or (3)  
4 expires if evidence of that violation arises only as the result of the person  
5 submitting the report described in paragraph (2) or (3).

6 (g)(1) Except as provided in paragraph (2), (3), or (5), a violation of this section  
7 is a misdemeanor.

8 (2) If any of the following circumstances apply, a violation of this section is  
9 punishable by imprisonment in the state prison for two, three, or four years.

10 (A) If the violation is of paragraph (1) of subdivision (a).

11 (B) If the defendant has a prior conviction of violating the provisions, other than  
12 paragraph (9) of subdivision (a), of this section or former Section 12100 of this  
13 code or Section 8101 of the Welfare and Institutions Code.

14 (C) If the defendant has a prior conviction of violating any offense specified in  
15 subdivision (b) of Section 12021.1 or of a violation of Section 12020, 12220, or  
16 12520, or of former Section 12560.

17 (D) If the defendant is in a prohibited class described in Section 12021 or  
18 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

19 (E) A violation of this section by a person who actively participates in a  
20 “criminal street gang” as defined in Section 186.22.

21 (F) A violation of subdivision (b) involving the delivery of any firearm to a  
22 person who the dealer knows, or should know, is a minor.

23 (3) If any of the following circumstances apply, a violation of this section shall  
24 be punished by imprisonment in a county jail not exceeding one year or in the  
25 state prison, or by a fine not to exceed one thousand dollars (\$1,000), or by both  
26 that fine and imprisonment.

27 (A) A violation of paragraph (2), (4), or (5) of subdivision (a).

28 (B) A violation of paragraph (3) of subdivision (a) involving the sale, loan, or  
29 transfer of a pistol, revolver, or other firearm capable of being concealed upon the  
30 person to a minor.

31 (C) A violation of subdivision (b) involving the delivery of a pistol, revolver, or  
32 other firearm capable of being concealed upon the person.

33 (D) A violation of paragraph (1), (3), (4), (5), or (6) of subdivision (c) involving  
34 a pistol, revolver, or other firearm capable of being concealed upon the person.

35 (E) A violation of subdivision (d) involving a pistol, revolver, or other firearm  
36 capable of being concealed upon the person.

37 (F) A violation of subdivision (e).

38 (4) If both of the following circumstances apply, an additional term of  
39 imprisonment in the state prison for one, two, or three years shall be imposed in  
40 addition and consecutive to the sentence prescribed.

41 (A) A violation of paragraph (2) of subdivision (a) or subdivision (b).

1 (B) The firearm transferred in violation of paragraph (2) of subdivision (a) or  
2 subdivision (b) is used in the subsequent commission of a felony for which a  
3 conviction is obtained and the prescribed sentence is imposed.

4 (5)(A) A first violation of paragraph (9) of subdivision (a) is an infraction  
5 punishable by a fine of fifty dollars (\$50).

6 (B) A second violation of paragraph (9) of subdivision (a) is an infraction  
7 punishable by a fine of one hundred dollars (\$100).

8 (C) A third or subsequent violation of paragraph (9) of subdivision (a) is a  
9 misdemeanor.

10 (D) For purposes of this paragraph each application to purchase a pistol,  
11 revolver, or other firearm capable of being concealed upon the person in violation  
12 of paragraph (9) of subdivision (a) shall be deemed a separate offense.

13 **Penal Code § 12072.5. Ballistics identification system**

14 12072.5. (a) For purposes of this section, “ballistics identification systems”  
15 includes, but is not limited to, any automated image analysis system that is capable  
16 of storing firearm ballistic markings and tracing those markings to the firearm that  
17 produced them.

18 (b) The Attorney General shall conduct a study to evaluate ballistics  
19 identification systems to determine the feasibility and potential benefits to law  
20 enforcement of utilizing a statewide ballistics identification system capable of  
21 maintaining a data base of ballistic images and information from test fired and  
22 sold firearms. The study shall include an evaluation of ballistics identification  
23 systems currently used by state and federal law enforcement agencies and the  
24 firearms industry. The Attorney General shall consult with law enforcement  
25 agencies, firearms industry representatives, private technology providers, and  
26 other appropriate parties in conducting the study.

27 (c) In evaluating ballistics identification systems to determine the feasibility of  
28 utilizing a statewide system as required pursuant to subdivision (b), the Attorney  
29 General shall consider, at a minimum, the following:

30 (1) The development of methods by which firearm manufacturers, importers,  
31 and dealers may potentially capture ballistic images from firearms prior to sale in  
32 California and forward that information to the Attorney General.

33 (2) The development of methods by which the Attorney General will receive,  
34 store, and make available to law enforcement ballistic images submitted by  
35 firearm manufacturers, importers, and dealers prior to sale in California.

36 (3) The potential financial costs to the Attorney General of implementing and  
37 operating a statewide ballistics identification system, including the process for  
38 receipt of information from firearm manufacturers, importers, and dealers.

39 (4) The capability of a ballistics identification system maintaining a data base of  
40 ballistic images and information from test fired firearms for all firearms sold in  
41 California.

1 (5) The compatibility of a ballistics identification system with ballistics  
2 identification systems that are currently used by law enforcement agencies in  
3 California.

4 (6) A method to ensure that state and local law enforcement agencies can  
5 forward ballistic identification information to the Attorney General for inclusion in  
6 a statewide ballistics identification system.

7 (7) The feasibility and potential benefits to law enforcement of requiring firearm  
8 manufacturers, importers, and dealers to provide the Attorney General with  
9 ballistic images from any, or a selected number of, test fired firearms prior to the  
10 sale of those firearms in California.

11 (d) The Attorney General shall submit a report to the Legislature with the results  
12 of the study not later than June 1, 2001. In the event the report includes a  
13 determination that a ballistics identification system and data base is feasible and  
14 would benefit law enforcement, the report shall also recommend a strategy for  
15 implementation.

16 **Penal Code § 12073. Register or record of electronic or telephonic transfer**

17 12073. (a) As required by the Department of Justice, every dealer shall keep a  
18 register or record of electronic or telephonic transfer in which shall be entered the  
19 information prescribed in Section 12077.

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

21 (1) The delivery, sale, or transfer of an unloaded firearm that is not a handgun  
22 by a dealer to another dealer upon proof of compliance with the requirements of  
23 paragraph (1) of subdivision (f) of Section 12072.

24 (2) The delivery, sale, or transfer of an unloaded firearm by a dealer to another  
25 dealer if that firearm is intended as merchandise in the receiving dealer's business  
26 upon proof of compliance with the requirements of paragraph (1) of subdivision  
27 (f) of Section 12072.

28 (3) The delivery, sale, or transfer of an unloaded firearm by a dealer to a person  
29 licensed as an importer or manufacturer pursuant to Chapter 44 (commencing with  
30 Section 921) of Title 18 of the United States Code and any regulations issued  
31 pursuant thereto.

32 (4) The delivery, sale, or transfer of an unloaded firearm by a dealer who sells,  
33 transfers, or delivers the firearm to a person who resides outside this state who is  
34 licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the  
35 United States Code and any regulations issued pursuant thereto.

36 (5) The delivery, sale, or transfer of an unloaded firearm by a dealer to a  
37 wholesaler if that firearm is being returned to the wholesaler and is intended as  
38 merchandise in the wholesaler's business.

39 (6) The delivery, sale, or transfer of an unloaded firearm that is not a handgun  
40 by a dealer to himself or herself.

41 (7) The loan of an unloaded firearm by a dealer who also operates a target  
42 facility which holds a business or regulatory license on the premises of the

1 building designated in the license or whose building designated in the license is on  
2 the premises of any club or organization organized for the purpose of practicing  
3 shooting at targets upon established ranges, whether public or private, to a person  
4 at that target facility or club or organization, if the firearm is kept at all times  
5 within the premises of the target range or on the premises of the club or  
6 organization.

7 (8) The delivery of an unloaded firearm by a dealer to a gunsmith for service or  
8 repair.

9 (9) The return of an unloaded firearm to the owner of that firearm by a dealer, if  
10 the owner initially delivered the firearm to the dealer for service or repair.

11 (10) The loan of an unloaded firearm by a dealer to a person who possesses a  
12 valid entertainment firearms permit issued pursuant to Section 12081, for use  
13 solely as a prop in a motion picture, television, video, theatrical, or other  
14 entertainment production or event.

15 (c) A violation of this section is a misdemeanor.

16 **Penal Code § 12074. Requirements for preparation of register or record**

17 12074. (a) The register shall be prepared by and obtained from the State Printer  
18 and shall be furnished by the State Printer only to dealers on application at a cost  
19 to be determined by the Department of General Services for each 100 leaves in  
20 quadruplicate, one original and three duplicates for the making of carbon copies.  
21 The original and duplicate copies shall differ in color, and shall be in the form  
22 provided by this article.

23 (b) Where the electronic transfer of applicant information is used, the  
24 Department of Justice shall develop the standards for all appropriate electronic  
25 equipment and telephone numbers to effect the transfer of information to the  
26 department.

27 **Penal Code § 12075. Duties relating to register**

28 12075. The State Printer upon issuing a register shall forward to the Department  
29 of Justice the name and business address of the dealer together with the series and  
30 sheet numbers of the register. The register shall not be transferable. If the dealer  
31 moves his business to a different location he shall notify the department of such  
32 fact in writing within 48 hours.

33 **Penal Code § 12076. Submission of firearm purchaser information to Department of Justice**

34 12076. (a)(1) Before January 1, 1998, the Department of Justice shall determine  
35 the method by which a dealer shall submit firearm purchaser information to the  
36 department and the information shall be in one of the following formats:

37 (A) Submission of the register described in Section 12077.

38 (B) Electronic or telephonic transfer of the information contained in the register  
39 described in Section 12077.

1 (2) On or after January 1, 1998, electronic or telephonic transfer, including voice  
2 or facsimile transmission, shall be the exclusive means by which purchaser  
3 information is transmitted to the department.

4 (3) On or after January 1, 2003, except as permitted by the department,  
5 electronic transfer shall be the exclusive means by which information is  
6 transmitted to the department. Telephonic transfer shall not be permitted for  
7 information regarding sales of any firearms.

8 (b)(1) Where the register is used, the purchaser of any firearm shall be required  
9 to present clear evidence of his or her identity and age, as defined in **Section**  
10 **12071**, to the dealer, and the dealer shall require him or her to sign his or her  
11 current legal name and affix his or her residence address and date of birth to the  
12 register in quadruplicate. The salesperson shall affix his or her signature to the  
13 register in quadruplicate as a witness to the signature and identification of the  
14 purchaser. Any person furnishing a fictitious name or address or knowingly  
15 furnishing any incorrect information or knowingly omitting any information  
16 required to be provided for the register and any person violating any provision of  
17 **this section** is guilty of a misdemeanor, provided however, that any person who is  
18 prohibited from obtaining a firearm pursuant to **Section 12021 or 12021.1 of this**  
19 **code, or Section 8100 or 8103 of the Welfare and Institutions Code** who  
20 knowingly furnishes a fictitious name or address or knowingly furnishes any  
21 incorrect information or knowingly omits any information required to be provided  
22 for the register shall be punished by imprisonment in a county jail not exceeding  
23 one year or imprisonment in the state prison for a term of 8, 12, or 18 months.

24 (2) The original of the register shall be retained by the dealer in consecutive  
25 order. Each book of 50 originals shall become the permanent register of  
26 transactions that shall be retained for not less than three years from the date of the  
27 last transaction and shall be available for the inspection of any peace officer,  
28 Department of Justice employee designated by the Attorney General, or agent of  
29 the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives upon the  
30 presentation of proper identification, but no information shall be compiled  
31 therefrom regarding the purchasers or other transferees of firearms that are not  
32 pistols, revolvers, or other firearms capable of being concealed upon the person.

33 (3) Two copies of the original sheet of the register, on the date of the application  
34 to purchase, shall be placed in the mail, postage prepaid, and properly addressed to  
35 the Department of Justice in Sacramento.

36 (4) If requested, a photocopy of the original shall be provided to the purchaser  
37 by the dealer.

38 (5) If the transaction is a private party transfer conducted pursuant to **Section**  
39 **12082**, a photocopy of the original shall be provided to the seller or purchaser by  
40 the dealer, upon request. The dealer shall redact all of the purchaser's personal  
41 information, as required pursuant to **paragraph (1) of subdivision (b) and**  
42 **paragraph (1) of subdivision (c) of Section 12077**, from the seller's copy, and the  
43 seller's personal information from the purchaser's copy.

1 (c)(1) Where the electronic or telephonic transfer of applicant information is  
2 used, the purchaser shall be required to present clear evidence of his or her identity  
3 and age, as defined in **Section 12071**, to the dealer, and the dealer shall require  
4 him or her to sign his or her current legal name to the record of electronic or  
5 telephonic transfer. The salesperson shall affix his or her signature to the record of  
6 electronic or telephonic transfer as a witness to the signature and identification of  
7 the purchaser. Any person furnishing a fictitious name or address or knowingly  
8 furnishing any incorrect information or knowingly omitting any information  
9 required to be provided for the electronic or telephonic transfer and any person  
10 violating any provision of **this section** is guilty of a misdemeanor, provided  
11 however, that any person who is prohibited from obtaining a firearm pursuant to  
12 **Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and**  
13 **Institutions Code** who knowingly furnishes a fictitious name or address or  
14 knowingly furnishes any incorrect information or knowingly omits any  
15 information required to be provided for the register shall be punished by  
16 imprisonment in a county jail not exceeding one year or imprisonment in the state  
17 prison for a term of 8, 12, or 18 months.

18 (2) The record of applicant information shall be transmitted to the Department of  
19 Justice in Sacramento by electronic or telephonic transfer on the date of the  
20 application to purchase.

21 (3) The original of each record of electronic or telephonic transfer shall be  
22 retained by the dealer in consecutive order. Each original shall become the  
23 permanent record of the transaction that shall be retained for not less than three  
24 years from the date of the last transaction and shall be provided for the inspection  
25 of any peace officer, Department of Justice employee designated by the Attorney  
26 General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms, and  
27 Explosives upon the presentation of proper identification, but no information shall  
28 be compiled therefrom regarding the purchasers or other transferees of firearms  
29 that are not pistols, revolvers, or other firearms capable of being concealed upon  
30 the person.

31 (4) If requested, a copy of the record of electronic or telephonic transfer shall be  
32 provided to the purchaser by the dealer.

33 (5) If the transaction is a private party transfer conducted pursuant to **Section**  
34 **12082**, a copy shall be provided to the seller or purchaser by the dealer, upon  
35 request. The dealer shall redact all of the purchaser's personal information, as  
36 required pursuant to **paragraph (1) of subdivision (b) and paragraph (1) of**  
37 **subdivision (c) of Section 12077**, from the seller's copy, and the seller's personal  
38 information from the purchaser's copy.

39 (d)(1) The department shall examine its records, as well as those records that it  
40 is authorized to request from the State Department of Mental Health pursuant to  
41 **Section 8104 of the Welfare and Institutions Code**, in order to determine if the  
42 purchaser is a person described in **Section 12021, 12021.1, or subparagraph (A) of**

1 paragraph (9) of subdivision (a) of Section 12072 of this code or Section 8100 or  
2 8103 of the Welfare and Institutions Code.

3 (2) To the extent that funding is available, the Department of Justice may  
4 participate in the National Instant Criminal Background Check System (NICS), as  
5 described in subsection (t) of Section 922 of Title 18 of the United States Code,  
6 and, if that participation is implemented, shall notify the dealer and the chief of the  
7 police department of the city or city and county in which the sale was made, or if  
8 the sale was made in a district in which there is no municipal police department,  
9 the sheriff of the county in which the sale was made, that the purchaser is a person  
10 prohibited from acquiring a firearm under federal law.

11 (3) If the department determines that the purchaser is a person described in  
12 Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of subdivision (a)  
13 of Section 12072 of this code or Section 8100 or 8103 of the Welfare and  
14 Institutions Code, it shall immediately notify the dealer and the chief of the police  
15 department of the city or city and county in which the sale was made, or if the sale  
16 was made in a district in which there is no municipal police department, the sheriff  
17 of the county in which the sale was made, of that fact.

18 (4) If the department determines that the copies of the register submitted to it  
19 pursuant to paragraph (3) of subdivision (b) contain any blank spaces or  
20 inaccurate, illegible, or incomplete information, preventing identification of the  
21 purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee  
22 required pursuant to subdivision (e) is not submitted by the dealer in conjunction  
23 with submission of copies of the register, the department may notify the dealer of  
24 that fact. Upon notification by the department, the dealer shall submit corrected  
25 copies of the register to the department, or shall submit any fee required pursuant  
26 to subdivision (e), or both, as appropriate and, if notification by the department is  
27 received by the dealer at any time prior to delivery of the firearm to be purchased,  
28 the dealer shall withhold delivery until the conclusion of the waiting period  
29 described in Sections 12071 and 12072.

30 (5) If the department determines that the information transmitted to it pursuant  
31 to subdivision (c) contains inaccurate or incomplete information preventing  
32 identification of the purchaser or the pistol, revolver, or other firearm capable of  
33 being concealed upon the person to be purchased, or if the fee required pursuant to  
34 subdivision (e) is not transmitted by the dealer in conjunction with transmission of  
35 the electronic or telephonic record, the department may notify the dealer of that  
36 fact. Upon notification by the department, the dealer shall transmit corrections to  
37 the record of electronic or telephonic transfer to the department, or shall transmit  
38 any fee required pursuant to subdivision (e), or both, as appropriate, and if  
39 notification by the department is received by the dealer at any time prior to  
40 delivery of the firearm to be purchased, the dealer shall withhold delivery until the  
41 conclusion of the waiting period described in Sections 12071 and 12072.

42 (e) The Department of Justice may require the dealer to charge each firearm  
43 purchaser a fee not to exceed fourteen dollars (\$14), except that the fee may be

1 increased at a rate not to exceed any increase in the California Consumer Price  
2 Index as compiled and reported by the California Department of Industrial  
3 Relations. The fee shall be no more than is necessary to fund the following:

4 (1)(A) The department for the cost of furnishing this information.

5 (B) The department for the cost of meeting its obligations under paragraph (2) of  
6 subdivision (b) of Section 8100 of the Welfare and Institutions Code.

7 (2) Local mental health facilities for state-mandated local costs resulting from  
8 the reporting requirements imposed by Section 8103 of the Welfare and  
9 Institutions Code.

10 (3) The State Department of Mental Health for the costs resulting from the  
11 requirements imposed by Section 8104 of the Welfare and Institutions Code.

12 (4) Local mental hospitals, sanitariums, and institutions for state-mandated local  
13 costs resulting from the reporting requirements imposed by Section 8105 of the  
14 Welfare and Institutions Code.

15 (5) Local law enforcement agencies for state-mandated local costs resulting  
16 from the notification requirements set forth in subdivision (a) of Section 6385 of  
17 the Family Code.

18 (6) Local law enforcement agencies for state-mandated local costs resulting  
19 from the notification requirements set forth in subdivision (c) of Section 8105 of  
20 the Welfare and Institutions Code.

21 (7) For the actual costs associated with the electronic or telephonic transfer of  
22 information pursuant to subdivision (c).

23 (8) The Department of Food and Agriculture for the costs resulting from the  
24 notification provisions set forth in Section 5343.5 of the Food and Agricultural  
25 Code.

26 (9) The department for the costs associated with subparagraph (D) of paragraph  
27 (2) of subdivision (f) of Section 12072.

28 (10) The department for the costs associated with funding Department of Justice  
29 firearms-related regulatory and enforcement activities related to the sale, purchase,  
30 loan, or transfer of firearms pursuant to this chapter.

31 The fee established pursuant to this subdivision shall not exceed the sum of the  
32 actual processing costs of the department, the estimated reasonable costs of the  
33 local mental health facilities for complying with the reporting requirements  
34 imposed by paragraph (2) of this subdivision, the costs of the State Department of  
35 Mental Health for complying with the requirements imposed by paragraph (3) of  
36 this subdivision, the estimated reasonable costs of local mental hospitals,  
37 sanitariums, and institutions for complying with the reporting requirements  
38 imposed by paragraph (4) of this subdivision, the estimated reasonable costs of  
39 local law enforcement agencies for complying with the notification requirements  
40 set forth in subdivision (a) of Section 6385 of the Family Code, the estimated  
41 reasonable costs of local law enforcement agencies for complying with the  
42 notification requirements set forth in subdivision (c) of Section 8105 of the  
43 Welfare and Institutions Code imposed by paragraph (6) of this subdivision, the

1 estimated reasonable costs of the Department of Food and Agriculture for the costs  
2 resulting from the notification provisions set forth in Section 5343.5 of the Food  
3 and Agricultural Code, the estimated reasonable costs of the department for the  
4 costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of  
5 Section 12072, and the estimated reasonable costs of department firearms-related  
6 regulatory and enforcement activities related to the sale, purchase, loan, or transfer  
7 of firearms pursuant to this chapter.

8 (f)(1) The Department of Justice may charge a fee sufficient to reimburse it for  
9 each of the following but not to exceed fourteen dollars (\$14), except that the fee  
10 may be increased at a rate not to exceed any increase in the California Consumer  
11 Price Index as compiled and reported by the California Department of Industrial  
12 Relations:

13 (A) For the actual costs associated with the preparation, sale, processing, and  
14 filing of forms or reports required or utilized pursuant to Section 12078.

15 (B) For the actual processing costs associated with the submission of a Dealers'  
16 Record of Sale to the department.

17 (C) For the actual costs associated with the preparation, sale, processing, and  
18 filing of reports utilized pursuant to subdivision (l) of Section 12078 or paragraph  
19 (18) of subdivision (b) of Section 12071, or clause (i) of subparagraph (A) of  
20 paragraph (2) of subdivision (f) of Section 12072, or paragraph (3) of subdivision  
21 (f) of Section 12072.

22 (D) For the actual costs associated with the electronic or telephonic transfer of  
23 information pursuant to subdivision (c).

24 (2) If the department charges a fee pursuant to subparagraph (B) of paragraph  
25 (1) of this subdivision, it shall be charged in the same amount to all categories of  
26 transaction that are within that subparagraph.

27 (3) Any costs incurred by the Department of Justice to implement this  
28 subdivision shall be reimbursed from fees collected and charged pursuant to this  
29 subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) for  
30 implementing this subdivision.

31 (g) All money received by the department pursuant to this section shall be  
32 deposited in the Dealers' Record of Sale Special Account of the General Fund,  
33 which is hereby created, to be available, upon appropriation by the Legislature, for  
34 expenditure by the department to offset the costs incurred pursuant to this section,  
35 paragraph (1) and subparagraph (D) of paragraph (2) of subdivision (f) of Section  
36 12072, Sections 12083 and 12099, subdivision (c) of Section 12131, Sections  
37 12234, 12289, and 12289.5, and subdivisions (f) and (g) of Section 12305.

38 (h) Where the electronic or telephonic transfer of applicant information is used,  
39 the department shall establish a system to be used for the submission of the fees  
40 described in subdivision (e) to the department.

41 (i)(1) Only one fee shall be charged pursuant to this section for a single  
42 transaction on the same date for the sale of any number of firearms that are not

1 pistols, revolvers, or other firearms capable of being concealed upon the person or  
2 for the taking of possession of those firearms.

3 (2) In a single transaction on the same date for the delivery of any number of  
4 firearms that are pistols, revolvers, or other firearms capable of being concealed  
5 upon the person, the department shall charge a reduced fee pursuant to **this section**  
6 for the second and subsequent firearms that are part of that transaction.

7 (j) Only one fee shall be charged pursuant to **this section** for a single transaction  
8 on the same date for taking title or possession of any number of firearms pursuant  
9 to **paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of**  
10 **Section 12078.**

11 (k) Whenever the Department of Justice acts pursuant to **this section** as it  
12 pertains to firearms other than pistols, revolvers, or other firearms capable of being  
13 concealed upon the person, the department's acts or omissions shall be deemed to  
14 be discretionary within the meaning of **the California Tort Claims Act pursuant to**  
15 **Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.**

16 (l) As used in **this section**, the following definitions apply:

17 (1) **“Purchaser”** means the purchaser or transferee of a firearm or a person  
18 being loaned a firearm.

19 (2) **“Purchase”** means the purchase, loan, or transfer of a firearm.

20 (3) **“Sale”** means the sale, loan, or transfer of a firearm.

21 (4) **“Seller”** means, if the transaction is being conducted pursuant to **Section**  
22 **12082**, the person selling, loaning, or transferring the firearm.

### 23 **Penal Code § 12076.5. Firearms Safety and Enforcement Special Fund**

24 12076.5. (a) The Firearms Safety and Enforcement Special Fund is hereby  
25 established in the State Treasury and shall be administered by the Department of  
26 Justice. Notwithstanding **Section 13340 of the Government Code**, all moneys in  
27 the fund are continuously appropriated to the Department of Justice without regard  
28 to fiscal years for the purpose of implementing and enforcing the provisions of  
29 **Article 8 (commencing with Section 12800)**, as added by the Statutes of 2001,  
30 enforcing the provisions of **this title**, and for the establishment, maintenance and  
31 upgrading of equipment and services necessary for firearms dealers to comply  
32 with **Section 12077.**

33 (b) The Department of Justice may require firearms dealers to charge each  
34 person who obtains a firearm a fee not to exceed five dollars (\$5) for each  
35 transaction. Revenues from this fee shall be deposited in the Firearms Safety and  
36 Enforcement Special Fund.

### 37 **Penal Code § 12077. Form of register and record of electronic transfer**

38 12077. (a) The Department of Justice shall prescribe the form of the register and  
39 the record of electronic transfer pursuant to **Section 12074.**

40 (b)(1) For handguns, information contained in the register or record of electronic  
41 transfer shall be the date and time of sale, make of firearm, peace officer

1 exemption status pursuant to subdivision (a) of Section 12078 and the agency  
2 name, dealer waiting period exemption pursuant to subdivision (n) of Section  
3 12078, dangerous weapons permitholder waiting period exemption pursuant to  
4 subdivision (r) of Section 12078, curio and relic waiting period exemption  
5 pursuant to subdivision (t) of Section 12078, California Firearms Dealer number  
6 issued pursuant to Section 12071, for transactions occurring prior to January 1,  
7 2003, the purchaser's basic firearms safety certificate number issued pursuant to  
8 Sections 12805 and 12809, for transactions occurring on or after January 1, 2003,  
9 the purchaser's handgun safety certificate number issued pursuant to Article 8  
10 (commencing with Section 12800), manufacturer's name if stamped on the  
11 firearm, model name or number, if stamped on the firearm, if applicable, serial  
12 number, other number (if more than one serial number is stamped on the firearm),  
13 any identification number or mark assigned to the firearm pursuant to Section  
14 12092, caliber, type of firearm, if the firearm is new or used, barrel length, color of  
15 the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's  
16 local address, if current address is temporary, complete permanent address of  
17 purchaser, identification of purchaser, purchaser's place of birth (state or country),  
18 purchaser's complete telephone number, purchaser's occupation, purchaser's sex,  
19 purchaser's physical description, all legal names and aliases ever used by the  
20 purchaser, yes or no answer to questions that prohibit purchase including, but not  
21 limited to, conviction of a felony as described in Section 12021 or an offense  
22 described in Section 12021.1, the purchaser's status as a person described in  
23 Section 8100 of the Welfare and Institutions Code, whether the purchaser is a  
24 person who has been adjudicated by a court to be a danger to others or found not  
25 guilty by reason of insanity, whether the purchaser is a person who has been found  
26 incompetent to stand trial or placed under conservatorship by a court pursuant to  
27 Section 8103 of the Welfare and Institutions Code, signature of purchaser,  
28 signature of salesperson (as a witness to the purchaser's signature), salesperson's  
29 certificate of eligibility number if he or she has obtained a certificate of eligibility,  
30 name and complete address of the dealer or firm selling the firearm as shown on  
31 the dealer's license, the establishment number, if assigned, the dealer's complete  
32 business telephone number, any information required by Section 12082, any  
33 information required to determine whether or not paragraph (6) of subdivision (c)  
34 of Section 12072 applies, and a statement of the penalties for any person signing a  
35 fictitious name or address or for knowingly furnishing any incorrect information  
36 or for knowingly omitting any information required to be provided for the register.

37 (2) Effective January 1, 2003, the purchaser shall provide his or her right  
38 thumbprint on the register in a manner prescribed by the department. No exception  
39 to this requirement shall be permitted except by regulations adopted by the  
40 department.

41 (3) The firearms dealer shall record on the register or record of electronic  
42 transfer the date that the handgun is delivered.

1 (c)(1) For firearms other than handguns, information contained in the register or  
2 record of electronic transfer shall be the date and time of sale, peace officer  
3 exemption status pursuant to subdivision (a) of Section 12078 and the agency  
4 name, auction or event waiting period exemption pursuant to subdivision (g) of  
5 Section 12078, California Firearms Dealer number issued pursuant to Section  
6 12071, dangerous weapons permit holder waiting period exemption pursuant to  
7 subdivision (r) of Section 12078, curio and relic waiting period exemption  
8 pursuant to paragraph (1) of subdivision (t) of Section 12078, full name of  
9 purchaser, purchaser's complete date of birth, purchaser's local address, if current  
10 address is temporary, complete permanent address of purchaser, identification of  
11 purchaser, purchaser's place of birth (state or country), purchaser's complete  
12 telephone number, purchaser's occupation, purchaser's sex, purchaser's physical  
13 description, all legal names and aliases ever used by the purchaser, yes or no  
14 answer to questions that prohibit purchase, including, but not limited to,  
15 conviction of a felony as described in Section 12021 or an offense described in  
16 Section 12021.1, the purchaser's status as a person described in Section 8100 of  
17 the Welfare and Institutions Code, whether the purchaser is a person who has been  
18 adjudicated by a court to be a danger to others or found not guilty by reason of  
19 insanity, whether the purchaser is a person who has been found incompetent to  
20 stand trial or placed under conservatorship by a court pursuant to Section 8103 of  
21 the Welfare and Institutions Code, signature of purchaser, signature of salesperson  
22 (as a witness to the purchaser's signature), salesperson's certificate of eligibility  
23 number if he or she has obtained a certificate of eligibility, name and complete  
24 address of the dealer or firm selling the firearm as shown on the dealer's license,  
25 the establishment number, if assigned, the dealer's complete business telephone  
26 number, any information required by Section 12082, and a statement of the  
27 penalties for any person signing a fictitious name or address or for knowingly  
28 furnishing any incorrect information or for knowingly omitting any information  
29 required to be provided for the register.

30 (2) Effective January 1, 2003, the purchaser shall provide his or her right  
31 thumbprint on the register in a manner prescribed by the department. No exception  
32 to this requirement shall be permitted except by regulations adopted by the  
33 department.

34 (3) The firearms dealer shall record on the register or record of electronic  
35 transfer the date that the firearm is delivered.

36 (d) Where the register is used, the following shall apply:

37 (1) Dealers shall use ink to complete each document.

38 (2) The dealer or salesperson making a sale shall ensure that all information is  
39 provided legibly. The dealer and salespersons shall be informed that incomplete or  
40 illegible information will delay sales.

41 (3) Each dealer shall be provided instructions regarding the procedure for  
42 completion of the form and routing of the form.

1 Dealers shall comply with these instructions which shall include the information  
2 set forth in this subdivision.

3 (4) One firearm transaction shall be reported on each record of sale document.  
4 For purposes of this subdivision, a “**transaction**” means a single sale, loan, or  
5 transfer of any number of firearms that are not handguns.

6 (e) The dealer or salesperson making a sale shall ensure that all required  
7 information has been obtained from the purchaser. The dealer and all salespersons  
8 shall be informed that incomplete information will delay sales.

9 (f) Effective January 1, 2003, the purchaser’s name, date of birth, and driver’s  
10 license or identification number shall be obtained electronically from the magnetic  
11 strip on the purchaser’s driver’s license or identification and shall not be supplied  
12 by any other means except as authorized by the department. This requirement shall  
13 not apply in either of the following cases:

14 (1) The purchaser’s identification consists of a military identification card.

15 (2) Due to technical limitations, the magnetic stripe reader is unable to obtain  
16 the required information from the purchaser’s identification. In those  
17 circumstances, the firearms dealer shall obtain a photocopy of the identification as  
18 proof of compliance.

19 (3) In the event that the dealer has reported to the department that the dealer’s  
20 equipment has failed, information pursuant to this subdivision shall be obtained by  
21 an alternative method to be determined by the department.

22 (g) As used in this section, the following definitions shall control:

23 (1) “**Purchaser**” means the purchaser or transferee of a firearm or the person  
24 being loaned a firearm.

25 (2) “**Purchase**” means the purchase, loan, or transfer of a firearm.

26 (3) “**Sale**” means the sale, loan, or transfer of a firearm.

27 **Penal Code § 12077.5. Firearms eligibility check**

28 12077.5. (a) An individual may request that the Department of Justice perform a  
29 firearms eligibility check for that individual. The applicant requesting the  
30 eligibility check shall provide the information required by subdivision (c) of  
31 Section 12077 to the department, in an application specified by the department.

32 (b) The department shall charge a fee of twenty dollars (\$20) for performing the  
33 eligibility check authorized by this section, but not to exceed the actual processing  
34 costs of the department. After the department establishes fees sufficient to  
35 reimburse the department for processing costs, fees charged may increase at a rate  
36 not to exceed the legislatively approved cost-of-living adjustment for the  
37 department’s budget or as otherwise increased through the Budget Act.

38 (c) An applicant for the eligibility check pursuant to subdivision (a) shall  
39 complete the application, have it notarized by any licensed California Notary  
40 Public, and submit it by mail to the department. Upon receipt of a notarized  
41 application and fee, the department shall do all of the following:

1 (1) Examine its records, and the records it is authorized to request from the State  
2 Department of Mental Health pursuant to **Section 8104 of the Welfare and**  
3 **Institutions Code**, to determine if the purchaser is a person described in **Section**  
4 **12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and**  
5 **Institutions Code**.

6 (2) Notify the applicant by mail of its determination of whether the applicant is a  
7 person described in **Section 12021 or 12021.1 of this code, or Section 8100 or**  
8 **8103 of the Welfare and Institutions Code**. The department's notification shall  
9 state either "eligible to possess firearms as of the date the check was completed"  
10 or "ineligible to possess firearms as of the date the check was completed."

11 (d) If the department determines that the information submitted to it in the  
12 application contains any blank spaces, or inaccurate, illegible, or incomplete  
13 information, preventing identification of the applicant, or if the required fee is not  
14 submitted, the department shall not be required to perform the firearms eligibility  
15 check.

16 (e) The department shall make applications to conduct a firearms eligibility  
17 check as described in **this section** available to licensed firearms dealers and on the  
18 department's Web site.

19 (f) The department shall be immune from any liability arising out of the  
20 performance of the firearms eligibility check, or any reliance upon the firearms  
21 eligibility check.

22 (g) No person or agency may require or request another person to obtain a  
23 firearms eligibility check or notification of a firearms eligibility check pursuant to  
24 **this section**. A violation of **this subdivision** is a misdemeanor.

25 (h) The department shall include on the application specified in **subdivision (a)**  
26 and the notification of eligibility specified in **subdivision (c)** the following  
27 statements:

28 "No person or agency may require or request another person to obtain a firearms  
29 eligibility check or notification of firearms eligibility check pursuant to **Section**  
30 **12077.5 of the Penal Code**. A violation of these provisions is a misdemeanor."

31 "If the applicant for a firearms eligibility check purchases, transfers, or receives  
32 a firearm through a licensed dealer as required by law, a waiting period and  
33 background check are both required."

34 **Penal Code § 12078. Exceptions to firearm sale or transfer laws**

35 12078. (a)(1) The waiting periods described in **Sections 12071 and 12072** shall  
36 not apply to deliveries, transfers, or sales of firearms made to persons properly  
37 identified as full-time paid peace officers as defined in **Chapter 4.5 (commencing**  
38 **with Section 830) of Title 3 of Part 2**, provided that the peace officers are  
39 authorized by their employer to carry firearms while in the performance of their  
40 duties.

41 Proper identification is defined as verifiable written certification from the head  
42 of the agency by which the purchaser or transferee is employed, identifying the

1 purchaser or transferee as a peace officer who is authorized to carry firearms while  
2 in the performance of his or her duties, and authorizing the purchase or transfer.  
3 The certification shall be delivered to the dealer at the time of purchase or transfer  
4 and the purchaser or transferee shall identify himself or herself as the person  
5 authorized in the certification. The dealer shall keep the certification with the  
6 record of sale. On the date that the delivery, sale, or transfer is made, the dealer  
7 delivering the firearm shall transmit to the Department of Justice an electronic or  
8 telephonic report of the transaction as is indicated in subdivision (b) or (c) of  
9 Section 12077.

10 (2) Subdivision (b) of Section 12801 and the preceding provisions of this article  
11 do not apply to deliveries, transfers, or sales of firearms made to authorized law  
12 enforcement representatives of cities, counties, cities and counties, or state or  
13 federal governments for exclusive use by those governmental agencies if, prior to  
14 the delivery, transfer, or sale of these firearms, written authorization from the head  
15 of the agency authorizing the transaction is presented to the person from whom the  
16 purchase, delivery, or transfer is being made. Proper written authorization is  
17 defined as verifiable written certification from the head of the agency by which the  
18 purchaser or transferee is employed, identifying the employee as an individual  
19 authorized to conduct the transaction, and authorizing the transaction for the  
20 exclusive use of the agency by which he or she is employed. Within 10 days of the  
21 date a handgun is acquired by the agency, a record of the same shall be entered as  
22 an institutional weapon into the Automated Firearms System (AFS) via the  
23 California Law Enforcement Telecommunications System (CLETS) by the law  
24 enforcement or state agency. Those agencies without access to AFS shall arrange  
25 with the sheriff of the county in which the agency is located to input this  
26 information via this system.

27 (3) Subdivision (b) of Section 12801 and the preceding provisions of this article  
28 do not apply to the loan of a firearm made by an authorized law enforcement  
29 representative of a city, county, or city and county, or the state or federal  
30 government to a peace officer employed by that agency and authorized to carry a  
31 firearm for the carrying and use of that firearm by that peace officer in the course  
32 and scope of his or her duties.

33 (4) Subdivision (b) of Section 12801 and the preceding provisions of this article  
34 do not apply to the delivery, sale, or transfer of a firearm by a law enforcement  
35 agency to a peace officer pursuant to Section 10334 of the Public Contract Code.  
36 Within 10 days of the date that a handgun is sold, delivered, or transferred  
37 pursuant to Section 10334 of the Public Contract Code to that peace officer, the  
38 name of the officer and the make, model, serial number, and other identifying  
39 characteristics of the firearm being sold, transferred, or delivered shall be entered  
40 into the Automated Firearms System (AFS) via the California Law Enforcement  
41 Telecommunications System (CLETS) by the law enforcement or state agency that  
42 sold, transferred, or delivered the firearm. Those agencies without access to AFS

1 shall arrange with the sheriff of the county in which the agency is located to input  
2 this information via this system.

3 (5) Subdivision (b) of Section 12801 and the preceding provisions of this article  
4 do not apply to the delivery, sale, or transfer of a firearm by a law enforcement  
5 agency to a retiring peace officer who is authorized to carry a firearm pursuant to  
6 Section 12027.1. Within 10 days of the date that a handgun is sold, delivered, or  
7 transferred to that retiring peace officer, the name of the officer and the make,  
8 model, serial number, and other identifying characteristics of the firearm being  
9 sold, transferred, or delivered shall be entered into the Automated Firearms  
10 System (AFS) via the California Law Enforcement Telecommunications System  
11 (CLETS) by the law enforcement or state agency that sold, transferred, or  
12 delivered the firearm. Those agencies without access to AFS shall arrange with the  
13 sheriff of the county in which the agency is located to input this information via  
14 this system.

15 (6) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 do  
16 not apply to sales, deliveries, or transfers of firearms to authorized representatives  
17 of cities, cities and counties, counties, or state or federal governments for those  
18 governmental agencies where the entity is acquiring the weapon as part of an  
19 authorized, voluntary program where the entity is buying or receiving weapons  
20 from private individuals. Any weapons acquired pursuant to this paragraph shall  
21 be disposed of pursuant to the applicable provisions of Section 12028 or 12032.

22 (7) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall  
23 not apply to the sale, loan, delivery, or transfer of a firearm made by an authorized  
24 law enforcement representative of a city, county, city and county, state, or the  
25 federal government to any public or private nonprofit historical society, museum,  
26 or institutional collection or the purchase or receipt of that firearm by that public  
27 or private nonprofit historical society, museum, or institutional collection if all of  
28 the following conditions are met:

29 (A) The entity receiving the firearm is open to the public.

30 (B) The firearm prior to delivery is deactivated or rendered inoperable.

31 (C) The firearm is not subject to Section 12028, 12028.5, 12030, or 12032.

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

34 (E) Prior to delivery, the entity receiving the firearm submits a written statement  
35 to the law enforcement representative stating that the firearm will not be restored  
36 to operating condition, and will either remain with that entity, or if subsequently  
37 disposed of, will be transferred in accordance with the applicable provisions of  
38 this article and, if applicable, Section 12801.

39 (F) Within 10 days of the date that the firearm is sold, loaned, delivered, or  
40 transferred to that entity, the name of the government entity delivering the firearm,  
41 and the make, model, serial number, and other identifying characteristics of the  
42 firearm and the name of the person authorized by the entity to take possession of

1 the firearm shall be reported to the department in a manner prescribed by the  
2 department.

3 (G) In the event of a change in the status of the designated representative, the  
4 entity shall notify the department of a new representative within 30 days.

5 (8) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall  
6 not apply to the sale, loan, delivery, or transfer of a firearm made by any person  
7 other than a representative of an authorized law enforcement agency to any public  
8 or private nonprofit historical society, museum, or institutional collection if all of  
9 the following conditions are met:

10 (A) The entity receiving the firearm is open to the public.

11 (B) The firearm is deactivated or rendered inoperable prior to delivery.

12 (C) The firearm is not of a type prohibited from being sold, delivered, or  
13 transferred to the public.

14 (D) Prior to delivery, the entity receiving the firearm submits a written statement  
15 to the person selling, loaning, or transferring the firearm stating that the firearm  
16 will not be restored to operating condition, and will either remain with that entity,  
17 or if subsequently disposed of, will be transferred in accordance with the  
18 applicable provisions of this article and, if applicable, Section 12801.

19 (E) If title to a handgun is being transferred to the public or private nonprofit  
20 historical society, museum, or institutional collection, then the designated  
21 representative of that public or private historical society, museum or institutional  
22 collection within 30 days of taking possession of that handgun, shall forward by  
23 prepaid mail or deliver in person to the Department of Justice, a single report  
24 signed by both parties to the transaction, that includes information identifying the  
25 person representing that public or private historical society, museum, or  
26 institutional collection, how title was obtained and from whom, and a description  
27 of the firearm in question, along with a copy of the written statement referred to in  
28 subparagraph (D). The report forms that are to be completed pursuant to this  
29 paragraph shall be provided by the Department of Justice.

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

32 (b)(1) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision  
33 (b) of Section 12801 shall not apply to deliveries, sales, or transfers of firearms  
34 between or to importers and manufacturers of firearms licensed to engage in that  
35 business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the  
36 United States Code and the regulations issued pursuant thereto.

37 (2) Subdivision (b) of Section 12801 shall not apply to the delivery, sale, or  
38 transfer of a handgun to a person licensed pursuant to Section 12071, where the  
39 licensee is receiving the handgun in the course and scope of his or her activities as  
40 a person licensed pursuant to Section 12071.

41 (c)(1) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer  
42 of a firearm that is not a handgun by gift, bequest, intestate succession, or other

1 means by one individual to another if both individuals are members of the same  
2 immediate family.

3 (2) Subdivision (d) of Section 12072 shall not apply to the infrequent transfer of  
4 a handgun by gift, bequest, intestate succession, or other means by one individual  
5 to another if both individuals are members of the same immediate family and all of  
6 the following conditions are met:

7 (A) The person to whom the firearm is transferred shall, within 30 days of  
8 taking possession of the firearm, forward by prepaid mail or deliver in person to  
9 the Department of Justice, a report that includes information concerning the  
10 individual taking possession of the firearm, how title was obtained and from  
11 whom, and a description of the firearm in question. The report forms that  
12 individuals complete pursuant to this paragraph shall be provided to them by the  
13 Department of Justice.

14 (B) The person taking title to the firearm shall first obtain a handgun safety  
15 certificate.

16 (C) The person receiving the firearm is 18 years of age or older.

17 (3) As used in this subdivision, **“immediate family member”** means any one of  
18 the following relationships:

19 (A) Parent and child.

20 (B) Grandparent and grandchild.

21 (d)(1) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of  
22 firearms between persons who are personally known to each other for any lawful  
23 purpose, if the loan does not exceed 30 days in duration and, when the firearm is a  
24 handgun, commencing January 1, 2003, the individual being loaned the handgun  
25 has a valid handgun safety certificate.

26 (2) Subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall  
27 not apply to the loan of a firearm where all of the following conditions exist:

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

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

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

32 (D) The individual receiving the firearm is not prohibited from owning or  
33 possessing a firearm pursuant to Section 12021 or 12021.1 of this code, or by  
34 Section 8100 or 8103 of the Welfare and Institutions Code.

35 (E) The person loaning the firearm is 18 years of age or older.

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

37 (e) Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b)  
38 of Section 12801 shall not apply to the delivery of a firearm to a gunsmith for  
39 service or repair, or to the return of the firearm to its owner by the gunsmith.

40 (f) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall  
41 not apply to the sale, delivery, or transfer of firearms by persons who reside in this  
42 state to persons who reside outside this state who are licensed pursuant to Chapter  
43 44 (commencing with Section 921) of Title 18 of the United States Code and the

1 regulations issued pursuant thereto, if the sale, delivery, or transfer is in  
2 accordance with Chapter 44 (commencing with Section 921) of Title 18 of the  
3 United States Code and the regulations issued pursuant thereto.

4 (g)(1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or  
5 transfer of a firearm, other than a handgun, at auctions or similar events conducted  
6 by nonprofit mutual or public benefit corporations organized pursuant to the  
7 Corporations Code.

8 As used in this paragraph, the term “**infrequent**” shall not be construed to  
9 prohibit different local chapters of the same nonprofit corporation from conducting  
10 auctions or similar events, provided the individual local chapter conducts the  
11 auctions or similar events infrequently. It is the intent of the Legislature that  
12 different local chapters, representing different localities, be entitled to invoke the  
13 exemption created by this paragraph, notwithstanding the frequency with which  
14 other chapters of the same nonprofit corporation may conduct auctions or similar  
15 events.

16 (2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm  
17 other than a handgun, if the firearm is donated for an auction or similar event  
18 described in paragraph (1) and the firearm is delivered to the nonprofit corporation  
19 immediately preceding, or contemporaneous with, the auction or similar event.

20 (3) The waiting period described in Sections 12071 and 12072 shall not apply to  
21 a dealer who delivers a firearm other than a handgun at an auction or similar event  
22 described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of  
23 subdivision (b) of Section 12071. Within two business days of completion of the  
24 application to purchase, the dealer shall forward by prepaid mail to the  
25 Department of Justice a report of the same as is indicated in subdivision (c) of  
26 Section 12077. If the electronic or telephonic transfer of applicant information is  
27 used, within two business days of completion of the application to purchase, the  
28 dealer delivering the firearm shall transmit to the Department of Justice an  
29 electronic or telephonic report of the same as is indicated in subdivision (c) of  
30 Section 12077.

31 (h) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall  
32 not apply to the loan of a firearm to a person 18 years of age or older for the  
33 purposes of shooting at targets if the loan occurs on the premises of a target  
34 facility that holds a business or regulatory license or on the premises of any club  
35 or organization organized for the purposes of practicing shooting at targets upon  
36 established ranges, whether public or private, if the firearm is at all times kept  
37 within the premises of the target range or on the premises of the club or  
38 organization.

39 (i)(1) Subdivision (d) of Section 12072 shall not apply to a person who takes  
40 title or possession of a firearm that is not a handgun by operation of law if the  
41 person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100  
42 or 8103 of the Welfare and Institutions Code from possessing firearms.

1 (2) Subdivision (d) of Section 12072 shall not apply to a person who takes title  
2 or possession of a handgun by operation of law if the person is not prohibited by  
3 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and  
4 Institutions Code from possessing firearms and all of the following conditions are  
5 met:

6 (A) If the person taking title or possession is neither a levying officer as defined  
7 in Section 481.140, 511.060, or 680.210 of the Code of Civil Procedure, nor a  
8 person who is receiving that firearm pursuant to subparagraph (G), (I), or (J) of  
9 paragraph (2) of subdivision (u), the person shall, within 30 days of taking  
10 possession, forward by prepaid mail or deliver in person to the Department of  
11 Justice, a report of information concerning the individual taking possession of the  
12 firearm, how title or possession was obtained and from whom, and a description of  
13 the firearm in question. The reports that individuals complete pursuant to this  
14 paragraph shall be provided to them by the department.

15 (B) If the person taking title or possession is receiving the firearm pursuant to  
16 subparagraph (G) of paragraph (2) of subdivision (u), the person shall do both of  
17 the following:

18 (i) Within 30 days of taking possession, forward by prepaid mail or deliver in  
19 person to the department, a report of information concerning the individual taking  
20 possession of the firearm, how title or possession was obtained and from whom,  
21 and a description of the firearm in question. The reports that individuals complete  
22 pursuant to this paragraph shall be provided to them by the department.

23 (ii) Prior to taking title or possession of the firearm, the person shall obtain a  
24 handgun safety certificate.

25 (C) Where the person receiving title or possession of the handgun is a person  
26 described in subparagraph (I) of paragraph (2) of subdivision (u), on the date that  
27 the person is delivered the firearm, the name and other information concerning the  
28 person taking possession of the firearm, how title or possession of the firearm was  
29 obtained and from whom, and a description of the firearm by make, model, serial  
30 number, and other identifying characteristics, shall be entered into the Automated  
31 Firearms System (AFS) via the California Law Enforcement Telecommunications  
32 System (CLETS) by the law enforcement or state agency that transferred or  
33 delivered the firearm. Those agencies without access to AFS shall arrange with the  
34 sheriff of the county in which the agency is located to input this information via  
35 this system.

36 (D) Where the person receiving title or possession of the handgun is a person  
37 described in subparagraph (J) of paragraph (2) of subdivision (u), on the date that  
38 the person is delivered the firearm, the name and other information concerning the  
39 person taking possession of the firearm, how title or possession of the firearm was  
40 obtained and from whom, and a description of the firearm by make, model, serial  
41 number, and other identifying characteristics, shall be entered into the AFS via the  
42 CLETS by the law enforcement or state agency that transferred or delivered the  
43 firearm. Those agencies without access to AFS shall arrange with the sheriff of the

1 county in which the agency is located to input this information via this system. In  
2 addition, that law enforcement agency shall not deliver that handgun to the person  
3 referred to in **this subparagraph** unless, prior to the delivery of the same, the  
4 person presents proof to the agency that he or she is the holder of a handgun safety  
5 certificate.

6 (3) **Subdivision (d) of Section 12072** shall not apply to a person who takes  
7 possession of a firearm by operation of law in a representative capacity who  
8 subsequently transfers ownership of the firearm to himself or herself in his or her  
9 individual capacity. In the case of a handgun, the individual shall obtain a handgun  
10 safety certificate prior to transferring ownership to himself or herself, or taking  
11 possession of a handgun in an individual capacity.

12 (j) **Subdivision (d) of Section 12072 and subdivision (b) of Section 12801** shall  
13 not apply to deliveries, transfers, or returns of firearms made pursuant to **Section**  
14 **12021.3, 12028, 12028.5, or 12030.**

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

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

20 (2) The delivery, sale, or transfer of unloaded firearms by dealers to persons  
21 who reside outside this state who are licensed pursuant to **Chapter 44**  
22 **(commencing with Section 921) of Title 18 of the United States Code and the**  
23 **regulations issued pursuant thereto.**

24 (3) The delivery, sale, or transfer of unloaded firearms to a wholesaler if the  
25 firearms are being returned to the wholesaler and are intended as merchandise in  
26 the wholesaler's business.

27 (4) The delivery, sale, or transfer of unloaded firearms by one dealer to another  
28 dealer if the firearms are intended as merchandise in the receiving dealer's  
29 business upon proof of compliance with the requirements of **paragraph (1) of**  
30 **subdivision (f) of Section 12072.**

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

33 (6) The loan of an unloaded firearm by a dealer who also operates a target  
34 facility that holds a business or regulatory license on the premises of the building  
35 designated in the license or whose building designated in the license is on the  
36 premises of any club or organization organized for the purposes of practicing  
37 shooting at targets upon established ranges, whether public or private, to a person  
38 at that target facility or that club or organization, if the firearm is at all times kept  
39 within the premises of the target range or on the premises of the club or  
40 organization.

41 (l) A person who is exempt from **subdivision (d) of Section 12072** or is  
42 otherwise not required by law to report his or her acquisition, ownership, or  
43 disposal of a handgun or who moves out of this state with his or her handgun may

1 submit a report of the same to the Department of Justice in a format prescribed by  
2 the department.

3 (m) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall  
4 not apply to the delivery, sale, or transfer of unloaded firearms to a wholesaler as  
5 merchandise in the wholesaler's business by manufacturers or importers licensed  
6 to engage in that business pursuant to Chapter 44 (commencing with Section 921)  
7 of Title 18 of the United States Code and the regulations issued pursuant thereto,  
8 or by another wholesaler, if the delivery, sale, or transfer is made in accordance  
9 with Chapter 44 (commencing with Section 921) of Title 18 of the United States  
10 Code.

11 (n)(1) The waiting period described in Section 12071 or 12072 shall not apply to  
12 the delivery, sale, or transfer of a handgun by a dealer in either of the following  
13 situations:

14 (A) The dealer is delivering the firearm to another dealer and it is not intended  
15 as merchandise in the receiving dealer's business.

16 (B) The dealer is delivering the firearm to himself or herself and it is not  
17 intended as merchandise in his or her business.

18 (2) In order for this subdivision to apply, both of the following shall occur:

19 (A) If the dealer is receiving the firearm from another dealer, the dealer  
20 receiving the firearm shall present proof to the dealer delivering the firearm that he  
21 or she is licensed pursuant to Section 12071 by complying with paragraph (1) of  
22 subdivision (f) of Section 12072.

23 (B) Whether the dealer is delivering, selling, or transferring the firearm to  
24 himself or herself or to another dealer, on the date that the application to purchase  
25 is completed, the dealer delivering the firearm shall forward by prepaid mail to the  
26 Department of Justice a report of the same and the type of information concerning  
27 the purchaser or transferee as is indicated in subdivision (b) of Section 12077.  
28 Where the electronic or telephonic transfer of applicant information is used, on the  
29 date that the application to purchase is completed, the dealer delivering the firearm  
30 shall transmit an electronic or telephonic report of the same and the type of  
31 information concerning the purchaser or transferee as is indicated in subdivision  
32 (b) of Section 12077.

33 (o) Section 12071 and subdivisions (c), (d), and paragraph (1) of subdivision (f)  
34 of Section 12072 shall not apply to the delivery, sale, or transfer of firearms  
35 regulated pursuant to Section 12020, Chapter 2 (commencing with Section 12200),  
36 or Chapter 2.3 (commencing with Section 12275), if the delivery, sale, or transfer  
37 is conducted in accordance with the applicable provisions of Section 12020,  
38 Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with  
39 Section 12275).

40 (p)(1) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072  
41 shall not apply to the loan of a firearm that is not a handgun to a minor, with the  
42 express permission of the parent or legal guardian of the minor, if the loan does  
43 not exceed 30 days in duration and is for a lawful purpose.

1 (2) Paragraph (3) of subdivision (a) of Section 12072, subdivision (d) of Section  
2 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a  
3 handgun to a minor by a person who is not the parent or legal guardian of the  
4 minor if all of the following circumstances exist:

5 (A) The minor has the written consent of his or her parent or legal guardian that  
6 is presented at the time of, or prior to the time of, the loan, or is accompanied by  
7 his or her parent or legal guardian at the time the loan is made.

8 (B) The minor is being loaned the firearm for the purpose of engaging in a  
9 lawful, recreational sport, including, but not limited to, competitive shooting, or  
10 agricultural, ranching, or hunting activity, or a motion picture, television, or video  
11 production, or entertainment or theatrical event, the nature of which involves the  
12 use of a firearm.

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

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

19 (3) Paragraph (3) of subdivision (a), and subdivision (d), of Section 12072, and  
20 subdivision (b) of Section 12801 shall not apply to the loan of a handgun to a  
21 minor by his or her parent or legal guardian if both of the following circumstances  
22 exist:

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

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

33 (4) Paragraph (3) of subdivision (a), and subdivision (d), of Section 12072 shall  
34 not apply to the transfer or loan of a firearm that is not a handgun to a minor by his  
35 or her parent or legal guardian.

36 (5) Paragraph (3) of subdivision (a), and subdivision (d), of Section 12072 shall  
37 not apply to the transfer or loan of a firearm that is not a handgun to a minor by his  
38 or her grandparent who is not the legal guardian of the minor if the transfer is done  
39 with the express permission of the parent or legal guardian of the minor.

40 (6) Subparagraph (A) of paragraph (3) of subdivision (a) of Section 12072 shall  
41 not apply to the sale of a handgun if both of the following requirements are  
42 satisfied:

43 (A) The sale is to a person who is at least 18 years of age.

1 (B) The firearm is an antique firearm as defined in paragraph (16) of subsection  
2 (a) of Section 921 of Title 18 of the United States Code.

3 (q) Subdivision (d) of Section 12072 shall not apply to the loan of a firearm that  
4 is not a handgun to a licensed hunter for use by that licensed hunter for a period of  
5 time not to exceed the duration of the hunting season for which that firearm is to  
6 be used.

7 (r) The waiting period described in Section 12071 or 12072 shall not apply to  
8 the delivery, sale, or transfer of a firearm to the holder of a special weapons permit  
9 issued by the Department of Justice issued pursuant to Section 12095, 12230,  
10 12250, or 12305. On the date that the application to purchase is completed, the  
11 dealer delivering the firearm shall transmit to the Department of Justice an  
12 electronic or telephonic report of the same as is indicated in subdivision (b) or (c)  
13 of Section 12077.

14 (s)(1) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801  
15 shall not apply to the infrequent loan of an unloaded firearm by a person who is  
16 neither a dealer as defined in Section 12071 nor a federal firearms licensee  
17 pursuant to Chapter 44 of Title 18 of the United States Code, to a person 18 years  
18 of age or older for use solely as a prop in a motion picture, television, video,  
19 theatrical, or other entertainment production or event.

20 (2) Subdivision (d), and paragraph (1) of subdivision (f), of Section 12072, and  
21 subdivision (b) of Section 12801 shall not apply to the loan of an unloaded firearm  
22 by a person who is not a dealer as defined in Section 12071 but who is a federal  
23 firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code, to a  
24 person who possesses a valid entertainment firearms permit issued pursuant to  
25 Section 12081, for use solely as a prop in a motion picture, television, video,  
26 theatrical, or other entertainment production or event. The person loaning the  
27 firearm pursuant to this paragraph shall retain a photocopy of the entertainment  
28 firearms permit as proof of compliance with this requirement.

29 (3) Subdivision (b) of Section 12071, subdivision (c) of, and paragraph (1) of  
30 subdivision (f) of, Section 12072, and subdivision (b) of Section 12801 shall not  
31 apply to the loan of an unloaded firearm by a dealer as defined in Section 12071,  
32 to a person who possesses a valid entertainment firearms permit issued pursuant to  
33 Section 12081, for use solely as a prop in a motion picture, television, video,  
34 theatrical, or other entertainment production or event. The dealer shall retain a  
35 photocopy of the entertainment firearms permit as proof of compliance with this  
36 requirement.

37 (t)(1) The waiting period described in Section 12071 or 12072 shall not apply to  
38 the sale, delivery, loan, or transfer of a firearm that is a curio or relic, as defined in  
39 Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor, by  
40 a dealer to a person who is licensed as a collector pursuant to Chapter 44  
41 (commencing with Section 921) of Title 18 of the United States Code and the  
42 regulations issued pursuant thereto who has a current certificate of eligibility  
43 issued to him or her by the Department of Justice pursuant to Section 12071. On

1 the date that the delivery, sale, or transfer is made, the dealer delivering the  
2 firearm shall transmit to the Department of Justice an electronic or telephonic  
3 report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

4 (2) Subdivision (d) and paragraph (1) of subdivision (f) of Section 12072 shall  
5 not apply to the infrequent sale, loan, or transfer of a firearm that is not a handgun,  
6 which is a curio or relic manufactured at least 50 years prior to the current date,  
7 but not including replicas thereof, as defined in Section 478.11 of Title 27 of the  
8 Code of Federal Regulations, or its successor.

9 (u) As used in this section:

10 (1) “**Infrequent**” has the same meaning as in paragraph (1) of subdivision (c) of  
11 Section 12070.

12 (2) “**A person taking title or possession of firearms by operation of law**”  
13 includes, but is not limited to, any of the following instances wherein an individual  
14 receives title to, or possession of, firearms:

15 (A) The executor or administrator of an estate if the estate includes firearms.

16 (B) A secured creditor or an agent or employee thereof when the firearms are  
17 possessed as collateral for, or as a result of, a default under a security agreement  
18 under the Commercial Code.

19 (C) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the  
20 Code of Civil Procedure.

21 (D) A receiver performing his or her functions as a receiver if the receivership  
22 estate includes firearms.

23 (E) A trustee in bankruptcy performing his or her duties if the bankruptcy estate  
24 includes firearms.

25 (F) An assignee for the benefit of creditors performing his or her functions as an  
26 assignee, if the assignment includes firearms.

27 (G) A transmutation of property consisting of firearms pursuant to Section 850  
28 of the Family Code.

29 (H) Firearms passing to a surviving spouse pursuant to Chapter 1 (commencing  
30 with Section 13500) of Part 2 of Division 8 of the Probate Code.

31 (I) Firearms received by the family of a police officer or deputy sheriff from a  
32 local agency pursuant to Section 50081 of the Government Code.

33 (J) The transfer of a firearm by a law enforcement agency to the person who  
34 found the firearm where the delivery is to the person as the finder of the firearm  
35 pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3  
36 of the Civil Code.

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

39 12079. (a) Upon a showing that good cause exists, the Department of Justice  
40 may issue permits for the possession, transportation, or sale between a person  
41 licensed pursuant to Section 12071 and an out-of-state client, of large capacity  
42 magazines.

1 (b) For purposes of this section, “large capacity magazine” shall have the same  
2 meaning as that set forth in paragraph (25) of subdivision (c) of Section 12020.

3 **Penal Code § 12080. Pamphlet summarizing California firearms laws**

4 12080. (a) The Department of Justice shall prepare a pamphlet which  
5 summarizes California firearms laws as they pertain to persons other than law  
6 enforcement officers or members of the armed services.

7 (b) The pamphlet shall include the following matters:

8 (1) Lawful possession.

9 (2) Licensing procedures.

10 (3) Transportation and use of firearms.

11 (4) Acquisition of hunting licenses.

12 (5) The safe handling and use of firearms.

13 (6) Various methods of safe storage and child proofing of firearms.

14 (7) The availability of firearms safety programs and devices.

15 (8) The responsibilities of firearms ownership.

16 (9) The operation of various types of firearms.

17 (10) The lawful use of deadly force.

18 (c) The department shall offer copies of the pamphlet at actual cost to firearms  
19 dealers licensed pursuant to Section 12071 who shall have copies of the most  
20 current version available for sale to retail purchasers or transferees of firearms.  
21 The cost of the pamphlet, if any, may be added to the sale price of the firearm.  
22 Other interested parties may purchase copies directly from the Department of  
23 General Services. The pamphlet shall declare that it is merely intended to provide  
24 a general summary of laws applicable to firearms and is not designed to provide  
25 individual guidance for specific areas. Individuals having specific questions shall  
26 be directed to contact their local law enforcement agency or private counsel.

27 (d) The Department of Justice or any other public entity shall be immune from  
28 any liability arising from the drafting, publication, or dissemination of the  
29 pamphlet or any reliance upon it. All receipts from the sale of these pamphlets  
30 shall be deposited as reimbursements to the support appropriation for the  
31 Department of Justice.

32 **Penal Code § 12081. Entertainment Firearms Permit**

33 12081. (a) Any person who is at least 21 years of age may apply for an  
34 entertainment firearms permit from the Department of Justice that authorizes the  
35 permit holder to possess firearms loaned to him or her for use solely as a prop in a  
36 motion picture, television, video, theatrical, or other entertainment production or  
37 event. Upon receipt of an initial or renewal application submitted as specified in  
38 subdivision (b), the department shall examine its records, records the department  
39 is authorized to request from the State Department of Mental Health pursuant to  
40 Section 8104 of the Welfare and Institutions Code, and records of the National  
41 Instant Criminal Background Check System as described in subsection (t) of

1 Section 922 of Title 18 of the United States Code, in order to determine if the  
2 applicant is prohibited from possessing or receiving firearms. The department  
3 shall issue an entertainment firearms permit only if the records indicate that the  
4 applicant is not prohibited from possessing or receiving firearms pursuant to any  
5 federal, state, or local law.

6 (b)(1) Requests for entertainment firearms permits shall be made on application  
7 forms prescribed by the Department of Justice that require applicant information,  
8 including, but not limited to, the following:

9 (A) Complete name.

10 (B) Residential and mailing address.

11 (C) Telephone number.

12 (D) Date of birth.

13 (E) Place of birth.

14 (F) Country of citizenship and, if other than United States, alien number or  
15 admission number.

16 (G) Valid driver's license number or valid identification card number issued by  
17 the California Department of Motor Vehicles.

18 (H) Social security number.

19 (I) Signature.

20 (2) All applications must be submitted with the appropriate fee as specified in  
21 subdivision (c).

22 (3) An initial application for an entertainment firearms permit shall require the  
23 submission of fingerprint images and related information in a manner prescribed  
24 by the department, for the purpose of obtaining information as to the existence and  
25 nature of a record of state or federal level convictions and state or federal level  
26 arrests for which the department establishes that the individual was released on  
27 bail or on his or her own recognizance pending trial as needed to determine  
28 whether the applicant may be issued the permit. Requests for federal level criminal  
29 offender record information received by the Department of Justice pursuant to this  
30 section shall be forwarded by the department to the Federal Bureau of  
31 Investigation.

32 (4) The Department of Justice shall review the criminal offender record  
33 information specified in subdivision (l) of Section 11105 for entertainment  
34 firearms permit applicants.

35 (5) The Department of Justice shall review subsequent arrests, pursuant to  
36 Section 11105.2, to determine the continuing validity of the permit as specified in  
37 subdivision (d) for all entertainment firearms permit holders.

38 (6) Any person who furnishes a fictitious name or address or knowingly  
39 furnishes any incorrect information or knowingly omits any information required  
40 to be provided on this application is guilty of a misdemeanor.

41 (c) The Department of Justice shall recover the full costs of administering the  
42 program by assessing the following application fees:

1 (1) For the initial application: one hundred four dollars (\$104). Of this sum,  
2 fifty-six dollars (\$56) shall be deposited into the Fingerprint Fee Account, and  
3 forty-eight dollars (\$48) shall be deposited into the Dealer Record of Sale  
4 Account.

5 (2) For each annual renewal application: twenty-nine dollars (\$29), which shall  
6 be deposited into the Dealer Record of Sale Account.

7 (d) The implementation of subdivisions (a), (b), and (c) by the department is  
8 exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with  
9 Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

10 (e) The department shall annually review and shall adjust the fees specified in  
11 subdivision (c), if necessary, to fully fund, but not to exceed the actual costs of,  
12 the permit program provided for by this section, including enforcement of the  
13 program.

14 (f) An entertainment firearms permit issued by the Department of Justice shall  
15 be valid for one year from the date of issuance. If at any time during that year the  
16 permitholder becomes prohibited from possessing or receiving firearms pursuant  
17 to any federal, state, or local law, his or her entertainment firearms permit shall be  
18 no longer valid.

19 **Penal Code § 12082. Procedure for sale, loan, or transfer of firearm**

20 12082. (a) A person shall complete any sale, loan, or transfer of a firearm  
21 through a person licensed pursuant to Section 12071 in accordance with this  
22 section in order to comply with subdivision (d) of Section 12072. The seller or  
23 transferor or the person loaning the firearm shall deliver the firearm to the dealer  
24 who shall retain possession of that firearm. The dealer shall then deliver the  
25 firearm to the purchaser or transferee or the person being loaned the firearm, if it is  
26 not prohibited, in accordance with subdivision (c) of Section 12072. If the dealer  
27 cannot legally deliver the firearm to the purchaser or transferee or the person being  
28 loaned the firearm, the dealer shall forthwith, without waiting for the conclusion of  
29 the waiting period described in Sections 12071 and 12072, return the firearm to  
30 the transferor or seller or the person loaning the firearm. The dealer shall not  
31 return the firearm to the seller or transferor or the person loaning the firearm when  
32 to do so would constitute a violation of subdivision (a) of Section 12072. If the  
33 dealer cannot legally return the firearm to the transferor or seller or the person  
34 loaning the firearm, then the dealer shall forthwith deliver the firearm to the sheriff  
35 of the county or the chief of police or other head of a municipal police department  
36 of any city or city and county who shall then dispose of the firearm in the manner  
37 provided by Sections 12028 and 12032. The purchaser or transferee or person  
38 being loaned the firearm may be required by the dealer to pay a fee not to exceed  
39 ten dollars (\$10) per firearm, and no other fee may be charged by the dealer for a  
40 sale, loan, or transfer of a firearm conducted pursuant to this section, except for  
41 the applicable fee that the Department of Justice may charge pursuant to Section  
42 12076. Nothing in these provisions shall prevent a dealer from charging a smaller

1 fee. The fee that the department may charge is the fee that would be applicable  
2 pursuant to Section 12076, if the dealer was selling, transferring, or delivering a  
3 firearm to a purchaser or transferee or a person being loaned a firearm, without  
4 any other parties being involved in the transaction.

5 (b) The Attorney General shall adopt regulations under this section to do all of  
6 the following:

7 (1) Allow the seller or transferor of the person loaning the firearm, and the  
8 purchaser or transferee or the person being loaned the firearm, to complete a sale,  
9 loan, or transfer through a dealer, and to allow those persons and the dealer to  
10 comply with the requirements of this section and Sections 12071, 12072, 12076,  
11 and 12077 and to preserve the confidentiality of those records.

12 (2) Where a personal handgun importer is selling or transferring a pistol,  
13 revolver, or other firearm capable of being concealed upon the person to comply  
14 with clause (ii) of subparagraph (A) of paragraph (2) of subdivision (f) of Section  
15 12072, to allow a personal handgun importer's ownership of the pistol, revolver,  
16 or other firearm capable of being concealed upon the person being sold or  
17 transferred to be recorded in a manner that if the firearm is returned to that  
18 personal handgun importer because the sale or transfer cannot be completed, the  
19 Department of Justice will have sufficient information about that personal  
20 handgun importer so that a record of his or her ownership can be maintained in the  
21 registry provided by subdivision (c) of Section 11106.

22 (3) Ensure that the register or record of electronic transfer shall state the name  
23 and address of the seller or transferor of the firearm or the person loaning the  
24 firearm and whether or not the person is a personal handgun importer in addition  
25 to any other information required by Section 12077.

26 (c) Notwithstanding any other provision of law, a dealer who does not sell,  
27 transfer, or keep an inventory of handguns is not required to process private party  
28 transfers of handguns.

29 (d) A violation of this section by a dealer is a misdemeanor.

30 **Penal Code § 12083. Centralized list of exempted federal firearms licensees**

31 12083. (a) Commencing January 1, 2008, the Department of Justice shall keep a  
32 centralized list of persons who identify themselves as being licensed pursuant to  
33 Chapter 44 (commencing with Section 921) of Title 18 of the United States Code  
34 as a dealer, pawnbroker, importer or manufacturer of firearms whose licensed  
35 premises are within this state and who declare to the department an exemption  
36 from the firearms dealer licensing requirements of Section 12070. The list shall be  
37 known as the centralized list of exempted federal firearms licensees. To qualify for  
38 placement on the centralized list, an applicant shall do all of the following:

39 (1) Possess a valid federal firearms license pursuant to Chapter 44 (commencing  
40 with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker,  
41 importer, or manufacturer of firearms.

1 (2) Maintain eligibility under California law to possess firearms by possessing a  
2 current, valid certificate of eligibility pursuant to Section 12071.

3 (3) Maintain with the department a signed declaration enumerating the  
4 applicant's statutory exemptions from licensing requirements of Section 12070.  
5 Any person furnishing a fictitious name, knowingly furnishing any incorrect  
6 information, or knowingly omitting any information for the declaration shall be  
7 guilty of a misdemeanor.

8 (b) Commencing January 1, 2008, the department shall assess an annual fee of  
9 one hundred fifteen dollars (\$115) to cover its costs of maintaining the centralized  
10 list of exempted federal firearms licensees prescribed by subdivision (a),  
11 conducting inspections in accordance with this section, and for the cost of  
12 maintaining the firearm shipment verification number system described in  
13 subdivision (f) of Section 12072. The department may increase the fee at a rate not  
14 to exceed the increase in the California Consumer Price Index as compiled and  
15 reported by the Department of Industrial Relations. The fees collected shall be  
16 deposited in the Dealers' Record of Sale Special Account.

17 (c)(1) Any person licensed pursuant to Chapter 44 (commencing with Section  
18 921) of Title 18 of the United States Code as a dealer, pawnbroker, importer, or  
19 manufacturer of firearms whose licensed premises are within this state shall not  
20 import or receive firearms from any source unless listed on the centralized list of  
21 firearms dealers pursuant to Section 12071, or the centralized list of exempted  
22 federal firearms licensees pursuant to subdivision (a), or the centralized list of  
23 firearms manufacturers pursuant to subdivision (f) of Section 12086.

24 (2) A violation of this subdivision is a misdemeanor.

25 (d)(1) All persons on the centralized list of exempted federal firearms licensees  
26 prescribed by subdivision (a) shall record and keep on file for three years, the  
27 verification number that shall accompany firearms received from other federal  
28 firearms licensees pursuant to subdivision (f) of Section 12072.

29 (2) A violation of this subdivision is cause for immediate removal from the  
30 centralized list.

31 (e) Information compiled from the list described in subdivision (a) shall be made  
32 available for the following purposes:

33 (1) Requests from local, state, and federal law enforcing agencies and the duly  
34 constituted city, county, and city and county licensing authorities.

35 (2) When the information is requested by a person licensed pursuant to Chapter  
36 44 (commencing with Section 921) of Title 18 of the United States Code for  
37 determining the validity of the license for firearm shipments.

38 (f) The department may conduct onsite inspections at the business premises of a  
39 person on the centralized list described in subdivision (a) to determine compliance  
40 with firearms laws pursuant to Article 4 (commencing with Section 12070) of  
41 Chapter 1 of Title 2 of Part 4 of the Penal Code. The department shall work in  
42 consultation with the Bureau of Alcohol, Tobacco, Firearms, and Explosives to

1 ensure that licensees are not subject to duplicative inspections. During the  
2 inspection the following firearm records shall be made available for review:

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

7 (2) Verification numbers issued pursuant to subdivision (f) of Section 12072.

8 (3) Any other records requested by the department to determine compliance with  
9 this article.

10 (g) The department may remove from the centralized list described in  
11 subdivision (a), any person who violates this article.

12 (h) The department may adopt regulations as necessary to carry out the  
13 provisions of this section, subdivision (f) of Section 12072, and Section 12071.  
14 The department shall work in consultation with the Bureau of Alcohol, Tobacco,  
15 Firearms, and Explosives to ensure that state regulations are not duplicative of  
16 federal regulations.

17 **Penal Code § 12085. Prohibition against unlicensed manufacture of firearm**

18 12085. (a) Commencing July 1, 1999, no person, firm, or corporation licensed to  
19 manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of  
20 Title 18 of the United States Code may manufacture firearms within this state  
21 unless licensed pursuant to Section 12086.

22 (b) Subdivision (a) does not apply to a person licensed to manufacture firearms  
23 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United  
24 States Code who manufactures fewer than 100 firearms in a calendar year within  
25 this state.

26 (c) If a person, firm, or corporation required to be licensed pursuant to Section  
27 12086 ceases operations, then the records required pursuant to paragraphs (6) and  
28 (10) of subdivision (c) of Section 12086 shall be forwarded to the federal Bureau  
29 of Alcohol, Tobacco, and Firearms within three days of the closure of business.

30 (d) A violation of this section is a misdemeanor.

31 (e)(1) As used in this section and Section 12086, the term “**firearm**” includes  
32 the frame or receiver of the weapon.

33 (2) As used in this section and Section 12086, the term “**firearm**” includes the  
34 unfinished frame or receiver of a weapon that can be readily converted to the  
35 functional condition of a finished frame or receiver.

36 (3) For purposes of this section and Section 12086, the term “**firearm**” does not  
37 include an unloaded firearm that is defined as an “antique firearm” in paragraph  
38 (16) of subsection (a) of Section 921 of Title 18 of the United States Code.

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

40 12086. (a)(1) As used in this section, “**licensee**” means a person, firm, or  
41 corporation that satisfies both of the following:

1 (A) Has a license issued pursuant to paragraph (2) of subdivision (b).  
2 (B) Is among those recorded in the centralized list specified in subdivision (f).  
3 (2) As used in this section, “department” means the Department of Justice.  
4 (b)(1) The Department of Justice shall accept applications for, and shall grant  
5 licenses permitting, the manufacture of firearms within this state. The department  
6 shall inform applicants who are denied licenses of the reasons for the denial in  
7 writing.  
8 (2) No license shall be granted by the department unless and until the applicant  
9 presents proof that he or she has all of the following:  
10 (A) A valid license to manufacture firearms issued pursuant to Chapter 44  
11 (commencing with Section 921) of Title 18 of the United States Code.  
12 (B) Any regulatory or business license, or licenses, required by local  
13 government.  
14 (C) A valid seller’s permit or resale certificate issued by the State Board of  
15 Equalization, if applicable.  
16 (D) A certificate of eligibility issued by the Department of Justice pursuant to  
17 paragraph (4) of subdivision (a) of Section 12071.  
18 (3) The department shall adopt regulations to administer this section and Section  
19 12085 and shall recover the full costs of administering the program by collecting  
20 fees from license applicants. Recoverable costs shall include, but not be limited to,  
21 the costs of inspections and maintaining a centralized list of licensed firearm  
22 manufacturers. The fee for licensed manufacturers who produce fewer than 500  
23 firearms in a calendar year within this state shall not exceed two hundred fifty  
24 dollars (\$250) per year or the actual costs of inspections and maintaining a  
25 centralized list of firearm manufacturers and any other duties of the department  
26 required pursuant to this section and Section 12085, whichever is less.  
27 (4) A license granted by the department shall be valid for no more than one year  
28 from the date of issuance and shall be in the form prescribed by the Attorney  
29 General.  
30 (c) A licensee shall comply with the following prohibitions and requirements:  
31 (1) The business shall be conducted only in the buildings designated in the  
32 license.  
33 (2) The license or a copy thereof, certified by the department, shall be displayed  
34 on the premises where it can easily be seen.  
35 (3) Whenever a licensee discovers that a firearm has been stolen or is missing  
36 from the licensee’s premises, the licensee shall report the loss or theft within 48  
37 hours of the discovery to all of the following:  
38 (A) The Department of Justice, in a manner prescribed by the department.  
39 (B) The federal Bureau of Alcohol, Tobacco, and Firearms.  
40 (C) The police department in the city or city and county where the building  
41 designated in the license is located.

1 (D) If there is no police department in the city or city and county where the  
2 building designated in the license is located, the sheriff of the county where the  
3 building designated in the license is located.

4 (4)(A) The licensee shall require that each employee obtain a certificate of  
5 eligibility pursuant to paragraph (4) of subdivision (a) of Section 12071, which  
6 shall be renewed annually, prior to being allowed to come into contact with any  
7 firearm.

8 (B) The licensee shall prohibit any employee who the licensee knows or  
9 reasonably should know is within a class of persons prohibited from possessing  
10 firearms pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or  
11 8103 of the Welfare and Institutions Code, from coming into contact with any  
12 firearm.

13 (5)(A) Each firearm the licensee manufactures in this state shall be identified  
14 with a unique serial number stamped onto the firearm utilizing the method of  
15 compression stamping.

16 (B) Licensed manufacturers who produce fewer than 500 firearms in a calendar  
17 year within this state may serialize long guns only by utilizing a method of  
18 compression stamping or by engraving the serial number onto the firearm.

19 (C) The licensee shall stamp the serial number onto the firearm within one  
20 business day of the time the receiver or frame is manufactured.

21 (D) The licensee shall not use the same serial number for more than one firearm.

22 (6)(A) The licensee shall record the type, model, caliber, or gauge, and serial  
23 number of each firearm manufactured or acquired, and the date of the manufacture  
24 or acquisition, within one business day of the manufacture or acquisition.

25 (B) The licensee shall maintain permanently within the building designated in  
26 the license the records required pursuant to subparagraph (A).

27 (C) Backup copies of the records described in subparagraph (A), whether  
28 electronic or hard copy, shall be made at least once a month. These backup records  
29 shall be maintained in a facility separate from the one in which the primary  
30 records are stored.

31 (7)(A) The licensee shall allow the department to inspect the building designated  
32 in the license to ensure compliance with the requirements of this section.

33 (B) The licensee shall allow any peace officer, authorized law enforcement  
34 employee, or Department of Justice employee designated by the Attorney General,  
35 upon the presentation of proper identification, to inspect facilities and records  
36 during business hours to ensure compliance with the requirements of this section.

37 (8) The licensee shall store in a secure facility all firearms manufactured and all  
38 barrels for firearms manufactured.

39 (9)(A) The licensee shall notify the chief of police or other head of the  
40 municipal police department in the city or city and county where the building  
41 designated in the license is located that the licensee is manufacturing firearms  
42 within that city or city and county and the location of the licensed premises.

1 (B) If there is no police department in the city or city and county where the  
2 building designated in the license is located, the licensee shall notify the sheriff of  
3 the county where the building designated in the license is located that the licensee  
4 is manufacturing firearms within that county and the location of the licensed  
5 premises.

6 (10) For at least 10 years, the licensee shall maintain records of all firearms that  
7 are lost or stolen, as prescribed by the department.

8 (d) Except as otherwise provided in subdivision (e), as used in this section, a  
9 **“secure facility”** means that the facility satisfies all of the following:

10 (1) The facility is equipped with a burglar alarm with central monitoring.

11 (2) All perimeter entries to areas in which firearms are stored other than doors,  
12 including windows and skylights, are secured with steel window guards or an  
13 audible, silent, or sonic alarm to detect entry.

14 (3) All perimeter doorways are designed in one of the following ways:

15 (A) A windowless steel security door equipped with both a deadbolt and a  
16 doorknob lock.

17 (B) A windowed metal door equipped with both a deadbolt and a doorknob lock.  
18 If the window has an opening of five inches or more measured in any direction,  
19 the window is covered with steel bars of at least one-half inch diameter or metal  
20 grating of at least nine gauge affixed to the exterior or interior of the door.

21 (C) A metal grate that is padlocked and affixed to the licensee’s premises  
22 independent of the door and doorframe.

23 (D) Hinges and hasps attached to doors by welding, riveting, or bolting with  
24 nuts on the inside of the door.

25 (E) Hinges and hasps installed so that they cannot be removed when the doors  
26 are closed and locked.

27 (4) Heating, ventilating, air-conditioning, and service openings are secured with  
28 steel bars, metal grating, or an alarm system.

29 (5) No perimeter metal grates are capable of being entered by any person.

30 (6) Steel bars used to satisfy the requirements of this subdivision are not capable  
31 of being entered by any person.

32 (7) Perimeter walls of rooms in which firearms are stored are constructed of  
33 concrete or at least 10-gauge expanded steel wire mesh utilized along with typical  
34 wood frame and drywall construction. If firearms are not stored in a vault, the  
35 facility shall use an exterior security-type door along with a high security, single-  
36 key deadbolt, or other door that is more secure. All firearms shall be stored in a  
37 separate room away from any general living area or work area. Any door to the  
38 storage facility shall be locked while unattended.

39 (8) Perimeter doorways, including the loading dock area, are locked at all times  
40 when not attended by paid employees or contracted employees, including security  
41 guards.

42 (9) Except when a firearm is currently being tested, any ammunition on the  
43 premises is removed from all manufactured guns and stored in a separate and

1 locked room, cabinet, or box away from the storage area for the firearms.  
2 Ammunition may be stored with a weapon only in a locked safe.

3 (e) For purposes of **this section**, any licensed manufacturer who produces fewer  
4 than 500 firearms in a calendar year within this state may maintain a **“secure**  
5 **facility”** by complying with all of the requirements described in **subdivision (d)**,  
6 or may design a security plan that is approved by the Department of Justice or the  
7 federal Bureau of Alcohol, Tobacco, and Firearms.

8 (1) If a security plan is approved by the federal Bureau of Alcohol, Tobacco, and  
9 Firearms, the approved plan, along with proof of approval, shall be filed with the  
10 Department of Justice and the local police department. If there is no police  
11 department, the filing shall be with the county sheriff’s office.

12 (2) If a security plan is approved by the Department of Justice, the approved  
13 plan, along with proof of approval, shall be filed with the local police department.  
14 If there is no police department, the filing shall be with the county sheriff’s office.

15 (f)(1) Except as otherwise provided in **this subdivision**, the Department of  
16 Justice shall maintain a centralized list of all persons licensed pursuant to  
17 **paragraph (2) of subdivision (b)**. The centralized list shall be provided annually to  
18 each police department and county sheriff within the state.

19 (2) Except as provided in **paragraph (3)**, the license of any licensee who violates  
20 **this section** may be revoked.

21 (3) The license of any licensee who knowingly or with gross negligence violates  
22 **this section** or violates **this section** three times shall be revoked, and that person,  
23 firm, or corporation shall become permanently ineligible to obtain a license  
24 pursuant to **this section**.

25 (g)(1) Upon the revocation of the license, notification shall be provided to local  
26 law enforcement authorities in the jurisdiction where the licensee’s business is  
27 located and to the federal Bureau of Alcohol, Tobacco, and Firearms.

28 (2) The department shall make information concerning the location and name of  
29 a licensee available, upon request, for the following purposes only:

30 (A) Law enforcement.

31 (B) When the information is requested by a person licensed pursuant to **Chapter**  
32 **44 (commencing with Section 921) of Title 18 of the United States Code** for  
33 determining the validity of the license for firearm shipments.

34 (3) Notwithstanding **paragraph (2)**, the department shall make the name and  
35 business address of a licensee available to any person upon written request.

36 (h) The Department of Justice shall maintain and make available upon request  
37 information concerning the number of inspections conducted and the amount of  
38 fees collected pursuant to **paragraph (3) of subdivision (b)**, the number of licensees  
39 removed from the centralized list described in **subdivision (f)**, and the number of  
40 licensees found to have violated **this section**.

1 Article 4.5. Firearms Safety Devices

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

3 12087. This article shall be known and may be cited as the “**Aroner-Scott-**  
4 **Hayden Firearms Safety Act of 1999.**”

5 **Penal Code § 12087.5. Legislative findings**

6 12087.5. The Legislature makes the following findings:

7 (a) In the years 1987 to 1996, nearly 2,200 children in the United States under  
8 the age of 15 years died in unintentional shootings. In 1996 alone, 138 children  
9 were shot and killed unintentionally. Thus, more than 11 children every month, or  
10 one child every three days, were shot or killed unintentionally in firearms-related  
11 incidents.

12 (b) The United States leads the industrialized world in the rates of children and  
13 youth lost to unintentional, firearms-related deaths. A 1997 study from the federal  
14 Centers for Disease Control and Prevention reveals that for unintentional firearm-  
15 related deaths for children under the age of 15, the rate in the United States was  
16 nine times higher than in 25 other industrialized countries combined.

17 (c) While the number of unintentional deaths from firearms is an unacceptable  
18 toll on America’s children, nearly eight times that number are treated in U.S.  
19 hospital emergency rooms each year for nonfatal unintentional gunshot wounds.

20 (d) A study of unintentional firearm deaths among children in California found  
21 that unintentional gunshot wounds most often involve handguns.

22 (e) A study in the December 1995 issue of the Archives of Pediatric and  
23 Adolescent Medicine found that children as young as three years old are strong  
24 enough to fire most commercially available handguns. The study revealed that 25  
25 percent of three to four year olds and 70 percent of five to six year olds had  
26 sufficient finger strength to fire 59 (92 percent) of the 64 commonly available  
27 handguns referenced in the study.

28 (f) The Government Accounting Office (GAO), in its March 1991 study,  
29 “Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could be  
30 Prevented,” estimates that 31 percent of accidental deaths caused by firearms  
31 might be prevented by the addition of two safety devices: a child-resistant safety  
32 device that automatically engages and a device that indicates whether the gun is  
33 loaded. According to the study results, of the 107 unintentional firearms-related  
34 fatalities the GAO examined for the calendar years 1988 and 1989, 8 percent could  
35 have been prevented had the firearm been equipped with a child-resistant safety  
36 device. This 8 percent represents instances in which children under the age of six  
37 unintentionally shot and killed themselves or other persons.

38 (g) Currently, firearms are the only products manufactured in the United States  
39 that are not subject to minimum safety standards.

40 (h) A 1997 public opinion poll conducted by the National Opinion Research  
41 Center at the University of Chicago in conjunction with the Johns Hopkins Center

1 for Gun Policy and Research found that 74 percent of Americans support safety  
2 regulation of the firearms industry.

3 (i) Some currently available trigger locks and other similar devices are  
4 inadequate to prevent the accidental discharge of the firearms to which they are  
5 attached, or to prevent children from gaining access to the firearm.

6 **Penal Code § 12087.6. Definitions**

7 12087.6. As used in this article:

8 (a) **“Firearms safety device”** means a device other than a gun safe that locks  
9 and is designed to prevent children and unauthorized users from firing a firearm.  
10 The device may be installed on a firearm, be incorporated into the design of the  
11 firearm, or prevent access to the firearm.

12 (b) **“Gun safe”** means a locking container that fully contains and secures one or  
13 more firearms, and that meets the standards for gun safes adopted pursuant to  
14 **Section 12088.2**.

15 (c) **“Long-gun safe”** means a locking container designed to fully contain and  
16 secure a rifle as defined in **paragraph (20) of subdivision (c) of Section 12020** or a  
17 shotgun as defined in **paragraph (21) of subdivision (c) of Section 12020**, that has  
18 a locking system consisting of either a mechanical combination lock or an  
19 electronic combination lock that has at least 1,000 possible unique combinations  
20 consisting of a minimum of three numbers, letters, or symbols per combination,  
21 and that is not listed on the roster maintained pursuant to **subdivision (d) of**  
22 **Section 12088**.

23 **Penal Code § 12088. Duties of the Department of Justice**

24 12088. (a) The Department of Justice shall certify laboratories to verify  
25 compliance with standards for firearms safety devices set forth in **Section 12088.2**.

26 (b) The Department of Justice may charge any laboratory that is seeking  
27 certification to test firearms safety devices a fee not exceeding the costs of  
28 certification, including costs associated with the development and approval of  
29 regulations and standards pursuant to **Section 12088.2**.

30 (c) The certified laboratory shall, at the manufacturer’s or dealer’s expense, test  
31 the firearms safety device and submit a copy of the final test report directly to the  
32 Department of Justice along with the firearms safety device. The department shall  
33 notify the manufacturer or dealer of its receipt of the final test report and the  
34 department’s determination as to whether the firearms safety device tested may be  
35 sold in this state.

36 (d) On and after July 1, 2001, the Department of Justice shall compile, publish,  
37 and thereafter maintain a roster listing all of the firearms safety devices that have  
38 been tested by a certified testing laboratory, have been determined to meet the  
39 department’s standards for firearms safety devices and may be sold in this state.

40 (e) The roster shall list, for each firearms safety device, the manufacturer, model  
41 number, and model name.

1 (f) The department may randomly retest samples obtained from sources other  
2 than directly from the manufacturer of the firearms safety device listed on the  
3 roster to ensure compliance with the requirements of **this article**.

4 (g) Firearms safety devices used for random sample testing and obtained from  
5 sources other than the manufacturer shall be in new, unused condition, and still in  
6 the manufacturer's original and unopened package.

7 **Penal Code § 12088.1. Firearms safety device requirement**

8 12088.1. (a) All firearms sold or transferred in this state by a licensed firearms  
9 dealer, including private transfers through a dealer, and all firearms manufactured  
10 in this state, shall include or be accompanied by a firearms safety device that is  
11 listed on the Department of Justice's roster of approved firearms safety devices  
12 and that is identified as appropriate for that firearm by reference to either the  
13 manufacturer and model of the firearm, or to the physical characteristics of the  
14 firearm that match those listed on the roster for use with the device.

15 (b) All firearms sold or transferred in this state by a licensed firearms dealer,  
16 including private transfers through a dealer, and all firearms manufactured in this  
17 state shall be accompanied with warning language or labels as described in **Section**  
18 **12088.3**.

19 (c)(1) All long-gun safes commercially sold or transferred in this state, or  
20 manufactured in this state for sale in this state, that do not meet the standards for  
21 gun safes adopted pursuant to **Section 12088.2** shall be accompanied by the  
22 following warning:

23 "WARNING: This gun safe does not meet the safety standards for gun safes  
24 specified in **California Penal Code Section 12088.2**. It does not satisfy the  
25 requirements of **Penal Code Section 12088.1**, which mandates that all firearms  
26 sold in California be accompanied by a firearms safety device or proof of  
27 ownership, as required by law, of a gun safe that meets the **Section 12088.2**  
28 minimum safety standards developed by the California Attorney General."

29 (2) This warning shall be conspicuously displayed in its entirety on the principal  
30 display panel of the gun safe's package, on any descriptive materials that  
31 accompany the gun safe, and on a label affixed to the front of the gun safe.

32 (3) This warning shall be displayed in both English and Spanish in conspicuous  
33 and legible type in contrast by typography, layout, or color with other printed  
34 matter on the package or descriptive materials in a manner consistent with **Part**  
35 **1500.121** of Title 16 of the Code of Federal Regulations, or successor regulations  
36 **thereto**.

37 (d) The sale or transfer of a firearm shall be exempt from **subdivision (a)** if both  
38 of the following apply:

39 (1) The purchaser or transferee owns a gun safe that meets the standards set  
40 forth in **Section 12088.2**. Gun safes shall not be required to be tested, and  
41 therefore may meet the standards without appearing on the Department of Justice  
42 roster.

1 (2) The purchaser or transferee presents an original receipt for purchase of the  
2 gun safe, or other proof of purchase or ownership of the gun safe as authorized by  
3 the Attorney General, to the firearms dealer. The dealer shall maintain a copy of  
4 this receipt or proof of purchase with the dealers' record of sales of firearms.

5 (e) The sale or transfer of a firearm shall be exempt from subdivision (a) if all of  
6 the following apply:

7 (1) The purchaser or transferee purchases an approved safety device no more  
8 than 30 days prior to the day the purchaser or transferee takes possession of the  
9 firearm.

10 (2) The purchaser or transferee presents the approved safety device to the  
11 firearms dealer when picking up the firearm.

12 (3) The purchaser or transferee presents an original receipt to the firearms dealer  
13 which shows the date of purchase, the name, and the model number of the safety  
14 device.

15 (4) The firearms dealer verifies that the requirements in (1) to (3), inclusive,  
16 have been satisfied.

17 (5) The firearms dealer maintains a copy of the receipt along with the dealers'  
18 record of sales of firearms.

19 **Penal Code § 12088.15. Prohibited acts**

20 12088.15. (a) No person shall keep for commercial sale, offer, or expose for  
21 commercial sale, or commercially sell any firearms safety device that is not listed  
22 on the roster maintained pursuant to subdivision (d) of Section 12088, or that does  
23 not comply with the standards for firearms safety devices adopted pursuant to  
24 Section 12088.2.

25 (b) No person may distribute as part of an organized firearm safety program,  
26 with or without consideration, any firearm safety device that is not listed on the  
27 roster maintained pursuant to subdivision (d) of Section 12088 or does not comply  
28 with the standards for firearms safety devices adopted pursuant to Section  
29 12088.2.

30 (c) No long-gun safe may be manufactured in this state for sale in this state that  
31 does not comply with the standards for gun safes adopted pursuant to Section  
32 12088.2, unless the long-gun safe is labeled by the manufacturer consistent with  
33 the requirements of Section 12088.1.

34 (d)(1) Any person who keeps for commercial sale, offers, or exposes for  
35 commercial sale, or who commercially sells a long-gun safe that does not comply  
36 with the standards for gun safes adopted pursuant to Section 12088.2, and who  
37 knows or has reason to know, that the long-gun safe in question does not meet the  
38 standards for gun safes adopted pursuant to Section 12088.2, is in violation of this  
39 section, and is punishable as provided in subdivision (e), unless the long-gun safe  
40 is labeled pursuant to Section 12088.1.

41 (2) Any person who keeps for commercial sale, offers, or exposes for  
42 commercial sale, or who commercially sells a long-gun safe that does not comply

1 with the standards for gun safes adopted pursuant to **Section 12088.2**, and who  
2 removes or causes to be removed from the long-gun safe, the label required  
3 pursuant to **Section 12088.1**, is in violation of **this section**, and is punishable as  
4 provided in subdivision (e).

5 (e) A violation of **this section** is punishable by a civil fine of up to five hundred  
6 dollars (\$500). A second violation of **this section** that occurs within five years of  
7 the date of a previous offense is punishable by a civil fine of up to one thousand  
8 dollars (\$1,000) and, if the violation is committed by a licensed firearms dealer,  
9 the dealer shall be ineligible to sell firearms in this state for 30 days. A third or  
10 subsequent violation that occurs within five years of two or more previous  
11 offenses is punishable by a civil fine of up to five thousand dollars (\$5,000) and, if  
12 the violation is committed by a licensed firearms dealer, the firearms dealer shall  
13 be permanently ineligible to sell firearms in this state.

14 (f) The Attorney General, a district attorney, or a city attorney may bring a civil  
15 action for a violation of the provisions of **this section**.

16 **Penal Code § 12088.2 Minimum safety standard**

17 12088.2. (a) No later than January 1, 2000, the Attorney General shall  
18 commence development of regulations to implement a minimum safety standard  
19 for firearms safety devices and gun safes to significantly reduce the risk of  
20 firearms-related injuries to children 17 years of age and younger. The final  
21 standard shall do all of the following:

22 (1) Address the risk of injury from unintentional gunshot wounds.

23 (2) Address the risk of injury from self-inflicted gunshot wounds by  
24 unauthorized users.

25 (3) Include provisions to ensure that all firearms safety devices and gun safes are  
26 reusable and of adequate quality and construction to prevent children and  
27 unauthorized users from firing the firearm and to ensure that these devices cannot  
28 be readily removed from the firearm or that the firearm cannot be readily removed  
29 from the gun safe except by an authorized user utilizing the key, combination, or  
30 other method of access intended by the manufacturer of the device.

31 (4) Include additional provisions as appropriate.

32 (b) The Attorney General may consult, for the purposes of guidance in  
33 development of the standards, test protocols such as those described in **Title 16**  
34 **(commencing with Part 1700) of the Code of Federal Regulations**, relating to  
35 poison prevention packaging standards. These protocols may be consulted to  
36 provide suggestions for potential methods to utilize in developing standards and  
37 shall serve as guidance only. The Attorney General shall also give appropriate  
38 consideration to the use of devices that are not detachable, but are permanently  
39 installed and incorporated into the design of a firearm. The Attorney General shall  
40 adopt and issue regulations implementing a final standard not later than January 1,  
41 2001. The Attorney General shall report to the Legislature on these standards by  
42 January 1, 2001. The final standard shall be effective January 1, 2002.

1 **Penal Code § 12088.3. Warning label**

2 12088.3. (a) The packaging of any firearm and any descriptive materials that  
3 accompany any firearm sold or transferred in this state, or delivered for sale in this  
4 state, by any licensed manufacturer, or licensed dealer, shall bear a label  
5 containing the following warning statement:

6 **WARNING**

7 Children are attracted to and can operate firearms that can cause  
8 severe injuries or death.

9 Prevent child access by always keeping guns locked away and unloaded  
10 when not in use. If you keep a loaded firearm where a child obtains  
11 and improperly uses it, you may be fined or sent to prison.

12 A yellow triangle containing an exclamation mark shall appear immediately  
13 before the word "Warning" on the label.

14 (b) If the firearm is sold or transferred without accompanying packaging, the  
15 warning label or notice shall be affixed to the firearm itself by a method to be  
16 prescribed by regulation of the Attorney General.

17 (c) The warning statement required under subdivisions (a) and (b) shall be:

18 (1) Displayed in its entirety on the principal display panel of the firearm's  
19 package, and on any descriptive materials that accompany the firearm.

20 (2) Displayed in both English and Spanish in conspicuous and legible type in  
21 contrast by typography, layout, or color with other printed matter on that package  
22 or descriptive materials in a manner consistent with Part 1500.121 of Title 16, of  
23 the Code of Federal Regulations, or successor regulations thereto.

24 **Penal Code § 12088.4. Nonconforming device**

25 12088.4. If at any time the Attorney General determines that a gun safe or  
26 firearms safety device subject to the provisions of this article and sold after  
27 January 1, 2002, does not conform with the standards required by subdivision (a)  
28 of Section 12088.1 or Section 12088.2, the Attorney General may order the recall  
29 and replacement of the gun safe or firearms safety device, or order that the gun  
30 safe or firearm safety device be brought into conformity with those requirements.  
31 If the firearms safety device cannot be separated from the firearm without  
32 damaging the firearm, the Attorney General may order the recall and replacement  
33 of the firearm. If the firearms safety device can be separated and reattached to the  
34 firearm without damaging the firearm, the licensed manufacturer or licensed  
35 firearms dealer shall immediately provide a conforming replacement as instructed  
36 by the Attorney General.

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

3 12088.5. Each lead law enforcement agency investigating an incident shall  
4 report to the State Department of Health Services any information obtained that  
5 reasonably supports the conclusion that:

6 (a) A child 18 years of age or younger suffered an unintentional or self-inflicted  
7 gunshot wound inflicted by a firearm that was sold or transferred in this state, or  
8 manufactured in this state.

9 (b) Whether as a result of that incident the child died, suffered serious injury, or  
10 was treated for an injury by a medical professional.

11 **Penal Code § 12088.6. Punishment**

12 12088.6. Any violation of Section 12088.1 or Section 12088.3 is punishable by a  
13 fine of one thousand dollars (\$1,000). On the second violation of any of those  
14 sections, the licensed firearm manufacturer shall be ineligible to manufacture, or  
15 the licensed firearm dealer shall be ineligible to sell, firearms in this state for 30  
16 days, and shall be punished by a fine of one thousand dollars (\$1,000). On the  
17 third violation of any of those sections, a firearm manufacturer shall be  
18 permanently ineligible to manufacture firearms in this state. On the third violation  
19 of any of those sections, a licensed firearm dealer shall be permanently ineligible  
20 to sell firearms in this state.

21 **Penal Code § 12088.7. Effect of compliance**

22 12088.7. Compliance with the requirements set forth in this article shall not  
23 relieve any person from liability to any other person as may be imposed pursuant  
24 to common law, statutory law, or local ordinance.

25 **Penal Code § 12088.8. Limitations on application of Act**

26 12088.8. (a) This article does not apply to the commerce of any firearm defined  
27 as an “antique firearm” in paragraph (16) of subsection (a) of Section 921 of  
28 Title 18 of the United States Code.

29 (b) This article shall not apply to the commerce of any firearm intended to be  
30 used by a salaried, full-time peace officer as defined in Chapter 4.5 (commencing  
31 with Section 830) of Title 3 of Part 2 for purposes of law enforcement. Nothing in  
32 this article shall preclude local governments, local agencies, or state law  
33 enforcement agencies from requiring their peace officers to store their firearms in  
34 gun safes or attach firearms safety devices to those firearms.

35 **Penal Code § 12088.9. Fee**

36 12088.9. (a) The Department of Justice may require each dealer to charge each  
37 firearm purchaser or transferee a fee not to exceed one dollar (\$1) for each firearm  
38 transaction. The fee shall be for the purpose of supporting department program

1 costs related to **this act**, including the establishment, maintenance, and upgrading  
2 of related data base systems and public rosters.

3 (b) There is hereby created within the General Fund the Firearm Safety Account.  
4 Revenue from the fee imposed by **subdivision (a)** shall be deposited into the  
5 Firearm Safety Account and shall be available for expenditure by the Department  
6 of Justice upon appropriation by the Legislature. Expenditures from the Firearm  
7 Safety Account shall be limited to program expenditures as defined by **subdivision**  
8 **(a)**.

9 Article 5. Obliteration of Identification Marks

10 **Penal Code § 12090. Obliteration of firearm identification marks prohibited**

11 12090. Any person who changes, alters, removes or obliterates the name of the  
12 maker, model, manufacturer's number, or other mark of identification, including  
13 any distinguishing number or mark assigned by the Department of Justice on any  
14 pistol, revolver, or any other firearm, without first having secured written  
15 permission from the department to make such change, alteration or removal shall  
16 be punished by imprisonment in the state prison.

17 **Penal Code § 12091. Presumption**

18 12091. Possession of any pistol or revolver upon which the name of the maker,  
19 model, manufacturer's number or other mark of identification has been changed,  
20 altered, removed, or obliterated, shall be presumptive evidence that the possessor  
21 has changed, altered, removed, or obliterated the same.

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

23 12092. The Department of Justice upon request may assign a distinguishing  
24 number or mark of identification to any firearm whenever it is without a  
25 manufacturer's number, or other mark of identification or whenever the  
26 manufacturer's number or other mark of identification or the distinguishing  
27 number or mark assigned by the department has been destroyed or obliterated.

28 **Penal Code § 12093. Additional number or identifying indicium**

29 12093. Any person may place or stamp on any pistol, revolver, or other firearm  
30 any number or identifying indicium, provided the number or identifying indicium  
31 does not change, alter, remove, or obliterate the manufacturer's name, number,  
32 model, or other mark of identification. **This section** does not prohibit restoration  
33 by the owner of the name of the maker, model, or of the original manufacturer's  
34 number or other mark of identification when such restoration is authorized by the  
35 department, nor prevent any manufacturer from placing in the ordinary course of  
36 business the name of the maker, model, manufacturer's number, or other mark of  
37 identification upon a new firearm.

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

3 12094. (a) Any person with knowledge of any change, alteration, removal, or  
4 obliteration described herein, who buys, receives, disposes of, sells, offers for sale,  
5 or has in his or her possession any pistol, revolver, or other firearm which has had  
6 the name of the maker, model, or the manufacturer's number or other mark of  
7 identification including any distinguishing number or mark assigned by the  
8 Department of Justice changed, altered, removed, or obliterated is guilty of a  
9 misdemeanor.

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

11 (1) The acquisition or possession of a firearm described in subdivision (a) by  
12 any member of the military forces of this state or of the United States, while on  
13 duty and acting within the scope and course of his or her employment.

14 (2) The acquisition or possession of a firearm described in subdivision (a) by  
15 any peace officer described in Chapter 4.5 (commencing with Section 830) of  
16 Title 3 of Part 2, while on duty and acting within the scope and course of his or her  
17 employment.

18 (3) The acquisition or possession of a firearm described in subdivision (a) by  
19 any employee of a forensic laboratory, while on duty and acting within the scope  
20 and course of his or her employment.

21 (4) The possession and disposition of a firearm described in subdivision (a) by a  
22 person who meets all of the following:

23 (A) He or she is not prohibited from possessing firearms or ammunition  
24 pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of  
25 Section 12316 of this code, or Section 8100 or 8103 of the Welfare and  
26 Institutions Code.

27 (B) The person possessed the firearm no longer than was necessary to deliver  
28 the same to a law enforcement agency for that agency's disposition according to  
29 law.

30 (C) If the person is transporting the firearm, he or she is transporting the firearm  
31 to a law enforcement agency in order to deliver the firearm to the law enforcement  
32 agency for the agency's disposition according to law.

33 (D) If the person is transporting the firearm to a law enforcement agency, he or  
34 she has given prior notice to the law enforcement agency that he or she is  
35 transporting the firearm to that law enforcement agency for that agency's  
36 disposition according to law.

37 (E) The firearm is transported in a locked container as defined in subdivision (d)  
38 of Section 12026.2.

1 Article 6. Permits

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

3 12095. (a) If it finds that it does not endanger the public safety, the Department  
4 of Justice may issue permits initially valid for a period of one year, and renewable  
5 annually thereafter, for the manufacture, possession, transportation, or sale of  
6 short-barreled shotguns or short-barreled rifles upon a showing that good cause  
7 exists for the issuance thereof to the applicant for the permit. No permit shall be  
8 issued to a person who is under 18 years of age.

9 (b) Good cause, for the purposes of **this section**, shall be limited to only the  
10 following:

11 (1) The permit is sought for the manufacture, possession, or use with blank  
12 cartridges, of a short-barreled rifle or short-barreled shotgun, solely as props for a  
13 motion picture, television, or video production or entertainment event.

14 (2) The permit is sought for the manufacture of, exposing for sale, keeping for  
15 sale, sale of, importation or lending of short-barreled rifles or short-barreled  
16 shotguns to the entities listed in **paragraph (1) of subdivision (b) of Section 12020**  
17 **by persons who are licensed as dealers or manufacturers under the provisions of**  
18 **Chapter 53 (commencing with Section 5801) of Title 26 of the United States**  
19 **Code, as amended, and the regulations issued pursuant thereto.**

20 **Penal Code § 12096. Permit application process**

21 12096. Applications for permits shall be filed in writing, signed by the applicant  
22 if an individual, or by a member or officer qualified to sign if the applicant is a  
23 firm or corporation, and shall state the name, business in which engaged, business  
24 address, and a full description of the use to which the short-barreled shotguns or  
25 short-barreled rifles are to be put.

26 Applications and permits shall be uniform throughout the state on forms  
27 prescribed by the Department of Justice.

28 Each applicant for a permit shall pay at the time of filing his or her application a  
29 fee determined by the Department of Justice not to exceed the application  
30 processing costs of the Department of Justice. A permit granted pursuant to **this**  
31 **article** may be renewed one year from the date of issuance, and annually  
32 thereafter, upon the filing of a renewal application and the payment of a permit  
33 renewal fee not to exceed the application processing costs of the Department of  
34 Justice. After the department establishes fees sufficient to reimburse the  
35 department for processing costs, fees charged shall increase at a rate not to exceed  
36 the legislatively approved annual cost-of-living adjustments for the department's  
37 budget.

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

39 12097. (a) Every person, firm, or corporation to whom a permit is issued shall  
40 keep it on his or her person or at the place where the short-barreled shotguns or

1 short-barreled rifles are kept. The permit shall be open to inspection by any peace  
2 officer or any other person designated by the authority issuing the permit.

3 (b) Every short-barreled shotgun or short-barreled rifle possessed pursuant to the  
4 provisions of **this article** shall bear a unique identifying number. If a weapon does  
5 not bear a unique identifying number, the Department of Justice shall assign a  
6 number which shall be placed or stamped on that weapon.

7 **Penal Code § 12098. Revocation of permit**

8 12098. Permits issued in accordance with **this article** may be revoked by the  
9 issuing authority at any time when it appears that the need for the short-barreled  
10 shotguns or short-barreled rifles has ceased or that the holder of the permit has  
11 used the short-barreled shotguns or short-barreled rifles for purposes other than  
12 those allowed by the permit or that the holder of the permit has not exercised great  
13 care in retaining custody of any weapons possessed under the permit.

14 **Penal Code § 12099. Inspection conducted by Department of Justice**

15 12099. (a) Except as provided in **subdivision (b)**, the Department of Justice  
16 shall, for every person, firm, or corporation to whom a permit is issued pursuant to  
17 **this article**, annually conduct an inspection for security and safe storage purposes,  
18 and to reconcile the inventory of short-barreled shotguns and short-barreled rifles.

19 (b) A person, firm, or corporation with an inventory of fewer than five devices  
20 that require any Department of Justice permit shall be subject to an inspection for  
21 security and safe storage purposes, and to reconcile inventory, once every five  
22 years, or more frequently if determined by the department.

23 Article 7. Juveniles

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

26 12101. (a)(1) A minor shall not possess a pistol, revolver, or other firearm  
27 capable of being concealed upon the person.

28 (2) **Paragraph (1)** shall not apply if one of the following circumstances exists:

29 (A) The minor is accompanied by his or her parent or legal guardian, and the  
30 minor is actively engaged in, or is in direct transit to or from, a lawful, recreational  
31 sport, including, but not limited to, competitive shooting, or agricultural, ranching,  
32 or hunting activity, or a motion picture, television, or video production, or  
33 entertainment or theatrical event, the nature of which involves this use of a  
34 firearm.

35 (B) The minor is accompanied by a responsible adult, the minor has the prior  
36 written consent of his or her parent or legal guardian, and the minor is actively  
37 engaged in, or is in direct transit to or from, a lawful, recreational sport, including,  
38 but not limited to, competitive shooting, or agricultural, ranching, or hunting

1 activity, or a motion picture, television, or video production, or entertainment or  
2 theatrical event, the nature of which involves the use of a firearm.

3 (C) The minor is at least 16 years of age, the minor has the prior written consent  
4 of his or her parent or legal guardian and the minor is actively engaged in, or is in  
5 direct transit to or from, a lawful recreational sport, including, but not limited to,  
6 competitive shooting, or agricultural, ranching, or hunting activity, or a motion  
7 picture, television, or video production, or entertainment or theatrical event, the  
8 nature of which involves the use of a firearm.

9 (D) The minor has the prior written consent of his or her parent or legal  
10 guardian, the minor is on lands owned or lawfully possessed by his or her parent  
11 or legal guardian, and the minor is actively engaged in, or is in direct transit to or  
12 from, a lawful, recreational sport, including, but not limited to, competitive  
13 shooting, or agricultural, ranching, or hunting activity, or a motion picture,  
14 television, or video production, or entertainment or theatrical event, the nature of  
15 which involves the use of a firearm.

16 (b)(1) A minor shall not possess live ammunition.

17 (2) Paragraph (1) shall not apply if one of the following circumstances exists:

18 (A) The minor has the written consent of his or her parent or legal guardian to  
19 possess live ammunition.

20 (B) The minor is accompanied by his or her parent or legal guardian.

21 (C) The minor is actively engaged in, or is going to or from, a lawful,  
22 recreational sport, including, but not limited to, competitive shooting, or  
23 agricultural, ranching, or hunting activity, the nature of which involves the use of a  
24 firearm.

25 (c) Every minor who violates this section shall be punished as follows:

26 (1) By imprisonment in the state prison or in a county jail if one of the following  
27 applies:

28 (A) The minor has been found guilty previously of violating this section.

29 (B) The minor has been found guilty previously of an offense specified in  
30 subdivision (b) of Section 12021.1 or in Section 12020, 12220, 12520, or 12560.

31 (C) The minor has been found guilty of a violation of paragraph (1) of  
32 subdivision (a).

33 (2) Violations of this section other than those violations specified in paragraph  
34 (1) shall be punishable as a misdemeanor.

35 (d) In a proceeding to enforce this section brought pursuant to Article 14  
36 (commencing with Section 601) of Chapter 2 of Part 1 of the Welfare and  
37 Institutions Code, the court may require the custodial parent or legal guardian of a  
38 minor who violates this section to participate in classes on parenting education that  
39 meet the requirements established in Section 16507.7 of the Welfare and  
40 Institutions Code.

41 (e) As used in this section, “responsible adult” means a person at least 21 years  
42 of age who is not within a class of persons prohibited from owning or possessing

1 firearms by virtue of Section 12021 or 12021.1 of this code, or Section 8100 or  
2 8103 of the Welfare and Institutions Code.

3 (f) It is not the intent of the Legislature in enacting the amendments to this  
4 section or to Section 12078 to expand or narrow the application of current  
5 statutory or judicial authority as to the rights of minors to be loaned or to possess  
6 live ammunition or a firearm for the purpose of self-defense or the defense of  
7 others.

### 8 CHAPTER 1.3. UNSAFE HANDGUNS

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

10 12125. (a) Commencing January 1, 2001, any person in this state who  
11 manufactures or causes to be manufactured, imports into the state for sale, keeps  
12 for sale, offers or exposes for sale, gives, or lends any unsafe handgun shall be  
13 punished by imprisonment in a county jail not exceeding one year.

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

15 (1) The manufacture in this state, or importation into this state, of any prototype  
16 pistol, revolver, or other firearm capable of being concealed upon the person when  
17 the manufacture or importation is for the sole purpose of allowing an independent  
18 laboratory certified by the Department of Justice pursuant to Section 12130 to  
19 conduct an independent test to determine whether that pistol, revolver, or other  
20 firearm capable of being concealed upon the person is prohibited by this chapter,  
21 and, if not, allowing the department to add the firearm to the roster of pistols,  
22 revolvers, and other firearms capable of being concealed upon the person that may  
23 be sold in this state pursuant to Section 12131.

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

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

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

38 (c) Violations of subdivision (a) are cumulative with respect to each handgun  
39 and shall not be construed as restricting the application of any other law. However,  
40 an act or omission punishable in different ways by this section and other

1 provisions of law shall not be punished under more than one provision, but the  
2 penalty to be imposed shall be determined as set forth in Section 654.

3 **Penal Code § 12126. “Unsafe handgun” and other definitions**

4 12126. As used in this chapter, **“unsafe handgun”** means any pistol, revolver,  
5 or other firearm capable of being concealed upon the person, as defined in  
6 subdivision (a) of Section 12001, for which any of the following is true:

7 (a) For a revolver:

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

12 (2) It does not meet the firing requirement for handguns pursuant to Section  
13 12127.

14 (3) It does not meet the drop safety requirement for handguns pursuant to  
15 Section 12128.

16 (b) For a pistol:

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

20 (2) It does not meet the firing requirement for handguns pursuant to Section  
21 12127.

22 (3) It does not meet the drop safety requirement for handguns pursuant to  
23 Section 12128.

24 (4) Commencing January 1, 2006, for a center-fire semiautomatic pistol that is  
25 not already listed on the roster pursuant to Section 12131, it does not have either a  
26 chamber load indicator, or a magazine disconnect mechanism.

27 (5) Commencing January 1, 2007, for all center-fire semiautomatic pistols that  
28 are not already listed on the roster pursuant to Section 12131, it does not have both  
29 a chamber load indicator and if it has a detachable magazine, a magazine  
30 disconnect mechanism.

31 (6) Commencing January 1, 2006, for all rimfire semiautomatic pistols that are  
32 not already listed on the roster pursuant to Section 12131, it does not have a  
33 magazine disconnect mechanism, if it has a detachable magazine.

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

41 (d) As used in this section, a **“magazine disconnect mechanism”** means a  
42 mechanism that prevents a semiautomatic pistol that has a detachable magazine

1 from operating to strike the primer of ammunition in the firing chamber when a  
2 detachable magazine is not inserted in the semiautomatic pistol.

3 (e) As used in this section, a “**semiautomatic pistol**” means a pistol, as defined  
4 in subdivision (a) of Section 12001, the operating mode of which uses the energy  
5 of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh  
6 cartridge with each single pull of the trigger.

7 **Penal Code § 12127. “Firing requirement for handguns” and “malfunction”**

8 12127. (a) As used in this chapter, the “**firing requirement for handguns**”  
9 means a test in which the manufacturer provides three handguns of the make and  
10 model for which certification is sought to an independent testing laboratory  
11 certified by the Attorney General pursuant to Section 12130. These handguns may  
12 not be refined or modified in any way from those that would be made available for  
13 retail sale if certification is granted. The magazines of a tested pistol shall be  
14 identical to those that would be provided with the pistol to a retail customer. The  
15 laboratory shall fire 600 rounds from each gun, stopping after each series of 50  
16 rounds has been fired for 5 to 10 minutes to allow the weapon to cool, stopping  
17 after each series of 100 rounds has been fired to tighten any loose screws and  
18 clean the gun in accordance with the manufacturer’s instructions, and stopping as  
19 needed to refill the empty magazine or cylinder to capacity before continuing. The  
20 ammunition used shall be of the type recommended by the handgun manufacturer  
21 in the user manual, or if none is recommended, any standard ammunition of the  
22 correct caliber in new condition that is commercially available. A handgun shall  
23 pass this test if each of the three test guns meets both of the following:

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

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

29 (b) If a pistol or revolver fails the requirements of either paragraph (1) or (2) of  
30 subdivision (a) due to ammunition that fails to detonate, the pistol or revolver shall  
31 be retested from the beginning of the “firing requirement for handguns” test. A  
32 new model of the pistol or revolver that failed due to ammunition that fails to  
33 detonate may be submitted for the test to replace the pistol or revolver that failed.

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

37 **Penal Code § 12128. “Drop safety requirement for handguns”**

38 12128. As used in this chapter, the “**drop safety requirement for handguns**”  
39 means that at the conclusion of the firing requirements for handguns described in  
40 Section 12127, the same certified independent testing laboratory shall subject the

1 same three handguns of the make and model for which certification is sought, to  
2 the following test:

3 A primed case (no powder or projectile) shall be inserted into the chamber. For  
4 pistols, the slide shall be released, allowing it to move forward under the impetus  
5 of the recoil spring, and an empty magazine shall be inserted. For both pistols and  
6 revolvers, the weapon shall be placed in a drop fixture capable of dropping the  
7 pistol from a drop height of 1m + 1cm (39.4 + 0.4 in.) onto the largest side of a  
8 slab of solid concrete having minimum dimensions of 7.5 X 15 X 15 cm (3 X 6 X  
9 6 in.). The drop distance shall be measured from the lowermost portion of the  
10 weapon to the top surface of the slab. The weapon shall be dropped from a fixture  
11 and not from the hand. The weapon shall be dropped in the condition that it would  
12 be in if it were dropped from a hand (cocked with no manual safety applied). If the  
13 design of a pistol is such that upon leaving the hand a “safety” is automatically  
14 applied by the pistol, this feature shall not be defeated. An approved drop fixture is  
15 a short piece of string with the weapon attached at one end and the other end held  
16 in an air vise until the drop is initiated.

17 The following six drops shall be performed:

18 (a) Normal firing position with barrel horizontal.

19 (b) Upside down with barrel horizontal.

20 (c) On grip with barrel vertical.

21 (d) On muzzle with barrel vertical.

22 (e) On either side with barrel horizontal.

23 (f) If there is an exposed hammer or striker, on the rearmost point of that device,  
24 otherwise on the rearmost point of the weapon.

25 The primer shall be examined for indentations after each drop. If indentations  
26 are present, a fresh primed case shall be used for the next drop.

27 The handgun shall pass this test if each of the three test guns does not fire the  
28 primer.

### 29 **Penal Code § 12129. Manufacturer’s certification**

30 12129. Every person who is licensed as a manufacturer of firearms pursuant to  
31 Chapter 44 (commencing with Section 921) of Title 18 of the United States Code  
32 who manufactures firearms in this state, and every person who imports into the  
33 state for sale, keeps for sale, or offers or exposes for sale any firearm, shall certify  
34 under penalty of perjury and any other remedy provided by law that every model,  
35 kind, class, style, or type of pistol, revolver, or other firearm capable of being  
36 concealed upon the person that he or she manufactures or imports, keeps, or  
37 exposes for sale is not an unsafe handgun as prohibited by this chapter.

### 38 **Penal Code § 12130. Laboratory testing**

39 12130. (a) Any pistol, revolver, or other firearm capable of being concealed  
40 upon the person manufactured in this state, imported into the state for sale, kept  
41 for sale, or offered or exposed for sale, shall be tested within a reasonable period

1 of time by an independent laboratory certified pursuant to subdivision (b) to  
2 determine whether that pistol, revolver, or other firearm capable of being  
3 concealed upon the person meets or exceeds the standards defined in Section  
4 12126.

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

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

16 (d)(1) Commencing January 1, 2006, no center-fire semiautomatic pistol may be  
17 submitted for testing pursuant to this chapter if it does not have either a chamber  
18 load indicator as defined in subdivision (c) of Section 12126, or a magazine  
19 disconnect mechanism as defined in subdivision (d) of Section 12126 if it has a  
20 detachable magazine.

21 (2) Commencing January 1, 2007, no center-fire semiautomatic pistol may be  
22 submitted for testing pursuant to this chapter if it does not have both a chamber  
23 load indicator as defined in subdivision (c) of Section 12126 and a magazine  
24 disconnect mechanism as defined in subdivision (d) of Section 12126.

25 (3) Commencing January 1, 2006, no rimfire semiautomatic pistol may be  
26 submitted for testing pursuant to this chapter if it has a detachable magazine, and  
27 does not have a magazine disconnect mechanism as defined in subdivision (d) of  
28 Section 12126.

29 **Penal Code § 12131. Roster prepared by Department of Justice**

30 12131. (a) On and after January 1, 2001, the Department of Justice shall  
31 compile, publish, and thereafter maintain a roster listing all of the pistols,  
32 revolvers, and other firearms capable of being concealed upon the person that have  
33 been tested by a certified testing laboratory, have been determined not to be unsafe  
34 handguns, and may be sold in this state pursuant to this title. The roster shall list,  
35 for each firearm, the manufacturer, model number, and model name.

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

1 (a) and the costs of research and development, report analysis, firearms storage,  
2 and other program infrastructure costs necessary to implement this chapter.

3 (2) Any pistol, revolver, or other firearm capable of being concealed upon the  
4 person that is manufactured by a manufacturer who manufactures or causes to be  
5 manufactured, imports into the state for sale, keeps for sale, or offers or exposes  
6 for sale any pistol, revolver, or other firearm capable of being concealed upon the  
7 person in this state, and who fails to pay any fee required pursuant to paragraph  
8 (1), may be excluded from the roster.

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

18 (c) The Attorney General may annually retest up to 5 percent of the handgun  
19 models that are listed on the roster described in subdivision (a).

20 (d) The retesting of a handgun model pursuant to subdivision (c) shall conform  
21 to the following:

22 (1) The Attorney General shall obtain from retail or wholesale sources, or both,  
23 three samples of the handgun model to be retested.

24 (2) The Attorney General shall select the certified laboratory to be used for the  
25 retesting.

26 (3) The ammunition used for the retesting shall be of a type recommended by  
27 the manufacturer in the user manual for the handgun. If the user manual for the  
28 handgun model makes no ammunition recommendation, the Attorney General  
29 shall select the ammunition to be used for the retesting. The ammunition shall be  
30 of the proper caliber for the handgun, commercially available, and in new  
31 condition.

32 (e) The retest shall be conducted in the same manner as the testing prescribed in  
33 Sections 12127 and 12128.

34 (f) If the handgun model fails retesting, the Attorney General shall remove the  
35 handgun model from the roster maintained pursuant to subdivision (a).

36 (g) A handgun model removed from the roster pursuant to subdivision (f) may  
37 be reinstated on the roster if all of the following are met:

38 (1) The manufacturer petitions the Attorney General for reinstatement of the  
39 handgun model.

40 (2) The manufacturer pays the Department of Justice for all of the costs related  
41 to the reinstatement testing of the handgun model, including the purchase price of  
42 the handguns, prior to reinstatement testing.

1 (3) The reinstatement testing of the handguns shall be in accordance with  
2 subdivisions (d) and (e).

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

5 (5) If the handgun model successfully passes testing for reinstatement, and if the  
6 manufacturer of the handgun is otherwise in compliance with this chapter, the  
7 Attorney General shall reinstate the handgun model on the roster maintained  
8 pursuant to subdivision (a).

9 (6) The manufacturer shall provide the Attorney General with the complete  
10 testing history for the handgun model.

11 (7) Notwithstanding subdivision (c), the Attorney General may, at any time,  
12 further retest any handgun model that has been reinstated to the roster.

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

14 12131.5. (a) A firearm shall be deemed to satisfy the requirements of  
15 subdivision (a) of Section 12131 if another firearm made by the same  
16 manufacturer is already listed and the unlisted firearm differs from the listed  
17 firearm only in one or more of the following features:

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

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

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

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

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

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

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

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

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

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

41 12132. This chapter shall not apply to any of the following:

1 (a) The sale, loan, or transfer of any firearm pursuant to Section 12082 in order  
2 to comply with subdivision (d) of Section 12072.

3 (b) The sale, loan, or transfer of any firearm that is exempt from the provisions  
4 of subdivision (d) of Section 12072 pursuant to any applicable exemption  
5 contained in Section 12078, if the sale, loan, or transfer complies with the  
6 requirements of that applicable exemption to subdivision (d) of Section 12072.

7 (c) The sale, loan, or transfer of any firearm as described in paragraph (3) of  
8 subdivision (b) of Section 12125.

9 (d) The delivery of a pistol, revolver, or other firearm capable of being  
10 concealed upon the person to a person licensed pursuant to Section 12071 for the  
11 purposes of the service or repair of that firearm.

12 (e) The return of a pistol, revolver, or other firearm capable of being concealed  
13 upon the person by a person licensed pursuant to Section 12071 to its owner where  
14 that firearm was initially delivered in the circumstance set forth in subdivision (d).

15 (f) The return of a pistol, revolver, or other firearm capable of being concealed  
16 upon the person by a person licensed pursuant to Section 12071 to its owner where  
17 that firearm was initially delivered to that licensee for the purpose of a  
18 consignment sale or as collateral for a pawnbroker loan.

19 (g) The sale, loan, or transfer of any pistol, revolver, or other firearm capable of  
20 being concealed upon the person listed as a curio or relic, as defined in Section  
21 178.11 of the Code of Federal Regulations.

22 (h)(1) The Legislature finds a significant public purpose in exempting pistols  
23 that are designed expressly for use in Olympic target shooting events. Therefore,  
24 those pistols that are sanctioned by the International Olympic Committee and by  
25 USA Shooting, the national governing body for international shooting competition  
26 in the United States, and that are used for Olympic target shooting purposes at the  
27 time that the act adding this subdivision is enacted, and that fall within the  
28 definition of “unsafe handgun” pursuant to paragraph (3) of subdivision (b) of  
29 Section 12126 shall be exempt, as provided in paragraphs (2) and (3).

30 (2) This chapter shall not apply to any of the following pistols, because they are  
31 consistent with the significant public purpose expressed in paragraph (1):

32	MANUFACTURER	MODEL	CALIBER
33	ANSCHUTZ	FP	.22LR
34	BENELLI	MP90	.22LR
35	BENELLI	MP90	.32 S&W LONG
36	BENELLI	MP95	.22LR
37	BENELLI	MP95	.32 S&W LONG

1	DRULOV	FP	.22LR
2	GREEN	ELECTROARM	.22LR
3	HAMMERLI	100	.22LR
4	HAMMERLI	101	.22LR
5	HAMMERLI	102	.22LR
6	HAMMERLI	162	.22LR
7	HAMMERLI	280	.22LR
8	HAMMERLI	280	.32 S&W LONG
9	HAMMERLI	FP10	.22LR
10	HAMMERLI	MP33	.22LR
11	HAMMERLI	SP20	.22LR
12	HAMMERLI	SP20	.32 S&W LONG
13	MORINI	CM102E	.22LR
14	MORINI	22M	.22LR
15	MORINI	32M	.32 S&W LONG
16	MORINI	CM80	.22LR
17	PARDINI	GP	.22 SHORT
18	PARDINI	GPO	.22 SHORT
19	PARDINI	GP-SCHUMANN	.22 SHORT
20	PARDINI	HP	.32 S&W LONG
21	PARDINI	K22	.22LR
22	PARDINI	MP	.32 S&W LONG
23	PARDINI	PGP75	.22LR
24	PARDINI	SP	.22LR

1	PARDINI	SPE	.22LR
2	SAKO	FINMASTER	.22LR
3	STEYR	FP	.22LR
4	VOSTOK	IZH NO. 1	.22LR
5	VOSTOK	MU55	.22LR
6	VOSTOK	TOZ35	.22LR
7	WALTHER	FP	.22LR
8	WALTHER	GSP	.22LR
9	WALTHER	GSP	.32 S&W LONG
10	WALTHER	OSP	.22 SHORT
11	WALTHER	OSP-2000	.22 SHORT

12 (3) The department shall create a program that is consistent with the purpose  
13 stated in **paragraph (1)** to exempt new models of competitive firearms from **this**  
14 **chapter**. The exempt competitive firearms may be based on recommendations by  
15 USA Shooting consistent with **the regulations contained in the USA Shooting**  
16 **Official Rules** or may be based on the recommendation or rules of any other  
17 organization that the department deems relevant.

18 (i) The sale, loan, or transfer of any semiautomatic pistol that is to be used solely  
19 as a prop during the course of a motion picture, television, or video production by  
20 an authorized participant therein in the course of making that production or event  
21 or by an authorized employee or agent of the entity producing that production or  
22 event.

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

24 12133. (a) The provisions of **this chapter** shall not apply to a single-action  
25 revolver that has at least a 5-cartridge capacity with a barrel length of not less than  
26 three inches, and meets any of the following specifications:

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

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

31 (3) Has an overall length measured parallel to the barrel of at least 7 1/2 inches  
32 when the handle, frame or receiver, and barrel are assembled and that is currently  
33 approved for importation into the United States pursuant to the provisions of

1 paragraph (3) of subsection (d) of Section 925 of Title 18 of the United States  
2 Code.

3 (b) The provisions of this chapter shall not apply to a single-shot pistol with a  
4 barrel length of not less than six inches and that has an overall length of at least  
5 10 1/2 inches when the handle, frame or receiver, and barrel are assembled.

## 6 CHAPTER 2. MACHINE GUNS

### 7 Article 1. General Provisions

#### 8 Penal Code § 12200. “Machinegun”

9 12200. The term “**machinegun**” as used in this chapter means any weapon  
10 which shoots, is designed to shoot, or can readily be restored to shoot,  
11 automatically more than one shot, without manual reloading, by a single function  
12 of the trigger. The term shall also include the frame or receiver of any such  
13 weapon, any part designed and intended solely and exclusively, or combination of  
14 parts designed and intended, for use in converting a weapon into a machinegun,  
15 and any combination of parts from which a machinegun can be assembled if such  
16 parts are in the possession or under the control of a person. The term also includes  
17 any weapon deemed by the federal Bureau of Alcohol, Tobacco, and Firearms as  
18 readily convertible to a machinegun under Chapter 53 (commencing with Section  
19 5801) of Title 26 of the United States Code.

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

21 12201. Nothing in this chapter shall affect or apply to any of the following:

22 (a) The sale to, purchase by, or possession of machineguns by police  
23 departments, sheriffs’ offices, marshals’ offices, district attorneys’ offices, the  
24 California Highway Patrol, the Department of Justice, the Department of  
25 Corrections for use by the department’s Special Emergency Response Teams and  
26 Law Enforcement Liaison/Investigations Unit, or the military or naval forces of  
27 this state or of the United States for use in the discharge of their official duties,  
28 provided, however, that any sale to these entities be transacted by a person who is  
29 permitted pursuant to Section 12230 and licensed pursuant to Section 12250.

30 (b) The possession of machineguns by regular, salaried, full-time peace officer  
31 members of a police department, sheriff’s office, marshal’s office, district  
32 attorney’s office, the California Highway Patrol, the Department of Justice, or the  
33 Department of Corrections for use by the department’s Special Emergency  
34 Response Teams and Law Enforcement Liaison/Investigations Unit when on duty  
35 and if the use is within the scope of their duties.

1 Article 2. Unlawful Possession of Machine Guns

2 **Penal Code § 12220. Unlawful acts relating to machineguns**

3 12220. (a) Any person, firm, or corporation, who within this state possesses or  
4 knowingly transports a machinegun, except as authorized by this chapter, is guilty  
5 of a public offense and upon conviction thereof shall be punished by imprisonment  
6 in the state prison, or by a fine not to exceed ten thousand dollars (\$10,000), or by  
7 both such fine and imprisonment.

8 (b) Any person, firm, or corporation who within this state intentionally converts  
9 a firearm into a machinegun, or who sells, or offers for sale, or knowingly  
10 manufactures a machinegun, except as authorized by this chapter, is punishable by  
11 imprisonment in the state prison for four, six, or eight years.

12 Article 3. Permits

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

14 12230. The Department of Justice may issue permits for the possession,  
15 manufacture, and transportation or possession, manufacture, or transportation of  
16 machineguns, upon a satisfactory showing that good cause exists for the issuance  
17 thereof to the applicant for the permit, but no permit shall be issued to a person  
18 who is under 18 years of age.

19 **Penal Code § 12231. Application and renewal process**

20 12231. Applications for permits shall be filed in writing, signed by the applicant  
21 if an individual, or by a member or officer qualified to sign if the applicant is a  
22 firm or corporation, and shall state the name, business in which engaged, business  
23 address and a full description of the use to which the firearms are to be put.

24 Applications and permits shall be uniform throughout the state on forms  
25 prescribed by the Department of Justice. Each applicant for a permit shall pay at  
26 the time of filing his or her application a fee determined by the Department of  
27 Justice not to exceed the application processing costs of the Department of Justice.  
28 A permit granted pursuant to this article may be renewed one year from the date of  
29 issuance, and annually thereafter, upon the filing of a renewal application and the  
30 payment of a permit renewal fee not to exceed the application processing costs of  
31 the Department of Justice. After the department establishes fees sufficient to  
32 reimburse the department for processing costs, fees charged shall increase at a rate  
33 not to exceed the legislatively approved annual cost-of-living adjustments for the  
34 department's budget.

35 **Penal Code § 12232. Storage of machinegun permit**

36 12232. Every person, firm or corporation to whom a permit is issued shall keep  
37 it on his person or at the place where the firearms are kept. The permit shall be

1 open to inspection by any peace officer or any other person designated by the  
2 authority issuing the permit.

3 **Penal Code § 12233. Revocation of machinegun permit**

4 12233. Permits issued in accordance with **this chapter** may be revoked by the  
5 issuing authority at any time when it appears that the need for the firearms has  
6 ceased or that the holder of the permit has used the firearms for purposes other  
7 than those allowed by the permit or that the holder of the permit has not exercised  
8 great care in retaining custody of any weapons possessed under the permit.

9 **Penal Code § 12234. Inspection conducted by Department of Justice**

10 12234. (a) Except as provided in **subdivision (b)**, the Department of Justice  
11 shall, for every person, firm, or corporation to whom a permit is issued pursuant to  
12 **this article**, annually conduct an inspection for security and safe storage purposes,  
13 and to reconcile the inventory of machine guns.

14 (b) A person, firm, or corporation with an inventory of fewer than five devices  
15 that require any Department of Justice permit shall be subject to an inspection for  
16 security and safe storage purposes, and to reconcile inventory, once every five  
17 years, or more frequently if determined by the department.

18 Article 4. Licenses to Sell Machine Guns

19 **Penal Code § 12250. License to sell machineguns**

20 12250. (a) The Department of Justice may grant licenses in a form to be  
21 prescribed by it effective for not more than one year from the date of issuance, to  
22 permit the sale at the place specified in the license of machineguns subject to all of  
23 the following conditions, upon breach of any of which the license shall be  
24 revoked:

25 1. The business shall be carried on only in the place designated in the license.

26 2. The license or a certified copy thereof must be displayed on the premises in a  
27 place where it may easily be read.

28 3. No machinegun shall be delivered to any person not authorized to receive the  
29 same under the provisions of **this chapter**.

30 4. A complete record must be kept of sales made under the authority of the  
31 license, showing the name and address of the purchaser, the descriptions and serial  
32 numbers of the weapons purchased, the number and date of issue of the  
33 purchaser's permit, if any, and the signature of the purchaser or purchasing agent.  
34 This record shall be open to the inspection of any peace officer or other person  
35 designated by the Attorney General.

36 (b) Applications for licenses shall be filed in writing, signed by the applicant if  
37 an individual or by a member or officer qualified to sign if the applicant is a firm  
38 or corporation, and shall state the name, business in which engaged, business  
39 address and a full description of the use to which the firearms are to be put.

1 Applications and licenses shall be uniform throughout the state on forms  
2 prescribed by the Department of Justice.

3 Each applicant for a license shall pay at the time of filing his or her application a  
4 fee determined by the Department of Justice not to exceed the application  
5 processing costs of the Department of Justice. A license granted pursuant to **this**  
6 **article** may be renewed one year from the date of issuance, and annually  
7 thereafter, upon the filing of a renewal application and the payment of a license  
8 renewal fee not to exceed the application processing costs of the Department of  
9 Justice. After the department establishes fees sufficient to reimburse the  
10 department for processing costs, fees charged shall increase at a rate not to exceed  
11 the legislatively approved annual cost-of-living adjustments for the department's  
12 budget.

13 **Penal Code § 12551. Machinegun constituting public nuisance**

14 12251. It shall be a public nuisance to possess any machinegun in violation of  
15 **this chapter**, and the Attorney General, any district attorney or any city attorney  
16 may bring an action before the superior court to enjoin the possession of any such  
17 machinegun.

18 Any such machinegun found to be in violation of **this chapter** shall be  
19 surrendered to the Department of Justice, and the department shall destroy such  
20 machinegun so as to render it unusable and unrepairable as a machinegun, except  
21 upon the filing of a certificate with the department by a judge or district attorney  
22 stating that the preservation of such machinegun is necessary to serve the ends of  
23 justice.

24 CHAPTER 2.3. ROBERTI-ROOS  
25 ASSAULT WEAPONS CONTROL ACT OF 1989

26 Article 1. General Provisions

27 **Penal Code § 12275. Title**

28 12275. **This chapter** shall be known as the Roberti-Roos Assault Weapons  
29 Control Act of 1989 and the .50 Caliber BMG Regulation Act of 2004.

30 **Penal Code § 12275. 5. Legislative findings**

31 12275.5. (a) The Legislature hereby finds and declares that the proliferation and  
32 use of assault weapons poses a threat to the health, safety, and security of all  
33 citizens of this state. The Legislature has restricted the assault weapons specified  
34 in **Section 12276** based upon finding that each firearm has such a high rate of fire  
35 and capacity for firepower that its function as a legitimate sports or recreational  
36 firearm is substantially outweighed by the danger that it can be used to kill and  
37 injure human beings. It is the intent of the Legislature in enacting **this chapter** to

1 place restrictions on the use of assault weapons and to establish a registration and  
2 permit procedure for their lawful sale and possession. It is not, however, the intent  
3 of the Legislature by **this chapter** to place restrictions on the use of those weapons  
4 which are primarily designed and intended for hunting, target practice, or other  
5 legitimate sports or recreational activities.

6 (b) The Legislature hereby finds and declares that the proliferation and use of  
7 .50 BMG rifles, as defined in **Section 12278**, poses a clear and present terrorist  
8 threat to the health, safety, and security of all residents of, and visitors to, this  
9 state, based upon findings that those firearms have such a high capacity for long  
10 distance and highly destructive firepower that they pose an unacceptable risk to  
11 the death and serious injury of human beings, destruction or serious damage of  
12 vital public and private buildings, civilian, police and military vehicles, power  
13 generation and transmission facilities, petrochemical production and storage  
14 facilities, and transportation infrastructure. It is the intent of the Legislature in  
15 enacting **this chapter** to place restrictions on the use of these rifles and to establish  
16 a registration and permit procedure for their lawful sale and possession.

17 **Penal Code § 12276. “Assault weapon” and “series”**

18 12276. As used in **this chapter**, **“assault weapon”** shall mean the following  
19 designated semiautomatic firearms:

20 (a) All of the following specified rifles:

21 (1) All AK series including, but not limited to, the models  
22 identified as follows:

23 (A) Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S.

24 (B) Norinco 56, 56S, 84S, and 86S.

25 (C) Poly Technologies AKS and AK47.

26 (D) MAADI AK47 and ARM.

27 (2) UZI and Galil.

28 (3) Beretta AR-70.

29 (4) CETME Sporter.

30 (5) Colt AR-15 series.

31 (6) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR 110C.

32 (7) Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter.

33 (8) MAS 223.

34 (9) HK-91, HK-93, HK-94, and HK-PSG-1.

35 (10) The following MAC types:

36 (A) RPB Industries Inc. sM10 and sM11.

37 (B) SWD Incorporated M11.

38 (11) SKS with detachable magazine.

39 (12) SIG AMT, PE-57, SG 550, and SG 551.

40 (13) Springfield Armory BM59 and SAR-48.

41 (14) Sterling MK-6.

42 (15) Steyer AUG.

- 1 (16) Valmet M62S, M71S, and M78S.  
2 (17) Armalite AR-180.  
3 (18) Bushmaster Assault Rifle.  
4 (19) Calico M-900.  
5 (20) J&R ENG M-68.  
6 (21) Weaver Arms Nighthawk.

7 (b) All of the following specified pistols:

- 8 (1) UZI.  
9 (2) Encom MP-9 and MP-45.  
10 (3) The following MAC types:  
11 (A) RPB Industries Inc. sM10 and sM11.  
12 (B) SWD Incorporated M-11.  
13 (C) Advance Armament Inc. M-11.  
14 (D) Military Armament Corp. Ingram M-11.  
15 (4) Intratec TEC-9.  
16 (5) Sites Spectre.  
17 (6) Sterling MK-7.  
18 (7) Calico M-950.  
19 (8) Bushmaster Pistol.

20 (c) All of the following specified shotguns:

- 21 (1) Franchi SPAS 12 and LAW 12.  
22 (2) Striker 12.  
23 (3) The Streetsweeper type S/S Inc. SS/12.

24 (d) Any firearm declared by the court pursuant to **Section 12276.5** to be an  
25 assault weapon that is specified as an assault weapon in a list promulgated  
26 pursuant to **Section 12276.5**.

27 (e) The term “**series**” includes all other models that are only variations, with  
28 minor differences, of those models listed in **subdivision (a)**, regardless of the  
29 manufacturer.

30 (f) **This section** is declaratory of existing law, as amended, and a clarification of  
31 the law and the Legislature’s intent which bans the weapons enumerated in **this**  
32 **section**, the weapons included in the list promulgated by the Attorney General  
33 pursuant to **Section 12276.5**, and any other models which are only variations of  
34 those weapons with minor differences, regardless of the manufacturer. The  
35 Legislature has defined assault weapons as the types, series, and models listed in  
36 **this section** because it was the most effective way to identify and restrict a specific  
37 class of semiautomatic weapons.

38 **Penal Code § 12276.1. Further clarification of “assault weapon”**

39 12276.1. (a) Notwithstanding **Section 12276**, “**assault weapon**” shall also mean  
40 any of the following:

- 41 (1) A semiautomatic, centerfire rifle that has the capacity to accept a detachable  
42 magazine and any one of the following:

- 1 (A) A pistol grip that protrudes conspicuously beneath the action of the weapon.  
2 (B) A thumbhole stock.  
3 (C) A folding or telescoping stock.  
4 (D) A grenade launcher or flare launcher.  
5 (E) A flash suppressor.  
6 (F) A forward pistol grip.
- 7 (2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity  
8 to accept more than 10 rounds.
- 9 (3) A semiautomatic, centerfire rifle that has an overall length of less than 30  
10 inches.
- 11 (4) A semiautomatic pistol that has the capacity to accept a detachable magazine  
12 and any one of the following:
- 13 (A) A threaded barrel, capable of accepting a flash suppressor, forward  
14 handgrip, or silencer.  
15 (B) A second handgrip.  
16 (C) A shroud that is attached to, or partially or completely encircles, the barrel  
17 that allows the bearer to fire the weapon without burning his or her hand, except a  
18 slide that encloses the barrel.  
19 (D) The capacity to accept a detachable magazine at some location outside of  
20 the pistol grip.
- 21 (5) A semiautomatic pistol with a fixed magazine that has the capacity to accept  
22 more than 10 rounds.
- 23 (6) A semiautomatic shotgun that has both of the following:
- 24 (A) A folding or telescoping stock.  
25 (B) A pistol grip that protrudes conspicuously beneath the action of the weapon,  
26 thumbhole stock, or vertical handgrip.
- 27 (7) A semiautomatic shotgun that has the ability to accept a detachable  
28 magazine.
- 29 (8) Any shotgun with a revolving cylinder.
- 30 (b) The Legislature finds a significant public purpose in exempting pistols that  
31 are designed expressly for use in Olympic target shooting events. Therefore, those  
32 pistols that are sanctioned by the International Olympic Committee and by USA  
33 Shooting, the national governing body for international shooting competition in  
34 the United States, and that are used for Olympic target shooting purposes at the  
35 time the act adding **this subdivision** is enacted, and that would otherwise fall  
36 within the definition of **“assault weapon”** pursuant to **this section** are exempt, as  
37 provided in **subdivision (c)**.
- 38 (c) **“Assault weapon”** does not include either of the following:
- 39 (1) Any antique firearm.  
40 (2) Any of the following pistols, because they are consistent with  
41 the significant public purpose expressed in **subdivision (b)**:

42 MANUFACTURER      MODEL                      CALIBER

1	BENELLI	MP90	.22LR
2	BENELLI	MP90	.32 S&W LONG
3	BENELLI	MP95	.22LR
4	BENELLI	MP95	.32 S&W LONG
5	HAMMERLI	280	.22LR
6	HAMMERLI	280	.32 S&W LONG
7	HAMMERLI	SP20	.22LR
8	HAMMERLI	SP20	.32 S&W LONG
9	PARDINI	GPO	.22 SHORT
10	PARDINI	GP-SCHUMANN	.22 SHORT
11	PARDINI	HP	.32 S&W LONG
12	PARDINI	MP	.32 S&W LONG
13	PARDINI	SP	.22LR
14	PARDINI	SPE	.22LR
15	WALTHER	GSP	.22LR
16	WALTHER	GSP	.32 S&W LONG
17	WALTHER	OSP	.22 SHORT
18	WALTHER	OSP-2000	.22 SHORT

19 (3) The Department of Justice shall create a program that is consistent with the  
20 purposes stated in subdivision (b) to exempt new models of competitive pistols  
21 that would otherwise fall within the definition of “**assault weapon**” pursuant to  
22 this section from being classified as an assault weapon. The exempt competitive  
23 pistols may be based on recommendations by USA Shooting consistent with the  
24 regulations contained in the USA Shooting Official Rules or may be based on the  
25 recommendation or rules of any other organization that the department deems  
26 relevant.

27 (d) The following definitions shall apply under this section:

28 (1) “**Magazine**” shall mean any ammunition feeding device.

1 (2) **“Capacity to accept more than 10 rounds”** shall mean capable of  
2 accommodating more than 10 rounds, but shall not be construed to include a  
3 feeding device that has been permanently altered so that it cannot accommodate  
4 more than 10 rounds.

5 (3) **“Antique firearm”** means any firearm manufactured prior to January 1,  
6 1899.

7 (e) **This section** shall become operative January 1, 2000.

8 **Penal Code § 12276.5. Duties of Attorney General**

9 12276.5. (a) The Attorney General shall prepare a description for identification  
10 purposes, including a picture or diagram, of each assault weapon listed in **Section**  
11 **12276**, and any firearm declared to be an assault weapon pursuant to **this section**,  
12 and shall distribute the description to all law enforcement agencies responsible for  
13 enforcement of **this chapter**. Those law enforcement agencies shall make the  
14 description available to all agency personnel.

15 (b)(1) Until January 1, 2007, the Attorney General shall promulgate a list that  
16 specifies all firearms designated as assault weapons in **Section 12276** or declared  
17 to be assault weapons pursuant to **this section**. The Attorney General shall file that  
18 list with the Secretary of State for publication in the California Code of  
19 Regulations. Any declaration that a specified firearm is an assault weapon shall be  
20 implemented by the Attorney General who, within 90 days, shall promulgate an  
21 amended list which shall include the specified firearm declared to be an assault  
22 weapon. The Attorney General shall file the amended list with the Secretary of  
23 State for publication in the California Code of Regulations. Any firearm declared  
24 to be an assault weapon prior to January 1, 2007, shall remain on the list filed with  
25 the Secretary of State.

26 (2) **Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the**  
27 **Government Code**, pertaining to the adoption of rules and regulations, shall not  
28 apply to any list of assault weapons promulgated pursuant to **this section**.

29 (c) The Attorney General shall adopt those rules and regulations that may be  
30 necessary or proper to carry out the purposes and intent of **this chapter**.

31 **Penal Code § 12277. “Person”**

32 12277. As used in **this chapter**, **“person”** means an individual, partnership,  
33 corporation, limited liability company, association, or any other group or entity,  
34 regardless of how it was created.

35 **Penal Code § 12278. .50 BMG rifle and .50 BMG cartridge**

36 12278. (a) As used in **this chapter**, a **“.50 BMG rifle”** means a center fire rifle  
37 that can fire a .50 BMG cartridge and is not already an assault weapon pursuant to  
38 **Section 12276, 12276.1, or 12276.5**, or a machinegun, as defined in **Section**  
39 **12200**.

1 (b) As used in **this chapter**, a **“.50 BMG cartridge”** means a cartridge that is  
2 designed and intended to be fired from a center fire rifle and that meets all of the  
3 following criteria:

4 (1) It has an overall length of 5.54 inches from the base to the tip of the bullet.

5 (2) The bullet diameter for the cartridge is from .510 to, and including, .511  
6 inch.

7 (3) The case base diameter for the cartridge is from .800 inch to, and including,  
8 .804 inch.

9 (4) The cartridge case length is 3.91 inches.

10 (c) A **“.50 BMG rifle”** does not include any **“antique firearm,”** nor any curio  
11 or relic as defined in **Section 178.11 of Title 27 of the Code of Federal**  
12 **Regulations.**

13 (d) As used in **this section**, **“antique firearm”** means any firearm manufactured  
14 prior to January 1, 1899.

## 15 Article 2. Unlawful Activities

### 16 **Penal Code § 12280. Unlawful acts relating to assault weapons and .50 BMG rifles**

17 12280. (a)(1) Any person who, within this state, manufactures or causes to be  
18 manufactured, distributes, transports, or imports into the state, keeps for sale, or  
19 offers or exposes for sale, or who gives or lends any assault weapon or any .50  
20 BMG rifle, except as provided by **this chapter**, is guilty of a felony, and upon  
21 conviction shall be punished by imprisonment in the state prison for four, six, or  
22 eight years.

23 (2) In addition and consecutive to the punishment imposed under **paragraph (1)**,  
24 any person who transfers, lends, sells, or gives any assault weapon or any .50  
25 BMG rifle to a minor in violation of **paragraph (1)** shall receive an enhancement of  
26 one year.

27 (3) Except in the case of a first violation involving not more than two firearms  
28 as provided in **subdivisions (b) and (c)**, for purposes of **this section**, if more than  
29 one assault weapon or .50 BMG rifle is involved in any violation of **this section**,  
30 there shall be a distinct and separate offense for each.

31 (b) Any person who, within this state, possesses any assault weapon, except as  
32 provided in **this chapter**, shall be punished by imprisonment in a county jail for a  
33 period not exceeding one year, or by imprisonment in the state prison. However, a  
34 first violation of these provisions is punishable by a fine not exceeding five  
35 hundred dollars (\$500) if the person was found in possession of no more than two  
36 firearms in compliance with **subdivision (c) of Section 12285** and the person meets  
37 all of the following conditions:

38 (1) The person proves that he or she lawfully possessed the assault weapon prior  
39 to the date it was defined as an assault weapon pursuant to **Section 12276,**  
40 **12276.1, or 12276.5.**

41 (2) The person has not previously been convicted of a violation of **this section.**

1 (3) The person was found to be in possession of the assault weapon within one  
2 year following the end of the one-year registration period established pursuant to  
3 subdivision (a) of Section 12285.

4 (4) The person relinquished the firearm pursuant to Section 12288, in which  
5 case the assault weapon shall be destroyed pursuant to Section 12028.

6 (c) Any person who, within this state, possesses any .50 BMG rifle, except as  
7 provided in this chapter, shall be punished by a fine of one thousand dollars  
8 (\$1,000), imprisonment in a county jail for a period not to exceed one year, or by  
9 both that fine and imprisonment. However, a first violation of these provisions is  
10 punishable by a fine not exceeding five hundred dollars (\$500) if the person was  
11 found in possession of no more than two firearms in compliance with subdivision  
12 (a) of Section 12285 and the person meets the conditions set forth in paragraphs  
13 (1), (2), and (3):

14 (1) The person proves that he or she lawfully possessed the .50 BMG rifle prior  
15 to January 1, 2005.

16 (2) The person has not previously been convicted of a violation of this section.

17 (3) The person was found to be in possession of the .50 BMG rifle within one  
18 year following the end of the .50 BMG rifle registration period established  
19 pursuant to subdivision (a) of Section 12285.

20 (4) Firearms seized pursuant to this subdivision from persons who meet all of  
21 the conditions set forth in paragraphs (1), (2), and (3) shall be returned unless the  
22 court finds in the interest of public safety, after notice and hearing, that the .50  
23 BMG rifle should be destroyed pursuant to Section 12028. Firearms seized from  
24 persons who do not meet the conditions set forth in paragraphs (1), (2), and (3)  
25 shall be destroyed pursuant to Section 12028.

26 (d) Notwithstanding Section 654 or any other provision of law, any person who  
27 commits another crime while violating this section may receive an additional,  
28 consecutive punishment of one year for violating this section in addition and  
29 consecutive to the punishment, including enhancements, which is prescribed for  
30 the other crime.

31 (e) Subdivisions (a), (b), and (c) shall not apply to the sale to, purchase by,  
32 importation of, or possession of assault weapons or a .50 BMG rifle by the  
33 Department of Justice, police departments, sheriffs' offices, marshals' offices, the  
34 Department of Corrections and Rehabilitation, the Department of the California  
35 Highway Patrol, district attorneys' offices, Department of Fish and Game,  
36 Department of Parks and Recreation, or the military or naval forces of this state or  
37 of the United States, or any federal law enforcement agency for use in the  
38 discharge of their official duties.

39 (f)(1) Subdivisions (b) and (c) shall not prohibit the possession or use of assault  
40 weapons or a .50 BMG rifle by sworn peace officer members of those agencies  
41 specified in subdivision (e) for law enforcement purposes, whether on or off duty.

42 (2) Subdivisions (a), (b), and (c) shall not prohibit the delivery, transfer, or sale  
43 of an assault weapon or a .50 BMG rifle to, or the possession of an assault weapon

1 or a .50 BMG rifle by, a sworn peace officer member of an agency specified in  
2 subdivision (e) if the peace officer is authorized by his or her employer to possess  
3 or receive the assault weapon or the .50 BMG rifle. Required authorization is  
4 defined as verifiable written certification from the head of the agency, identifying  
5 the recipient or possessor of the assault weapon as a peace officer and authorizing  
6 him or her to receive or possess the specific assault weapon. For this exemption to  
7 apply, in the case of a peace officer who possesses or receives the assault weapon  
8 prior to January 1, 2002, the officer shall register the assault weapon pursuant to  
9 Section 12285 on or before April 1, 2002, and in the case of a peace officer who  
10 possesses or receives the assault weapon on or after January 1, 2002, the officer  
11 shall register the assault weapon pursuant to Section 12285 not later than 90 days  
12 after possession or receipt. In the case of a peace officer who possesses or receives  
13 a .50 BMG rifle on or before January 1, 2005, the officer shall register the .50  
14 BMG rifle on or before April 30, 2006. In the case of a peace officer who  
15 possesses or receives a .50 BMG rifle after January 1, 2005, the officer shall  
16 register the .50 BMG rifle not later than one year after possession or receipt.

17 The peace officer must include with the registration, a copy of the authorization  
18 required pursuant to this paragraph.

19 (3) Nothing in this section shall be construed to limit or prohibit the delivery,  
20 transfer, or sale of an assault weapon or a .50 BMG rifle to, or the possession of an  
21 assault weapon or a .50 BMG rifle by, a member of a federal law enforcement  
22 agency provided that person is authorized by the employing agency to possess the  
23 assault weapon or .50 BMG rifle.

24 (g) Subdivision (b) shall not apply to the possession of an assault weapon during  
25 the 90-day period immediately after the date it was specified as an assault weapon  
26 pursuant to Section 12276.5, or during the one-year period after the date it was  
27 defined as an assault weapon pursuant to Section 12276.1, if all of the following  
28 are applicable:

29 (1) The person is eligible under this chapter to register the particular assault  
30 weapon.

31 (2) The person lawfully possessed the particular assault weapon prior to the date  
32 it was specified as an assault weapon pursuant to Section 12276.5, or prior to the  
33 date it was defined as an assault weapon pursuant to Section 12276.1.

34 (3) The person is otherwise in compliance with this chapter.

35 (h) Subdivisions (a), (b), and (c) shall not apply to the manufacture by persons  
36 who are issued permits pursuant to Section 12287 of assault weapons or .50 BMG  
37 rifles for sale to the following:

38 (1) Exempt entities listed in subdivision (e).

39 (2) Entities and persons who have been issued permits pursuant to Section  
40 12286 or 12287.

41 (3) Entities outside the state who have, in effect, a federal firearms dealer's  
42 license solely for the purpose of distribution to an entity listed in paragraphs (4) to  
43 (6), inclusive.

- 1 (4) Federal military and law enforcement agencies.  
2 (5) Law enforcement and military agencies of other states.  
3 (6) Foreign governments and agencies approved by the United States State  
4 Department.
- 5 (i) Subdivision (a) shall not apply to a person who is the executor or  
6 administrator of an estate that includes an assault weapon or a .50 BMG rifle  
7 registered under Section 12285 or that was possessed pursuant to paragraph (1) of  
8 subdivision (f) that is disposed of as authorized by the probate court, if the  
9 disposition is otherwise permitted by this chapter.
- 10 (j) Subdivisions (b) and (c) shall not apply to a person who is the executor or  
11 administrator of an estate that includes an assault weapon or a .50 BMG rifle  
12 registered under Section 12285 or that was possessed pursuant to paragraph (1) of  
13 subdivision (f) if the assault weapon or .50 BMG rifle is possessed at a place set  
14 forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the  
15 probate court.
- 16 (k) Subdivision (a) shall not apply to either of the following:
- 17 (1) A person who lawfully possesses and has registered an assault weapon or .50  
18 BMG rifle pursuant to this chapter who lends that assault weapon or .50 BMG  
19 rifle to another if all the following apply:
- 20 (A) The person to whom the assault weapon or .50 BMG rifle is lent is 18 years  
21 of age or over and is not in a class of persons prohibited from possessing firearms  
22 by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the  
23 Welfare and Institutions Code.
- 24 (B) The person to whom the assault weapon or .50 BMG rifle is lent remains in  
25 the presence of the registered possessor of the assault weapon or .50 BMG rifle.
- 26 (C) The assault weapon or .50 BMG rifle is possessed at any of the following  
27 locations:
- 28 (i) While on a target range that holds a regulatory or business license for the  
29 purpose of practicing shooting at that target range.
- 30 (ii) While on the premises of a target range of a public or private club or  
31 organization organized for the purpose of practicing shooting at targets.
- 32 (iii) While attending any exhibition, display, or educational project that is about  
33 firearms and that is sponsored by, conducted under the auspices of, or approved by  
34 a law enforcement agency or a nationally or state recognized entity that fosters  
35 proficiency in, or promotes education about, firearms.
- 36 (2) The return of an assault weapon or .50 BMG rifle to the registered possessor,  
37 or the lawful possessor, which is lent by the same pursuant to paragraph (1).
- 38 (l) Subdivisions (b) and (c) shall not apply to the possession of an assault  
39 weapon or .50 BMG rifle by a person to whom an assault weapon or .50 BMG  
40 rifle is lent pursuant to subdivision (k).
- 41 (m) Subdivisions (a), (b), and (c) shall not apply to the possession and  
42 importation of an assault weapon or a .50 BMG rifle into this state by a  
43 nonresident if all of the following conditions are met:

1 (1) The person is attending or going directly to or coming directly from an  
2 organized competitive match or league competition that involves the use of an  
3 assault weapon or a .50 BMG rifle.

4 (2) The competition or match is conducted on the premises of one of the  
5 following:

6 (A) A target range that holds a regulatory or business license for the purpose of  
7 practicing shooting at that target range.

8 (B) A target range of a public or private club or organization that is organized  
9 for the purpose of practicing shooting at targets.

10 (3) The match or competition is sponsored by, conducted under the auspices of,  
11 or approved by, a law enforcement agency or a nationally or state recognized  
12 entity that fosters proficiency in, or promotes education about, firearms.

13 (4) The assault weapon or .50 BMG rifle is transported in accordance with  
14 Section 12026.1 or 12026.2.

15 (5) The person is 18 years of age or over and is not in a class of persons  
16 prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this  
17 code or Section 8100 or 8103 of the Welfare and Institutions Code.

18 (n) Subdivisions (b) and (c) shall not apply to any of the following persons:

19 (1) A person acting in accordance with Section 12286 or 12287.

20 (2) A person who has a permit to possess an assault weapon or a .50 BMG rifle  
21 issued pursuant to Section 12286 or 12287 when he or she is acting in accordance  
22 with Section 12285, 12286, or 12287.

23 (o) Subdivisions (a), (b), and (c) shall not apply to any of the following persons:

24 (1) A person acting in accordance with Section 12285.

25 (2) A person acting in accordance with Section 12286, 12287, or 12290.

26 (p) Subdivisions (b) and (c) shall not apply to the registered owner of an assault  
27 weapon or a .50 BMG rifle possessing that firearm in accordance with subdivision  
28 (c) of Section 12285.

29 (q) Subdivision (a) shall not apply to the importation into this state of an assault  
30 weapon or a .50 BMG rifle by the registered owner of that assault weapon or a .50  
31 BMG rifle if it is in accordance with the provisions of subdivision (c) of Section  
32 12285.

33 (r) Subdivision (a) shall not apply during the first 180 days of the 2005 calendar  
34 year to the importation into this state of a .50 BMG rifle by a person who lawfully  
35 possessed that .50 BMG rifle in this state prior to January 1, 2005.

36 (s) Subdivision (c) shall not apply to the possession of a .50 BMG rifle that is  
37 not defined or specified as an assault weapon pursuant to this chapter, by any  
38 person prior to May 1, 2006, if all of the following are applicable:

39 (1) The person is eligible under this chapter to register that .50 BMG rifle.

40 (2) The person lawfully possessed the .50 BMG rifle prior to January 1, 2005.

41 (3) The person is otherwise in compliance with this chapter.

1 (t) Subdivisions (a), (b), and (c) shall not apply to the sale of assault weapons or  
2 .50 BMG rifles by persons who are issued permits pursuant to Section 12287 to  
3 any of the following:

4 (1) Exempt entities listed in subdivision (e).

5 (2) Entities and persons who have been issued permits pursuant to Section  
6 12286 or 12287.

7 (3) Federal military and law enforcement agencies.

8 (4) Law enforcement and military agencies of other states.

9 (5) Foreign governments and agencies approved by the United States State  
10 Department.

11 (6) Officers described in subdivision (f) who are authorized to possess assault  
12 weapons or .50 BMG rifles pursuant to subdivision (f).

13 (u) As used in this chapter, the date a firearm is an assault weapon is the earliest  
14 of the following:

15 (1) The effective date of an amendment to Section 12276 that adds the  
16 designation of the specified firearm.

17 (2) The effective date of the list promulgated pursuant to Section 12276.5 that  
18 adds or changes the designation of the specified firearm.

19 (3) The operative date of Section 12276.1, as specified in subdivision (d) of that  
20 section.

21 **Penal Code § 12281. Immunity and relinquishment of SKS rifles**

22 12281. (a) Any person who, or firm, company, or corporation that, operated a  
23 retail or other commercial firm, company, or corporation, and manufactured,  
24 distributed, transported, imported, possessed, possessed for sale, offered for sale,  
25 or transferred, for commercial purpose, an SKS rifle in California between January  
26 1, 1992, and December 19, 1997, shall be immune from criminal prosecution  
27 under Section 12280. The immunity provided in this subdivision shall apply  
28 retroactively to any person who, or firm, company, or corporation that, is or was  
29 charged by complaint or indictment with a violation of Section 12280 for conduct  
30 related to an SKS rifle, whether or not the case of that person, firm, company, or  
31 corporation is final.

32 (b) Any person who possessed, gave, loaned, or transferred an SKS rifle in  
33 California between January 1, 1992, and December 19, 1997, shall be immune  
34 from criminal prosecution under Section 12280. The immunity provided in this  
35 subdivision shall apply retroactively to any person who was charged by complaint  
36 or indictment with a violation of Section 12280 for conduct related to an SKS  
37 rifle, whether or not the case of that person is final.

38 (c) Any SKS rifle in the possession of any person who, or firm, company, or  
39 corporation that, is described in subdivision (a) or (b), shall not be subject to  
40 seizure by law enforcement for violation of Section 12280 prior to January 1,  
41 2000.

1 (d) Any person, firm, company, or corporation, convicted under Section 12280  
2 for conduct relating to an SKS rifle, shall be permitted to withdraw his or her plea  
3 of guilty or nolo contendere, or to reopen his or her case and assert the immunities  
4 provided in this section, if the court determines that the allowance of the immunity  
5 is in the interests of justice. The court shall interpret this section liberally to the  
6 benefit of the defendant.

7 (e) The Department of Justice shall notify all district attorneys on or before  
8 January 31, 1999, of the provisions of this section. The department shall identify  
9 all criminal prosecutions in the state for conduct related to SKS rifles within 90  
10 days of the effective date of this section. In all cases so identified by the Attorney  
11 General, the district attorneys shall inform defense counsel, or the defendant if the  
12 defendant is in propria persona, in writing, of the provisions of this section within  
13 120 days of the effective date of this section.

14 (f)(1) Any person, firm, company, or corporation that is in possession of an SKS  
15 rifle shall do one of the following on or before January 1, 2000:

16 (A) Relinquish the SKS rifle to the Department of Justice pursuant to  
17 subdivision (h).

18 (B) Relinquish the SKS rifle to a law enforcement agency pursuant to Section  
19 12288.

20 (C) Dispose of the SKS rifle as permitted by Section 12285.

21 (2) Any person who has obtained title to an SKS rifle by bequest or intestate  
22 succession shall be required to comply with subparagraph (A) or (B) of paragraph  
23 (1) of this subdivision unless he or she otherwise complies with paragraph (1) of  
24 subdivision (b) of Section 12285.

25 (3) Any SKS rifle relinquished to the department pursuant to this subdivision  
26 shall be in a manner prescribed by the department.

27 (4) The department shall conduct a public education and notification program as  
28 described in Section 12289, commencing no later than January 1, 1999.

29 (g) Any person who complies with subdivision (f) shall be exempt from the  
30 prohibitions set forth in subdivision (a) or (b) of Section 12280 for those acts by  
31 that person associated with complying with the requirements of subdivision (f).

32 (h)(1) The department shall purchase any SKS rifle relinquished pursuant to  
33 subdivision (f) from funds appropriated for this purpose by the act amending this  
34 section in the 1997-98 Regular Session of the Legislature or by subsequent budget  
35 acts or other legislation. The department shall adopt regulations for this purchase  
36 program that include, but are not limited to, the manner of delivery, the  
37 reimbursement to be paid, and the manner in which persons shall be informed of  
38 the state purchase program.

39 (2) Any person who relinquished possession of an SKS rifle to a law  
40 enforcement agency pursuant to Section 12288 prior to the effective date of the  
41 purchase program set forth in paragraph (1) shall be eligible to be reimbursed from  
42 the purchase program. The procedures for reimbursement pursuant to this

1 paragraph shall be part of the regulations adopted by the department pursuant to  
2 paragraph (1).

3 (i) Notwithstanding paragraph (11) of subdivision (a) of Section 12276, an  
4 “SKS rifle” under this section means all SKS rifles commonly referred to as  
5 “SKS Sporter” versions, manufactured to accept a detachable AK-47 magazine  
6 and imported into this state and sold by a licensed gun dealer, or otherwise  
7 lawfully possessed in this state by a resident of this state who is not a licensed gun  
8 dealer, between January 1, 1992, and December 19, 1997.

9 (j) Failure to comply with subdivision (f) is a public offense punishable by  
10 imprisonment in the state prison, or in a county jail, not exceeding one year.

11 (k) In addition to the regulations required pursuant to subdivision (h),  
12 emergency regulations for the purchase program described in subdivision (h) shall  
13 be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of  
14 Division 3 of Title 2 of the Government Code.

15 **Penal Code § 12282. Assault weapon or .50 BMG rifle constituting nuisance**

16 12282. (a) Except as provided in Section 12280, possession of any assault  
17 weapon, as defined in Section 12276, 12276.1, or 12276.5, or of any .50 BMG  
18 rifle, as defined in Section 12278, in violation of this chapter is a public nuisance,  
19 solely for purposes of this section and subdivision (d) of Section 12028. The  
20 Attorney General, any district attorney, or any city attorney, may, in lieu of  
21 criminal prosecution, bring a civil action or reach a civil compromise in any  
22 superior court to enjoin the possession of the assault weapon or .50 BMG rifle that  
23 is a public nuisance.

24 (b) Upon motion of the Attorney General, district attorney, or city attorney, a  
25 superior court may impose a civil fine not to exceed three hundred dollars (\$300)  
26 for the first assault weapon or .50 BMG rifle deemed a public nuisance pursuant to  
27 subdivision (a) and up to one hundred dollars (\$100) for each additional assault  
28 weapon or .50 BMG rifle deemed a public nuisance pursuant to subdivision (a).

29 (c) Any assault weapon or .50 BMG rifle deemed a public nuisance under  
30 subdivision (a) shall be destroyed in a manner so that it may no longer be used,  
31 except upon a finding by a court, or a declaration from the Department of Justice,  
32 district attorney, or city attorney stating that the preservation of the assault weapon  
33 or .50 BMG rifle is in the interest of justice.

34 (d) Upon conviction of any misdemeanor or felony involving the illegal  
35 possession or use of an assault weapon, the assault weapon shall be deemed a  
36 public nuisance and disposed of pursuant to subdivision (d) of Section 12028.

37 **Article 3. Registration and Permits**

38 **Penal Code § 12285. Registration and permits**

39 12285. (a)(1) Any person who lawfully possesses an assault weapon, as defined  
40 in Section 12276, prior to June 1, 1989, shall register the firearm by January 1,

1 1991, and any person who lawfully possessed an assault weapon prior to the date  
2 it was specified as an assault weapon pursuant to Section 12276.5 shall register the  
3 firearm within 90 days with the Department of Justice pursuant to those  
4 procedures that the department may establish. Except as provided in subdivision  
5 (a) of Section 12280, any person who lawfully possessed an assault weapon prior  
6 to the date it was defined as an assault weapon pursuant to Section 12276.1, and  
7 which was not specified as an assault weapon under Section 12276 or 12276.5,  
8 shall register the firearm within one year of the effective date of Section 12276.1,  
9 with the department pursuant to those procedures that the department may  
10 establish. The registration shall contain a description of the firearm that identifies  
11 it uniquely, including all identification marks, the full name, address, date of birth,  
12 and thumbprint of the owner, and any other information that the department may  
13 deem appropriate. The department may charge a fee for registration of up to  
14 twenty dollars (\$20) per person but not to exceed the actual processing costs of the  
15 department. After the department establishes fees sufficient to reimburse the  
16 department for processing costs, fees charged shall increase at a rate not to exceed  
17 the legislatively approved annual cost-of-living adjustment for the department's  
18 budget or as otherwise increased through the Budget Act. The fees shall be  
19 deposited into the Dealers' Record of Sale Special Account.

20 (2) Except as provided in subdivision (a) of Section 12280, any person who  
21 lawfully possesses any .50 BMG rifle prior to January 1, 2005, that is not specified  
22 as an assault weapon under Section 12276 or 12276.5 or defined as an assault  
23 weapon pursuant to Section 12276.1, shall register the .50 BMG rifle with the  
24 department no later than April 30, 2006, pursuant to those procedures that the  
25 department may establish. The registration shall contain a description of the  
26 firearm that identifies it uniquely, including all identification marks, the full name,  
27 address, date of birth, and thumbprint of the owner, and any other information that  
28 the department may deem appropriate. The department may charge a fee for  
29 registration of twenty-five dollars (\$25) per person to cover the actual processing  
30 and public education campaign costs of the department. The fees shall be  
31 deposited into the Dealers' Record of Sale Special Account. Data-processing costs  
32 associated with modifying the department's data system to accommodate .50  
33 caliber BMG rifles shall not be paid from the Dealers Record of Sale Special  
34 Account.

35 (b)(1) Except as provided in paragraph (2), no assault weapon possessed  
36 pursuant to this section may be sold or transferred on or after January 1, 1990, to  
37 anyone within this state other than to a licensed gun dealer, as defined in  
38 subdivision (c) of Section 12290, or as provided in Section 12288. Any person  
39 who (A) obtains title to an assault weapon registered under this section or that was  
40 possessed pursuant to paragraph (1) of subdivision (f) of Section 12280 by bequest  
41 or intestate succession, or (B) lawfully possessed a firearm subsequently declared  
42 to be an assault weapon pursuant to Section 12276.5, or subsequently defined as  
43 an assault weapon pursuant to Section 12276.1, shall, within 90 days, render the

1 weapon permanently inoperable, sell the weapon to a licensed gun dealer, obtain a  
2 permit from the Department of Justice in the same manner as specified in Article 3  
3 (commencing with Section 12230) of Chapter 2, or remove the weapon from this  
4 state. A person who lawfully possessed a firearm that was subsequently declared  
5 to be an assault weapon pursuant to Section 12276.5 may alternatively register the  
6 firearm within 90 days of the declaration issued pursuant to subdivision (f) of  
7 Section 12276.5.

8 (2) A person moving into this state, otherwise in lawful possession of an assault  
9 weapon, shall do one of the following:

10 (A) Prior to bringing the assault weapon into this state, that person shall first  
11 obtain a permit from the Department of Justice in the same manner as specified in  
12 Article 3 (commencing with Section 12230) of Chapter 2.

13 (B) The person shall cause the assault weapon to be delivered to a licensed gun  
14 dealer, as defined in subdivision (c) of Section 12290, in this state in accordance  
15 with Chapter 44 (commencing with Section 921) of Title 18 of the United States  
16 Code and the regulations issued pursuant thereto. If the person obtains a permit  
17 from the Department of Justice in the same manner as specified in Article 3  
18 (commencing with Section 12230) of Chapter 2, the dealer shall redeliver that  
19 assault weapon to the person. If the licensed gun dealer, as defined in subdivision  
20 (c) of Section 12290, is prohibited from delivering the assault weapon to a person  
21 pursuant to this paragraph, the dealer shall possess or dispose of the assault  
22 weapon as allowed by this chapter.

23 (3) Except as provided in paragraph (4), no .50 BMG rifle possessed pursuant to  
24 this section may be sold or transferred on or after January 1, 2005, to anyone  
25 within this state other than to a licensed gun dealer, as defined in subdivision (c) of  
26 Section 12290, or as provided in Section 12288. Any person who obtains title to a  
27 .50 BMG rifle registered under this section or that was possessed pursuant to  
28 paragraph (1) of subdivision (f) of Section 12280 by bequest or intestate  
29 succession shall, within 180 days of receipt, render the weapon permanently  
30 inoperable, sell the weapon to a licensed gun dealer, obtain a permit from the  
31 Department of Justice in the same manner as specified in Article 3 (commencing  
32 with Section 12230) of Chapter 2, or remove the weapon from this state.

33 (4) A person moving into this state, otherwise in lawful possession of a .50  
34 BMG rifle, shall do one of the following:

35 (A) Prior to bringing the .50 BMG rifle into this state, that person shall first  
36 obtain a permit from the Department of Justice in the same manner as specified in  
37 Article 3 (commencing with Section 12230) of Chapter 2.

38 (B) The person shall cause the .50 BMG rifle to be delivered to a licensed gun  
39 dealer, as defined in subdivision (c) of Section 12290 in this state in accordance  
40 with Chapter 44 (commencing with Section 921) of Title 18 of the United States  
41 Code and the regulations issued pursuant thereto. If the person obtains a permit  
42 from the Department of Justice in the same manner as specified in Article 3  
43 (commencing with Section 12230) of Chapter 2, the dealer shall redeliver that .50

1 BMG rifle to the person. If the licensed gun dealer, as defined in subdivision (c) of  
2 Section 12290 is prohibited from delivering the .50 caliber BMG rifle to a person  
3 pursuant to this paragraph, the dealer shall dispose of the .50 BMG rifle as allowed  
4 by this chapter.

5 (c) A person who has registered an assault weapon or registered a .50 BMG rifle  
6 under this section may possess it only under any of the following conditions unless  
7 a permit allowing additional uses is first obtained under Section 12286:

8 (1) At that person's residence, place of business, or other property owned by that  
9 person, or on property owned by another with the owner's express permission.

10 (2) While on the premises of a target range of a public or private club or  
11 organization organized for the purpose of practicing shooting at targets.

12 (3) While on a target range that holds a regulatory or business license for the  
13 purpose of practicing shooting at that target range.

14 (4) While on the premises of a shooting club which is licensed pursuant to the  
15 Fish and Game Code.

16 (5) While attending any exhibition, display, or educational project which is  
17 about firearms and which is sponsored by, conducted under the auspices of, or  
18 approved by a law enforcement agency or a nationally or state recognized entity  
19 that fosters proficiency in, or promotes education about, firearms.

20 (6) While on publicly owned land if the possession and use of a firearm  
21 described in Section 12276, 12276.1, 12276.5, or 12278, is specifically permitted  
22 by the managing agency of the land.

23 (7) While transporting the assault weapon or .50 BMG rifle between any of the  
24 places mentioned in this subdivision, or to any licensed gun dealer, as defined in  
25 subdivision (c) of Section 12290, for servicing or repair pursuant to subdivision  
26 (b) of Section 12290, if the assault weapon is transported as required by Section  
27 12026.1.

28 (d) No person who is under the age of 18 years, no person who is prohibited  
29 from possessing a firearm by Section 12021 or 12021.1, and no person described  
30 in Section 8100 or 8103 of the Welfare and Institutions Code may register or  
31 possess an assault weapon or .50 BMG rifle.

32 (e) The department's registration procedures shall provide the option of joint  
33 registration for assault weapons or .50 BMG rifle owned by family members  
34 residing in the same household.

35 (f) For 90 days following January 1, 1992, a forgiveness period shall exist to  
36 allow persons specified in subdivision (b) of Section 12280 to register with the  
37 Department of Justice assault weapons that they lawfully possessed prior to June  
38 1, 1989.

39 (g)(1) Any person who registered a firearm as an assault weapon pursuant to the  
40 provisions of law in effect prior to January 1, 2000, where the assault weapon is  
41 thereafter defined as an assault weapon pursuant to Section 12276.1, shall be  
42 deemed to have registered the weapon for purposes of this chapter and shall not be  
43 required to reregister the weapon pursuant to this section.

1 (2) Any person who legally registered a firearm as an assault weapon pursuant  
2 to the provisions of law in effect prior to January 1, 2005, where the assault  
3 weapon is thereafter defined as a .50 caliber BMG rifle pursuant to Section 12278,  
4 shall be deemed to have registered the weapon for purposes of this chapter and  
5 shall not be required to reregister the weapon pursuant to this section.

6 (h) Any person who registers his or her assault weapon during the 90-day  
7 forgiveness period described in subdivision (f), and any person whose registration  
8 form was received by the Department of Justice after January 1, 1991, and who  
9 was issued a temporary registration prior to the end of the forgiveness period, shall  
10 not be charged with a violation of subdivision (b) of Section 12280, if law  
11 enforcement becomes aware of that violation only as a result of the registration of  
12 the assault weapon. This subdivision shall have no effect upon persons charged  
13 with a violation of subdivision (b) of Section 12280 of the Penal Code prior to  
14 January 1, 1992, provided that law enforcement was aware of the violation before  
15 the weapon was registered.

16 **Penal Code § 12286. Permits under specified circumstances**

17 12286. Any person who lawfully acquired an assault weapon before June 1,  
18 1989, or a .50 BMG rifle before January 1, 2005, and wishes to use it in a manner  
19 different than specified in subdivision (c) of Section 12285, who lawfully acquired  
20 an assault weapon between June 1, 1989, and January 1, 1990, and wishes to keep  
21 it after January 1, 1990, or who wishes to acquire an assault weapon after January  
22 1, 1990, or a .50 BMG rifle after January 1, 2005, shall first obtain a permit from  
23 the Department of Justice in the same manner as specified in Article 3  
24 (commencing with Section 12230) of Chapter 2.

25 **Penal Code § 12287. Issuance of permits by Department of Justice**

26 12287. (a) The Department of Justice may, upon a finding of good cause, issue  
27 permits for the manufacture or sale of assault weapons or .50 BMG rifles for the  
28 sale to, purchase by, or possession of assault weapons or .50 BMG rifles by, any  
29 of the following:

30 (1) The agencies listed in subdivision (e), and the officers described in  
31 subdivision (f) of Section 12280.

32 (2) Entities and persons who have been issued permits pursuant to this section or  
33 Section 12286.

34 (3) Entities outside the state who have, in effect, a federal firearms dealer's  
35 license solely for the purpose of distribution to an entity listed in paragraphs (4) to  
36 (6), inclusive.

37 (4) Federal law enforcement and military agencies.

38 (5) Law enforcement and military agencies of other states.

39 (6) Foreign governments and agencies approved by the United States State  
40 Department.

1 (b) Application for the permits, the keeping and inspection thereof, and the  
2 revocation of permits shall be undertaken in the same manner as specified in  
3 Article 3 (commencing with Section 12230) of Chapter 2.

4 **Penal Code § 12288. Relinquishment of assault weapon or .50 BMG rifle**

5 12288. Any individual may arrange in advance to relinquish an assault weapon  
6 or a .50 BMG rifle to a police or sheriff's department. The assault weapon or .50  
7 BMG rifle shall be transported in accordance with Section 12026.1.

8 **Penal Code § 12288.5. Broadcasting over police radio**

9 12288.5. (a) No peace officer or dispatcher shall broadcast over a police radio  
10 that an individual has registered, or has obtained a permit to possess, an assault  
11 weapon or .50 BMG rifle pursuant to this chapter, unless there exists a reason to  
12 believe in good faith that one of the following conditions exist:

13 (1) The individual has engaged, or may be engaged, in criminal conduct.

14 (2) The police are responding to a call in which the person allegedly committing  
15 a criminal violation may gain access to the assault weapon or .50 BMG rifle.

16 (3) The victim, witness, or person who reported the alleged criminal violation  
17 may be using the assault weapon or .50 BMG rifle to hold the person allegedly  
18 committing the criminal violation or may be using the weapon in defense of  
19 himself, herself, or other persons.

20 (b) This section shall not prohibit a peace officer or dispatcher from  
21 broadcasting over a police radio that an individual has not registered, or has not  
22 obtained a permit to possess, an assault weapon or .50 BMG rifle pursuant to this  
23 chapter.

24 (c) This section does not limit the transmission of an assault weapon or a .50  
25 BMG rifle ownership status via law enforcement computers or any other medium  
26 that is legally accessible only to peace officers or other authorized personnel.

27 **Penal Code § 12289. Public education and notification program**

28 12289. (a) The Department of Justice shall conduct a public education and  
29 notification program regarding the registration of assault weapons and the  
30 definition of the weapons set forth in Section 12276.1. The public education and  
31 notification program shall include outreach to local law enforcement agencies and  
32 utilization of public service announcements in a variety of media approaches, to  
33 ensure maximum publicity of the limited forgiveness period of the registration  
34 requirement specified in subdivision (f) of Section 12285 and the consequences of  
35 nonregistration. The department shall develop posters describing gunowners'  
36 responsibilities under this chapter which shall be posted in a conspicuous place in  
37 every licensed gun store in the state during the forgiveness period. For .50 BMG  
38 rifles, the department's education campaign shall provide materials to dealers of  
39 .50 BMG rifles, and to recognized national associations that specialize in .50  
40 BMG rifles.

1 (b) Any costs incurred by the Department of Justice to implement this section  
2 which cannot be absorbed by the department shall be funded from the Dealers'  
3 Record of Sale Special Account, as set forth in subdivision (d) of Section 12076,  
4 upon appropriation by the Legislature.

5 **Penal Code § 12289.5. Inspection conducted by Department of Justice**

6 12289.5. (a) Except as provided in subdivision (b), the Department of Justice  
7 shall, for every person, firm, or corporation to whom a permit is issued pursuant to  
8 this article, annually conduct an inspection for security and safe storage purposes,  
9 and to reconcile the inventory of assault weapons.

10 (b) A person, firm, or corporation with an inventory of fewer than five devices  
11 that require any Department of Justice permit shall be subject to an inspection for  
12 security and safe storage purposes, and to reconcile inventory, once every five  
13 years, or more frequently if determined by the department.

14 **Article 4. Licensed Gun Dealers**

15 **Penal Code § 12290. Special rules for licensed gun dealers**

16 12290. (a) Any licensed gun dealer, as defined in subdivision (c), who lawfully  
17 possesses an assault weapon or .50 BMG rifle pursuant to Section 12285, in  
18 addition to the uses allowed in Section 12285, may transport the firearm between  
19 dealers or out of the state if that person is permitted pursuant to the National  
20 Firearms Act, display it at any gun show licensed by a state or local governmental  
21 entity, sell it to a resident outside the state, or sell it to a person who has been  
22 issued a permit pursuant to Section 12286. Any transporting allowed by this  
23 section must be done as required by Section 12026.1.

24 (b)(1) Any licensed gun dealer, as defined in subdivision (c), may take  
25 possession of any assault weapon or .50 BMG rifle for the purposes of servicing or  
26 repair from any person to whom it is legally registered or who has been issued a  
27 permit to possess it pursuant to this chapter.

28 (2) Any licensed gun dealer, as defined in subdivision (c), may transfer  
29 possession of any assault weapon or .50 BMG rifle received pursuant to paragraph  
30 (1), to a gunsmith for purposes of accomplishing service or repair of the same.  
31 Transfers are permissible only to the following persons:

32 (A) A gunsmith who is in the dealer's employ.

33 (B) A gunsmith with whom the dealer has contracted for gunsmithing services.  
34 In order for this subparagraph to apply, the gunsmith receiving the assault weapon  
35 or .50 BMG rifle shall hold all of the following:

36 (i) A dealer's license issued pursuant to Chapter 44 (commencing with Section  
37 921) of Title 18 of the United States Code and the regulations issued pursuant  
38 thereto.

39 (ii) Any business license required by a state or local governmental entity.

1 (c) The term **“licensed gun dealer,”** as used in **this article**, means a person who  
2 is licensed pursuant to **Section 12071** and who has a permit to sell assault weapons  
3 or .50 BMG rifles pursuant to **Section 12287**.

#### 4 CHAPTER 2.5. DESTRUCTIVE DEVICES

##### 5 **Penal Code § 12301. “Destructive device” and “explosive”**

6 12301. (a) The term **“destructive device,”** as used in **this chapter**, shall include  
7 any of the following weapons:

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

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

14 (3) Any weapon of a caliber greater than 0.60 caliber which fires fixed  
15 ammunition, or any ammunition therefor, other than a shotgun (smooth or rifled  
16 bore) conforming to the definition of a “destructive device” found in **subsection**  
17 **(b) of Section 479.11 of Title 27 of the Code of Federal Regulations**, shotgun  
18 ammunition (single projectile or shot), antique rifle, or an antique cannon. For  
19 purposes of **this section**, the term **“antique cannon”** means any cannon  
20 manufactured before January 1, 1899, which has been rendered incapable of firing  
21 or for which ammunition is no longer manufactured in the United States and is not  
22 readily available in the ordinary channels of commercial trade. The term **“antique**  
23 **rifle”** means a firearm conforming to the definition of an “antique firearm” in  
24 **Section 479.11 of Title 27 of the Code of Federal Regulations**.

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

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

35 (6) Any sealed device containing dry ice (CO2) or other chemically reactive  
36 substances assembled for the purpose of causing an explosion by a chemical  
37 reaction.

38 (b) The term **“explosive,”** as used in **this chapter**, shall mean any explosive  
39 defined in **Section 12000 of the Health and Safety Code**.

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

3 12302. Nothing in **this chapter** shall prohibit the sale to, purchase by, or  
4 possession, transportation, storage, or use of, destructive devices or explosives by:

5 (a) Any peace officer listed in **Section 830.1 or 830.2**, or any peace officer in the  
6 Department of Justice authorized by the Attorney General, while on duty and  
7 acting within the scope and course of his or her employment.

8 (b) Any member of the Army, Navy, Air Force, or Marine Corps of the United  
9 States, or the National Guard, while on duty and acting within the scope and  
10 course of his or her employment.

11 Nothing in **this chapter** prohibits the sale to, or the purchase, possession,  
12 transportation, storage, or use by any person who is a regularly employed and paid  
13 officer, employee, or member of a fire department or fire protection or firefighting  
14 agency of the federal government, the State of California, a city, county, city and  
15 county, district, or other public or municipal corporation or political subdivision of  
16 this state, while on duty and acting within the scope and course of his or her  
17 employment, of any equipment used by that department or agency in the course of  
18 fire suppression.

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

20 12303. Any person, firm, or corporation who, within this state, possesses any  
21 destructive device, other than fixed ammunition of a caliber greater than .60  
22 caliber, except as provided by **this chapter**, is guilty of a public offense and upon  
23 conviction thereof shall be punished by imprisonment in the county jail for a term  
24 not to exceed one year, or in state prison, or by a fine not to exceed ten thousand  
25 dollars (\$10,000) or by both such fine and imprisonment.

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

27 12303.1. Every person who willfully does any of the following is guilty of a  
28 felony and is punishable by imprisonment in the state prison for two, four, or six  
29 years:

30 (a) Carries any explosive or destructive device on any vessel, aircraft, car, or  
31 other vehicle that transports passengers for hire.

32 (b) Places or carries any explosive or destructive device, while on board any  
33 such vessel, aircraft, car or other vehicle, in any hand baggage, roll, or other  
34 container.

35 (c) Places any explosive or destructive device in any baggage which is later  
36 checked with any common carrier.

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

39 12303.2. Every person who recklessly or maliciously has in his possession any  
40 destructive device or any explosive on a public street or highway, in or near any

1 theater, hall, school, college, church, hotel, other public building, or private  
2 habitation, in, on, or near any aircraft, railway passenger train, car, cable road or  
3 cable car, vessel engaged in carrying passengers for hire, or other public place  
4 ordinarily passed by human beings is guilty of a felony, and shall be punishable by  
5 imprisonment in the state prison for a period of two, four, or six years.

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

8 12303.3. Every person who possesses, explodes, ignites, or attempts to explode  
9 or ignite any destructive device or any explosive with intent to injure, intimidate,  
10 or terrify any person, or with intent to wrongfully injure or destroy any property, is  
11 guilty of a felony, and shall be punished by imprisonment in the state prison for a  
12 period of three, five, or seven years.

13 **Penal Code § 12306. Sale or transportation of destructive device other than fixed**  
14 **ammunition greater than .60 caliber**

15 12303.6. Any person, firm, or corporation who, within this state, sells, offers for  
16 sale, or knowingly transports any destructive device, other than fixed ammunition  
17 of a caliber greater than .60 caliber, except as provided by **this chapter**, is guilty of  
18 a felony and is punishable by imprisonment in the state prison for two, three or  
19 four years.

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

22 12304. Any person, firm or corporation who, within this state, sells, offers for  
23 sale, possesses or knowingly transports any fixed ammunition of a caliber greater  
24 than .60 caliber, except as provided in **this chapter**, is guilty of a public offense  
25 and upon conviction thereof shall be punished by imprisonment in the county jail  
26 for a term not to exceed six months or by a fine not to exceed one thousand dollars  
27 (\$1,000), or by both such fine and imprisonment.

28 A second or subsequent conviction shall be punished by imprisonment in the  
29 county jail for a term not to exceed one year, or by imprisonment in the state  
30 prison, or by a fine not to exceed three thousand dollars (\$3,000), or by both such  
31 fine and imprisonment.

32 **Penal Code § 12305. Permit for destructive device**

33 12305. (a) Every dealer, manufacturer, importer, and exporter of any destructive  
34 device, or any motion picture or television studio using destructive devices in the  
35 conduct of its business, shall obtain a permit for the conduct of that business from  
36 the Department of Justice.

37 (b) Any person, firm, or corporation not mentioned in **subdivision (a)** shall  
38 obtain a permit from the Department of Justice in order to possess or transport any

1 destructive device. No permit shall be issued to any person who meets any of the  
2 following criteria:

3 (1) Has been convicted of any felony.

4 (2) Is addicted to the use of any narcotic drug.

5 (3) Is a person in a class prohibited by Section 8100 or 8103 of the Welfare and  
6 Institutions Code or Section 12021 or 12021.1 of this code.

7 (c) Applications for permits shall be filed in writing, signed by the applicant if  
8 an individual, or by a member or officer qualified to sign if the applicant is a firm  
9 or corporation, and shall state the name, business in which engaged, business  
10 address and a full description of the use to which the destructive devices are to be  
11 put.

12 (d) Applications and permits shall be uniform throughout the state on forms  
13 prescribed by the Department of Justice.

14 (e) Each applicant for a permit shall pay at the time of filing his or her  
15 application a fee not to exceed the application processing costs of the Department  
16 of Justice. A permit granted pursuant to this article may be renewed one year from  
17 the date of issuance, and annually thereafter, upon the filing of a renewal  
18 application and the payment of a permit renewal fee not to exceed the application  
19 processing costs of the Department of Justice. After the department establishes  
20 fees sufficient in amount to cover processing costs, the amount of the fees shall  
21 only increase at a rate not to exceed the legislatively approved cost-of-living  
22 adjustment for the department.

23 (f) Except as provided in subdivision (g), the Department of Justice shall, for  
24 every person, firm, or corporation to whom a permit is issued pursuant to this  
25 article, annually conduct an inspection for security and safe storage purposes, and  
26 to reconcile the inventory of destructive devices.

27 (g) A person, firm, or corporation with an inventory of fewer than five devices  
28 that require any Department of Justice permit shall be subject to an inspection for  
29 security and safe storage purposes, and to reconcile inventory, once every five  
30 years, or more frequently if determined by the department.

31 **Penal Code § 12307. Destructive device constituting nuisance**

32 12307. The possession of any destructive device in violation of this chapter shall  
33 be deemed to be a public nuisance and the Attorney General or district attorney of  
34 any city, county, or city and county may bring an action before the superior court  
35 to enjoin the possession of any destructive device.

36 Any destructive device found to be in violation of this chapter shall be  
37 surrendered to the Department of Justice, or to the sheriff or chief of police, if the  
38 sheriff or chief of police has elected to perform the services required by this  
39 section. The department, sheriff, or chief of police shall destroy the destructive  
40 device so as to render it unusable and unrepairable as a destructive device, except  
41 upon the filing of a certificate with the department by a judge or district attorney

1 stating that the preservation of the destructive device is necessary to serve the ends  
2 of justice.

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

5 12308. Every person who explodes, ignites, or attempts to explode or ignite any  
6 destructive device or any explosive with intent to commit murder is guilty of a  
7 felony, and shall be punished by imprisonment in the state prison for life with the  
8 possibility of parole.

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

11 12309. Every person who willfully and maliciously explodes or ignites any  
12 destructive device or any explosive which causes bodily injury to any person is  
13 guilty of a felony, and shall be punished by imprisonment in the state prison for a  
14 period of five, seven, or nine years.

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

17 12310. (a) Every person who willfully and maliciously explodes or ignites any  
18 destructive device or any explosive which causes the death of any person is guilty  
19 of a felony, and shall be punished by imprisonment in the state prison for life  
20 without the possibility of parole.

21 (b) Every person who willfully and maliciously explodes or ignites any  
22 destructive device or any explosive which causes mayhem or great bodily injury to  
23 any person is guilty of a felony, and shall be punished by imprisonment in the state  
24 prison for life.

25 **Penal Code § 12311. No probation or suspension of sentence**

26 12311. No person convicted of a violation of **this chapter** shall be granted  
27 probation, and the execution of the sentence imposed upon such person shall not  
28 be suspended by the court.

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

31 12312. Every person who possesses any substance, material, or any combination  
32 of substances or materials, with the intent to make any destructive device or any  
33 explosive without first obtaining a valid permit to make such destructive device or  
34 explosive, is guilty of a felony, and is punishable by imprisonment in the state  
35 prison for two, three, or four years.

1 CHAPTER 2.6. AMMUNITION

2 **Penal Code § 12316. Unlawful acts relating to ammunition**

3 12316. (a)(1) Any person, corporation, or dealer who does either of the  
4 following shall be punished by imprisonment in a county jail for a term not to  
5 exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by  
6 both the imprisonment and fine:

7 (A) Sells any ammunition or reloaded ammunition to a person under 18 years of  
8 age.

9 (B) Sells any ammunition or reloaded ammunition designed and intended for use  
10 in a handgun to a person under 21 years of age. As used in this subparagraph,  
11 **“ammunition”** means handgun ammunition as defined in subdivision (a) of  
12 Section 12323. Where ammunition or reloaded ammunition may be used in both a  
13 rifle and a handgun, it may be sold to a person who is at least 18 years of age, but  
14 less than 21 years of age, if the vendor reasonably believes that the ammunition is  
15 being acquired for use in a rifle and not a handgun.

16 (2) Proof that a person, corporation, or dealer, or his or her agent or employee,  
17 demanded, was shown, and acted in reasonable reliance upon, bona fide evidence  
18 of majority and identity shall be a defense to any criminal prosecution under this  
19 subdivision. As used in this subdivision, **“bona fide evidence of majority and  
20 identity”** means a document issued by a federal, state, county, or municipal  
21 government, or subdivision or agency thereof, including, but not limited to, a  
22 motor vehicle operator’s license, California state identification card, identification  
23 card issued to a member of the armed forces, or other form of identification that  
24 bears the name, date of birth, description, and picture of the person.

25 (b)(1) No person prohibited from owning or possessing a firearm under Section  
26 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and  
27 Institutions Code shall own, possess, or have under his or her custody or control,  
28 any ammunition or reloaded ammunition.

29 (2) For purposes of this subdivision, **“ammunition”** shall include, but not be  
30 limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or  
31 projectile capable of being fired from a firearm with a deadly consequence.

32 (3) A violation of this subdivision is punishable by imprisonment in a county jail  
33 not to exceed one year or in the state prison, by a fine not to exceed one thousand  
34 dollars (\$1,000), or by both the fine and imprisonment.

35 (c) Unless it is with the written permission of the school district superintendent,  
36 his or her designee, or equivalent school authority, no person shall carry  
37 ammunition or reloaded ammunition onto school grounds, except sworn law  
38 enforcement officers acting within the scope of their duties or persons exempted  
39 under subparagraph (A) of paragraph (1) of subdivision (a) of Section 12027. This  
40 subdivision shall not apply to a duly appointed peace officer as defined in Chapter  
41 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace

1 officer of another state or the federal government who is carrying out official  
2 duties while in California, any person summoned by any of these officers to assist  
3 in making an arrest or preserving the peace while he or she is actually engaged in  
4 assisting the officer, a member of the military forces of this state or of the United  
5 States who is engaged in the performance of his or her duties, a person holding a  
6 valid license to carry the firearm pursuant to Article 3 (commencing with Section  
7 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is  
8 engaged in the performance of his or her duties, as defined in subdivision (e) of  
9 Section 7521 of the Business and Professions Code. A violation of this subdivision  
10 is punishable by imprisonment in a county jail for a term not to exceed six months,  
11 a fine not to exceed one thousand dollars (\$1,000), or both the imprisonment and  
12 fine.

13 (d)(1) A violation of paragraph (1) of subdivision (b) is justifiable where all of  
14 the following conditions are met:

15 (A) The person found the ammunition or reloaded ammunition or took the  
16 ammunition or reloaded ammunition from a person who was committing a crime  
17 against him or her.

18 (B) The person possessed the ammunition or reloaded ammunition no longer  
19 than was necessary to deliver or transport the ammunition or reloaded ammunition  
20 to a law enforcement agency for that agency's disposition according to law.

21 (C) The person is prohibited from possessing any ammunition or reloaded  
22 ammunition solely because that person is prohibited from owning or possessing a  
23 firearm only by virtue of Section 12021.

24 (2) Upon the trial for violating paragraph (1) of subdivision (b), the trier of fact  
25 shall determine whether the defendant is subject to the exemption created by this  
26 subdivision.

27 (3) The defendant has the burden of proving by a preponderance of the evidence  
28 that he or she is subject to the exemption provided by this subdivision.

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

31 12320. Any person, firm, or corporation who, within this state knowingly  
32 possesses any handgun ammunition designed primarily to penetrate metal or armor  
33 is guilty of a public offense and upon conviction thereof shall be punished by  
34 imprisonment in the state prison, or in the county jail for a term not to exceed one  
35 year, or by a fine not to exceed five thousand dollars (\$5,000), or by both such fine  
36 and imprisonment.

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

39 12321. Any person, firm, or corporation who, within this state, manufactures,  
40 imports, sells, offers to sell, or knowingly transports any handgun ammunition  
41 designed primarily to penetrate metal or armor is guilty of a felony and upon

1 conviction thereof shall be punished by imprisonment in state prison, or by a fine  
2 not to exceed five thousand dollars (\$5,000), or by both such fine and  
3 imprisonment.

4 **Penal Code § 12322. Limitations on application of ammunition restrictions**

5 12322. Nothing in this chapter shall apply to or affect either of the following:

6 (a) The sale to, purchase by, possession of, or use of any ammunition by any  
7 member of the Army, Navy, Air Force, or Marine Corps of the United States, or  
8 the National Guard, while on duty and acting within the scope and course of his or  
9 her employment, or any police agency or forensic laboratory or any person who is  
10 the holder of a valid permit issued pursuant to Section 12305.

11 (b) The possession of handgun ammunition designed primarily to penetrate  
12 metal or armor by a person who found the ammunition, if he or she is not  
13 prohibited from possessing firearms or ammunition pursuant to Section 12021,  
14 12021.1, or paragraph (1) of subdivision (b) of Section 12316 of this code or  
15 Section 8100 or 8103 of the Welfare and Institutions Code and is transporting the  
16 ammunition to a law enforcement agency for disposition according to law.

17 **Penal Code § 12323. Definitions**

18 12323. As used in this chapter, the following definitions shall apply:

19 (a) **“Handgun ammunition”** means ammunition principally for use in pistols,  
20 revolvers, and other firearms capable of being concealed upon the person, as  
21 defined in subdivision (a) of Section 12001, notwithstanding that the ammunition  
22 may also be used in some rifles.

23 (b) **“Handgun ammunition designed primarily to penetrate metal or  
24 armor”** means any ammunition, except a shotgun shell or ammunition primarily  
25 designed for use in rifles, that is designed primarily to penetrate a body vest or  
26 body shield, and has either of the following characteristics:

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

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

36 (c) **“Body vest or shield”** means any bullet-resistant material intended to  
37 provide ballistic and trauma protection for the wearer or holder.

38 (d) **“Rifle”** shall have the same meaning as defined in paragraph (20) of  
39 subdivision (c) of Section 12020.

1 **Penal Code § 12324. Permanently deactivated ammunition**

2 12324. Nothing in this chapter shall prohibit the possession, importation, sale,  
3 attempted sale, or transport of ammunition from which the propellant has been  
4 removed and the primer has been permanently deactivated.

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

7 12325. Nothing in this chapter shall prohibit the manufacture of ammunition  
8 under contracts approved by agencies of the state or federal government.

9 CHAPTER 3.2. BOOBYTRAPS

10 **Penal Code § 12355. Boobytraps**

11 12355. (a) Except as provided in Chapter 2.5 (commencing with Section 12301),  
12 any person who assembles, maintains, places, or causes to be placed a boobytrap  
13 device as described in subdivision (c) is guilty of a felony punishable by  
14 imprisonment in the state prison for two, three, or five years.

15 (b) Possession of any device with the intent to use the device as a boobytrap is  
16 punishable by imprisonment in state prison, or in a county jail not exceeding one  
17 year, or by a fine not exceeding five thousand dollars (\$5,000), or by both that fine  
18 and imprisonment.

19 (c) For purposes of this section, “boobytrap” means any concealed or  
20 camouflaged device designed to cause great bodily injury when triggered by an  
21 action of any unsuspecting person coming across the device. Boobytraps may  
22 include, but are not limited to, guns, ammunition, or explosive devices attached to  
23 trip wires or other triggering mechanisms, sharpened stakes, and lines or wire with  
24 hooks attached.

25 CHAPTER 3.5. BODY ARMOR CERTIFICATION

26 **Penal Code § 12360. Certification requirement for acquisition of body armor**

27 12360. No body armor shall be acquired by the commissioner pursuant to  
28 Section 2259.5 of the Vehicle Code unless, pursuant to subdivision (a) of Section  
29 12361, the Department of Justice has certified such body armor.

30 **Penal Code § 12361. Performance standards for body armor**

31 12361. (a) Before a body armor may be purchased for use by state peace officers  
32 the Department of Justice, after consultation with the Department of the California  
33 Highway Patrol, shall establish minimum ballistic performance standards, and  
34 shall determine that the armor satisfies those standards.

35 (b) Only body armor that meets state requirements under subdivision (a) for  
36 acquisition or purchase shall be eligible for testing for certification under the

1 ballistic performance standards established by the Department of Justice; and only  
2 body armor that is certified as acceptable by the department shall be purchased for  
3 use by state peace officers.

4 **Penal Code § 12362. Application for certification of body armor**

5 12362. Any person engaged in the manufacture or sale of body armor may apply  
6 to the Department of Justice for certification that a particular type of body armor  
7 manufactured or sold by that person is acceptable. The applicant shall reimburse  
8 the state for any actual expenses incurred by the state in testing and certifying a  
9 particular type of body armor.

10 **Penal Code § 12363. Content of application**

11 12363. Any application submitted pursuant to **Section 12362** shall contain all of  
12 the following:

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

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

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

18 (d) Such samples of body armor and its components as the department may  
19 require.

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

22 **Penal Code § 12364. Schedule for ballistic testing**

23 12364. The Department of Justice, in cooperation with the Office of  
24 Procurement of the Department of General Services, shall establish a schedule for  
25 ballistic testing for certification pursuant to **subdivision (b) of Section 12361**.

26 **Penal Code § 12365. Refusal to certify body armor**

27 12365. The department shall issue an order refusing to certify a body armor as  
28 acceptable if, after due notice to the applicant, the department finds any of the  
29 following:

30 (a) That the body armor does not satisfy the ballistic performance standards  
31 established by the department pursuant to **subdivision (b) of Section 12361**.

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

33 (c) That the application is materially incomplete.

34 (d) That the applicant has failed to reimburse the state as required by **Section**  
35 **12362**.

36 **Penal Code § 12366. Revocation of certification**

37 12366. The department shall issue an order revoking certification if, after due  
38 notice to the applicant, the department finds any of the following:

- 1 (a) That the experience or additional testing show that the body armor does not  
2 comply with the department’s ballistic performance standards.  
3 (b) That the application contains any misrepresentation of a material fact.  
4 (c) The body armor must be retested for certification under new department  
5 standards.

6 **Penal Code § 12367. Regulations**

7 12367. The department shall adopt and promulgate regulations for the fair and  
8 efficient enforcement of **this chapter**.

9 **Penal Code § 12368. Purchases of body armor by Department of General Services**

10 12368. (a) All purchases of certified body armor under the provisions of **this**  
11 **chapter** shall be made by the Department of General Services on behalf of an  
12 authorized state agency or department. Purchases of body armor shall be based  
13 upon written requests submitted by an authorized state agency or department to the  
14 Department of General Services.

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

18 **Penal Code § 12369. Process for defining “enforcement activities” and developing standards**  
19 **for replacement of body armor**

20 12369. The Department of General Services shall, pursuant to departmental  
21 regulation, after consultation with the Department of the California Highway  
22 Patrol, define the term “enforcement activities” for purposes of **this chapter**, and  
23 develop standards regarding what constitutes sufficient wear on body armor to  
24 necessitate replacement thereof.

25 **Penal Code § 12370. Purchase, ownership, or possession of body armor by person convicted**  
26 **of violent felony**

27 12370. (a) Any person who has been convicted of a violent felony, as defined in  
28 **subdivision (c) of Section 667.5**, under the laws of the United States, the State of  
29 California, or any other state, government, or country, who purchases, owns, or  
30 possesses body armor, as defined by **Section 942 of Title 11 of the California**  
31 **Code of Regulations**, except as authorized under **subdivision (b)**, is guilty of a  
32 felony, punishable by imprisonment in a state prison for 16 months, or two or  
33 three years.

34 (b) Any person whose employment, livelihood, or safety is dependent on the  
35 ability to legally possess and use body armor, who is subject to the prohibition  
36 imposed by **subdivision (a)** due to a prior violent felony conviction, may file a  
37 petition with the chief of police or county sheriff of the jurisdiction in which he or  
38 she seeks to possess and use the body armor for an exception to this prohibition.  
39 The chief of police or sheriff may reduce or eliminate the prohibition, impose

1 conditions on reduction or elimination of the prohibition, or otherwise grant relief  
2 from the prohibition as he or she deems appropriate, based on the following:

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

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

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

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

19 (d) Law enforcement officials who enforce the prohibition specified in  
20 subdivision (a) against a person who has been granted relief pursuant to  
21 subdivision (b), shall be immune from any liability for false arrest arising from the  
22 enforcement of this subdivision unless the person has in his or her possession a  
23 certified copy of the permission granting the person relief from the prohibition, as  
24 required by subdivision (c). This immunity from liability does not relieve any  
25 person or entity from any other liability that might otherwise be imposed.

26 (e) For purposes of this section only, "violent felony" refers to the specific  
27 crimes listed in subdivision (c) of Section 667.5, and to crimes defined under the  
28 applicable laws of the United States or any other state, government, or country that  
29 are reasonably equivalent to the crimes listed in subdivision (c) of Section 667.5.

## 30 CHAPTER 4. TEAR GAS WEAPONS

### 31 Article 1. General Provisions

#### 32 Penal Code § 12401. "Tear gas"

33 12401. "Tear gas" as used in this chapter shall apply to and include all liquid,  
34 gaseous or solid substances intended to produce temporary physical discomfort or  
35 permanent injury through being vaporized or otherwise dispersed in the air, but  
36 does not apply to, and shall not include, any substance registered as an economic  
37 poison as provided in Chapter 2 (commencing with Section 12751) of Division 7  
38 of the Agricultural Code provided that such substance is not intended to be used to  
39 produce discomfort or injury to human beings.

1 **Penal Code § 12402. “Tear gas weapon”**

2 12402. The term “tear gas weapon” as used in this chapter shall apply to and  
3 include:

4 (a) Any shell, cartridge, or bomb capable of being discharged or exploded, when  
5 the discharge or explosion will cause or permit the release or emission of tear  
6 gases.

7 (b) Any revolvers, pistols, fountain pen guns, billies, or other form of device,  
8 portable or fixed, intended for the projection or release of tear gas except those  
9 regularly manufactured and sold for use with firearm ammunition.

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

11 12403. Nothing in this chapter shall prohibit any person who is a peace officer,  
12 as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2,  
13 from purchasing, possessing, transporting, or using any tear gas or tear gas  
14 weapon if the person has satisfactorily completed a course of instruction approved  
15 by the Commission on Peace Officer Standards and Training in the use of tear gas.

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

17 12403.1. Nothing in this chapter shall prohibit any member of the military and  
18 naval forces of this state or of the United States or any federal law enforcement  
19 officer from purchasing, possessing, or transporting any tear gas or tear gas  
20 weapon for official use in the discharge of his duties.

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

22 12403.5. Notwithstanding any other provision of law, a person holding a license  
23 as a private investigator or private patrol operator issued pursuant to Chapter 11  
24 (commencing with Section 7500), Division 3 of the Business and Professions  
25 Code, or uniformed patrolmen employees of a private patrol operator, may  
26 purchase, possess, or transport any tear gas weapon, if it is used solely for  
27 defensive purposes in the course of the activity for which the license was issued  
28 and if the person has satisfactorily completed a course of instruction approved by  
29 the Department of Consumer Affairs in the use of tear gas.

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

31 12403.7. Notwithstanding any other law, any person may purchase, possess, or  
32 use tear gas and tear gas weapons for the projection or release of tear gas if the  
33 tear gas and tear gas weapons are used solely for self-defense purposes, subject to  
34 the following requirements:

35 (a) No person convicted of a felony or any crime involving an assault under the  
36 laws of the United States, the State of California, or any other state, government,  
37 or country or convicted of misuse of tear gas under subdivision (g) shall purchase,  
38 possess, or use tear gas or tear gas weapons.

1 (b) No person who is addicted to any narcotic drug shall purchase, possess, or  
2 use tear gas or tear gas weapons.

3 (c) No person shall sell or furnish any tear gas or tear gas weapon to a minor.

4 (d) No person who is a minor shall purchase, possess, or use tear gas or tear gas  
5 weapons.

6 (e)(1) No person shall purchase, possess, or use any tear gas weapon that expels  
7 a projectile, or that expels the tear gas by any method other than an aerosol spray,  
8 or that contains more than 2.5 ounces net weight of aerosol spray.

9 (2) Every tear gas container and tear gas weapon that may be lawfully  
10 purchased, possessed, and used pursuant to **this section** shall have a label that  
11 states: “WARNING: The use of this substance or device for any purpose other  
12 than self-defense is a crime under the law. The contents are dangerous — use with  
13 care.”

14 (3) After January 1, 1984, every tear gas container and tear gas weapon that may  
15 be lawfully purchased, possessed, and used pursuant to **this section** shall have a  
16 label that discloses the date on which the useful life of the tear gas weapon  
17 expires.

18 (4) Every tear gas container and tear gas weapon that may be lawfully purchased  
19 pursuant to **this section** shall be accompanied at the time of purchase by printed  
20 instructions for use.

21 (f) Effective March 1, 1994, every tear gas container and tear gas weapon that  
22 may be lawfully purchased, possessed, and used pursuant to **this section** shall be  
23 accompanied by an insert including directions for use, first aid information, safety  
24 and storage information, and explanation of the legal ramifications of improper  
25 use of the tear gas container or tear gas product.

26 (g) Any person who uses tear gas or tear gas weapons except in self-defense is  
27 guilty of a public offense and is punishable by imprisonment in a state prison for  
28 16 months, or two or three years or in a county jail not to exceed one year or by a  
29 fine not to exceed one thousand dollars (\$1,000), or by both the fine and  
30 imprisonment, except that, if the use is against a peace officer, as defined in  
31 **Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2**, engaged in the  
32 performance of his or her official duties and the person committing the offense  
33 knows or reasonably should know that the victim is a peace officer, the offense is  
34 punishable by imprisonment in a state prison for 16 months or two or three years  
35 or by a fine of one thousand dollars (\$1,000), or by both the fine and  
36 imprisonment.

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

38 12403.8. (a) Notwithstanding **paragraph (4) of subdivision (a) of Section**  
39 **12403.7**, a minor who has attained the age of 16 years may purchase and possess  
40 tear gas or tear gas weapons pursuant to **this chapter** if he or she is accompanied  
41 by a parent or guardian, or has the written consent of his or her parent or guardian.

1 (b) Notwithstanding paragraph (3) of subdivision (a) of Section 12403.7, a  
2 person may sell or furnish tear gas or a tear gas weapon to a minor who has  
3 attained the age of 16 years and who is accompanied by a parent or guardian, or  
4 who presents a statement of consent signed by the minor's parent or guardian.

5 (c) Any civil liability of a minor arising out of his or her use of tear gas or a tear  
6 gas weapon other than for self-defense is imposed upon the person, parent, or  
7 guardian who signed the statement of consent specified in subdivision (b) who  
8 shall be jointly and severally liable with the minor for any damages proximately  
9 resulting from the negligent or wrongful act or omission of the minor in the use of  
10 the tear gas or a tear gas weapon.

11 **Penal Code § 12403.9. Custodial officers of any county**

12 12403.9. Custodial officers of any county may carry tear gas weapons pursuant  
13 to Section 12403 only while on duty. These custodial officers may carry tear gas  
14 weapons while off duty only in accordance with all other laws.

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

16 12404. Nothing in this chapter authorizes the possession of tear gas or tear gas  
17 weapons in any institution described in Section 4574, or within the grounds  
18 belonging or adjacent to any such institution, except where authorized by the  
19 person in charge of such institution.

20 Article 2. Unlawful Possession and Sale

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

22 12420. Any person, firm, or corporation who within this state knowingly sells or  
23 offers for sale, possesses, or transports any tear gas or tear gas weapon, except as  
24 permitted under the provisions of this chapter, is guilty of a public offense and  
25 upon conviction thereof shall be punishable by imprisonment in the county jail for  
26 not exceeding one year or by a fine not to exceed two thousand dollars (\$2,000),  
27 or by both.

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

29 12421. Each tear gas weapon sold, transported or possessed under the authority  
30 of this chapter shall bear the name of the manufacturer and a serial number applied  
31 by him.

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

34 12422. Any person who changes, alters, removes or obliterates the name of the  
35 manufacturer, the serial number or any other mark of identification on any tear gas  
36 weapon is guilty of a public offense and, upon conviction, shall be punished by

1 imprisonment in the state prison or by a fine of not more than two thousand dollars  
2 (\$2,000) or by both.

3 Possession of any such weapon upon which the same shall have been changed,  
4 altered, removed, or obliterated, shall be presumptive evidence that such possessor  
5 has changed, altered, removed, or obliterated the same.

### 6 Article 3. Permits

#### 7 **Penal Code § 12423. Permit issued by Department of Justice**

8 12423. The Department of Justice may issue a permit for the possession and  
9 transportation of tear gas or tear gas weapons that are not intended or certified for  
10 personal self-defense purposes, upon proof that good cause exists for the issuance  
11 thereof to the applicant for this permit. The permit may also allow the applicant to  
12 install, maintain, and operate a protective system involving the use of tear gas or  
13 tear gas weapons in any place which is accurately and completely described in the  
14 application for the permit.

#### 15 **Penal Code § 12424. Permit application**

16 12424. Applications for permits shall be filed in writing, signed by the applicant  
17 if an individual, or by a member or officer qualified to sign if the applicant is a  
18 firm or corporation, and shall state the name, business in which engaged, business  
19 address and a full description of the place or vehicle in which the tear gas or tear  
20 gas weapons are to be transported, kept, installed, or maintained.

21 If the tear gas or tear gas weapons are to be used in connection with, or to  
22 constitute, a protective system, the application shall also contain the name of the  
23 person who is to install the protective system.

24 Applications and permits shall be uniform throughout the state upon forms  
25 prescribed by the Department of Justice.

26 Each applicant for a permit shall pay at the time of filing his or her application a  
27 fee determined by the Department of Justice not to exceed the application  
28 processing costs of the Department of Justice. A permit granted pursuant to **this**  
29 **article** may be renewed one year from the date of issuance, and annually  
30 thereafter, upon the filing of a renewal application and the payment of a permit  
31 renewal fee not to exceed the application processing costs of the Department of  
32 Justice. After the department establishes fees sufficient to reimburse the  
33 department for processing costs, fees charged shall increase at a rate not to exceed  
34 the legislatively approved annual cost-of-living adjustments for the department's  
35 budget.

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

37 12424.5. Notwithstanding **Section 12423**, a bank, a savings and loan association,  
38 a credit union, or an industrial loan company which maintains more than one  
39 office or branch may make a single annual application for a permit. In addition to

1 the requirements set forth in **this article**, that application shall separately state the  
2 business address and a full description of each office or branch in which the tear  
3 gas or tear gas weapons are to be kept, installed, or maintained. Any location  
4 additions or deletions as to offices or branches shall be reported to the department  
5 within 60 days of the change.

6 A single permit issued under **this section** shall allow for the possession,  
7 operation, and maintenance of tear gas at each office or branch named in the  
8 application, including location changes.

9 **Penal Code § 12425. Storage of permit**

10 12425. Every person, firm or corporation to whom a permit is issued shall either  
11 carry the permit upon his person or keep it in the place described in the permit.  
12 The permit shall be open to inspection by any peace officer or other person  
13 designated by the authority issuing the permit.

14 **Penal Code § 12426. Revocation or suspension of permit**

15 12426. Permits issued in accordance with **this article** may be revoked or  
16 suspended by the issuing authority at any time when it appears that the need for  
17 the possession or transportation of the tear gas or tear gas weapons or protective  
18 system involving the use thereof, has ceased, or that the holder of the permit has  
19 engaged in an unlawful business or occupation or has wrongfully made use of the  
20 tear gas or tear gas weapons or the permit issued.

21 CHAPTER 5. FIREARM DEVICES

22 Article 1. General Provisions

23 **Penal Code § 12500. “Silencer”**

24 12500. The term **“silencer”** as used in **this chapter** means any device or  
25 attachment of any kind designed, used, or intended for use in silencing,  
26 diminishing, or muffling the report of a firearm. The term **“silencer”** also includes  
27 any combination of parts, designed or redesigned, and intended for use in  
28 assembling a silencer or fabricating a silencer and any part intended only for use in  
29 such assembly or fabrication.

30 **Penal Code § 12501. Limitations on application of silencer laws**

31 12501. **Section 12520** shall not apply to, or affect, any of the following:

32 (a) The sale to, purchase by, or possession of silencers by agencies listed in  
33 **Section 830.1**, or the military or naval forces of this state or of the United States  
34 for use in the discharge of their official duties.

35 (b) The possession of silencers by regular, salaried, full-time peace officers who  
36 are employed by an agency listed in **Section 830.1**, or by the military or naval

1 forces of this state or of the United States when on duty and when the use of  
2 silencers is authorized by the agency and is within the course and scope of their  
3 duties.

4 (c) The manufacture, possession, transportation, or sale or other transfer of  
5 silencers to an entity described in subdivision (a) by dealers or manufacturers  
6 registered under Chapter 53 (commencing with Section 5801) of Title 26 of the  
7 United States Code, and the regulations issued pursuant thereto.

## 8 Article 2. Unlawful Possession of Firearm Silencers

### 9 Penal Code § 12520. Unlawful possession of silencer

10 12520. Any person, firm, or corporation who within this state possesses a  
11 silencer is guilty of a felony and upon conviction thereof shall be punished by  
12 imprisonment in the state prison or by a fine not to exceed ten thousand dollars  
13 (\$10,000) or by both.

## 14 CHAPTER 6. MISCELLANEOUS

### 15 Article 1. BB Devices and Imitation Firearms

#### 16 Penal Code § 12550. Definitions

17 12550. As used in this article, the following definitions apply:

18 (a) “**BB device**” is defined in subdivision (g) of Section 12001.

19 (b) “**Firearm**” is defined in subdivision (b) of Section 12001.

20 (c) “**Imitation firearm**” means any BB device, toy gun, replica of a firearm, or  
21 other device that is so substantially similar in coloration and overall appearance to  
22 an existing firearm as to lead a reasonable person to perceive that the device is a  
23 firearm.

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

25 12551. Every person who sells to a minor any BB device is guilty of a  
26 misdemeanor.

#### 27 Penal Code § 12552. Prohibition against furnishing BB device to minor without parental 28 permission

29 12552. (a) Every person who furnishes any BB device to any minor, without the  
30 express or implied permission of the parent or legal guardian of the minor, is  
31 guilty of a misdemeanor.

32 (b) As used in this section, “**furnishes**” means any of the following:

33 (1) A loan.

34 (2) A transfer that does not involve a sale.

1 **Penal Code § 12553. Failure to comply with laws governing appearance of imitation firearm**  
2 **or specified devices**

3 12553. (a)(1) Any person who changes, alters, removes, or obliterates any  
4 coloration or markings that are required by any applicable state or federal law or  
5 regulation, for any imitation firearm, or device described in **subdivision (c)** of  
6 **Section 12555**, in any way that makes the imitation firearm or device look more  
7 like a firearm is guilty of a misdemeanor.

8 (2) **This subdivision** shall not apply to a manufacturer, importer, or distributor of  
9 imitation firearms or to the lawful use in theatrical productions, including motion  
10 pictures, television, and stage productions.

11 (b) Any manufacturer, importer, or distributor of imitation firearms that fails to  
12 comply with any applicable federal law or regulation governing the marking of a  
13 toy, look-alike or imitation firearm as defined by federal law or regulation is guilty  
14 of a misdemeanor.

15 **Penal Code § 12554. Advisory requirement for imitation firearm**

16 12554. (a) Any imitation firearm manufactured after July 1, 2005, shall, at the  
17 time of offer for sale in this state, be accompanied by a conspicuous advisory in  
18 writing as part of the packaging, but not necessarily affixed to the imitation  
19 firearm, to the effect that the product may be mistaken for a firearm by law  
20 enforcement officers or others, that altering the coloration or markings required by  
21 state or federal law or regulations so as to make the product look more like a  
22 firearm is dangerous, and may be a crime, and that brandishing or displaying the  
23 product in public may cause confusion and may be a crime.

24 (b) Any manufacturer, importer, or distributor that fails to comply with this  
25 advisory for any imitation firearm manufactured after July 1, 2005, shall be liable  
26 for a civil fine for each action brought by a city attorney or district attorney of not  
27 more than one thousand dollars (\$1,000) for the first action, five thousand dollars  
28 (\$5,000) for the second action, and ten thousand dollars (\$10,000) for the third  
29 action and each subsequent action.

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

31 12555. (a) Any person who, for commercial purposes, purchases, sells,  
32 manufactures, ships, transports, distributes, or receives, by mail order or in any  
33 other manner, an imitation firearm except as authorized by **this section** shall be  
34 liable for a civil fine in an action brought by the city attorney or the district  
35 attorney of not more than ten thousand dollars (\$10,000) for each violation.

36 (b) The manufacture, purchase, sale, shipping, transport, distribution, or receipt,  
37 by mail or in any other manner, of imitation firearms is authorized if the device is  
38 manufactured, purchased, sold, shipped, transported, distributed, or received for  
39 any of the following purposes:

40 (1) Solely for export in interstate or foreign commerce.

1 (2) Solely for lawful use in theatrical productions, including motion picture,  
2 television, and stage productions.

3 (3) For use in a certified or regulated sporting event or competition.

4 (4) For use in military or civil defense activities, or ceremonial activities.

5 (5) For public displays authorized by public or private schools.

6 (c) As used in **this section**, “**imitation firearm**” does not include any of the  
7 following:

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

10 (2) A BB device, as defined in **subdivision (g) of Section 12001**.

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

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

19 12556. (a) No person may openly display or expose any imitation firearm, as  
20 defined in **Section 12550**, in a public place.

21 (b) Violation of **this section**, except as provided in **subdivision (c)**, is an  
22 infraction punishable by a fine of one hundred dollars (\$100) for the first offense,  
23 and three hundred dollars (\$300) for a second offense.

24 (c) A third or subsequent violation of **this section** is punishable as a  
25 misdemeanor.

26 (d) **Subdivision (a)** shall not apply to the following, when the imitation firearm  
27 is:

28 (1) Packaged or concealed so that it is not subject to public viewing.

29 (2) Displayed or exposed in the course of commerce, including commercial film  
30 or video productions, or for service, repair, or restoration of the imitation firearm.

31 (3) Used in a theatrical production, a motion picture, video, television, or stage  
32 production.

33 (4) Used in conjunction with a certified or regulated sporting event or  
34 competition.

35 (5) Used in conjunction with lawful hunting, or lawful pest control activities.

36 (6) Used or possessed at certified or regulated public or private shooting ranges.

37 (7) Used at fairs, exhibitions, expositions, or other similar activities for which a  
38 permit has been obtained from a local or state government.

39 (8) Used in military, civil defense, or civic activities, including flag ceremonies,  
40 color guards, parades, award presentations, historical reenactments, and  
41 memorials.

1 (9) Used for public displays authorized by public or private schools or displays  
2 that are part of a museum collection.

3 (10) Used in parades, ceremonies, or other similar activities for which a permit  
4 has been obtained from a local or state government.

5 (11) Displayed on a wall plaque or in a presentation case.

6 (12) Used in areas where the discharge of a firearm is lawful.

7 (13) A device where the entire exterior surface of the device is white, bright red,  
8 bright orange, bright yellow, bright green, bright blue, bright pink, or bright  
9 purple, either singly or as the predominant color in combination with other colors  
10 in any pattern, or where the entire device is constructed of transparent or  
11 translucent materials which permits unmistakable observation of the device's  
12 complete contents. Merely having an orange tip as provided in federal law and  
13 regulations does not satisfy this requirement. The entire surface must be colored or  
14 transparent or translucent.

15 (e) For purposes of this section, the term “**public place**” means an area open to  
16 the public and includes streets, sidewalks, bridges, alleys, plazas, parks,  
17 driveways, front yards, parking lots, automobiles, whether moving or not, and  
18 buildings open to the general public, including those that serve food or drink, or  
19 provide entertainment, and the doorways and entrances to buildings or dwellings.

20 (f) Nothing in this section shall be construed to preclude prosecution for a  
21 violation of Section 171b, 171.5, or 626.10.

## 22 Article 4. Blowguns

### 23 Penal Code § 12580. “Blowgun”

24 12580. “**Blowgun,**” as used in this article, means a hollow tube designed and  
25 intended to be used as a tube through which a dart is propelled by the force of the  
26 breath of the user.

### 27 Penal Code § 12581. “Blowgun ammunition”

28 12581. “**Blowgun ammunition,**” as used in this article, means a dart designed  
29 and intended for use in a blowgun.

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

31 12582. Any person who knowingly manufactures, sells, offers for sale,  
32 possesses, or uses a blowgun or blowgun ammunition in this state is guilty of a  
33 misdemeanor.

### 34 Penal Code § 12583. Use of blowgun or blowgun ammunition by veterinarian or animal 35 control professional

36 12583. Nothing in this article shall prohibit the sale to, purchase by, possession  
37 of, or use of blowguns or blowgun ammunition by zookeepers, animal control  
38 officers, Department of Fish and Game personnel, humane officers whose names

1 are maintained in the county record of humane officers pursuant to **Section 14502**  
2 of the **Corporations Code**, or veterinarians in the course and scope of their  
3 business in order to administer medicine to animals.

#### 4 Article 5. Picketing

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

6 12590. (a) Any person who does any of the following acts while engaged in  
7 picketing, or other informational activities in a public place relating to a concerted  
8 refusal to work, is guilty of a misdemeanor:

9 (1) Carries concealed upon his person or within any vehicle which is under his  
10 or her control or direction any pistol, revolver, or other firearm capable of being  
11 concealed upon the person.

12 (2) Carries a loaded firearm upon his or her person or within any vehicle which  
13 is under his or her control or direction.

14 (3) Carries a deadly weapon.

15 (4) Wears the uniform of a peace officer, whether or not the person is a peace  
16 officer.

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

19 (c) **Section 12027** shall not be construed to authorize any conduct described in  
20 paragraph (1) of subdivision (a), nor shall subdivision (b) of Section 12031 be  
21 construed to authorize any conduct described in paragraph (2) of subdivision (a).

#### 22 Article 6. Less Lethal Weapons

##### 23 **Penal Code § 12600. Less lethal weapon or ammunition for official use by peace officer or** 24 **custodial officer**

25 12600. A person who is a peace officer or a custodial officer as defined in  
26 **Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2** may if authorized  
27 by and under the terms and conditions as are specified by his or her employing  
28 agency purchase, possess, or transport any less lethal weapon or ammunition  
29 therefor, for official use in the discharge of his or her duties.

##### 30 **Penal Code § 12601. “Less lethal weapon” and “less lethal ammunition”**

31 12601. (a) **“Less lethal weapon”** means any device that is designed to or that  
32 has been converted to expel or propel less lethal ammunition by any action,  
33 mechanism, or process for the purpose of incapacitating, immobilizing, or  
34 stunning a human being through the infliction of any less than lethal impairment  
35 of physical condition, function, or senses, including physical pain or discomfort. It  
36 is not necessary that a weapon leave any lasting or permanent incapacitation,  
37 discomfort, pain, or other injury or disability in order to qualify as a less lethal  
38 weapon.

1 (b) Less lethal weapon includes the frame or receiver of any weapon described  
2 in subdivision (a), but does not include any of the following unless the part or  
3 weapon has been converted as described in subdivision (a):

4 (1) Pistol, revolver, or firearm as defined in Section 12001.

5 (2) Machinegun as defined in Section 12200.

6 (3) Rifle or shotgun using fixed ammunition consisting of standard primer and  
7 powder and not capable of being concealed upon the person.

8 (4) Pistols, rifles, and shotguns that are firearms having a barrel less than 0.18  
9 inches in diameter and that are designed to expel a projectile by any mechanical  
10 means or by compressed air or gas.

11 (5) When used as designed or intended by the manufacturer, any weapon  
12 commonly regarded as a toy gun, and that as such is incapable of inflicting any  
13 impairment of physical condition, function, or senses.

14 (6) A destructive device as defined in Section 12301.

15 (7) A tear gas weapon as defined in Section 12402.

16 (8) A bow or crossbow designed to shoot arrows.

17 (9) A device commonly known as a slingshot.

18 (10) A device designed for the firing of stud cartridges, explosive rivets, or  
19 similar industrial ammunition.

20 (11) A device designed for signaling, illumination, or safety.

21 (12) An assault weapon as defined in Section 12276 or 12276.1.

22 (c) **“Less lethal ammunition”** means any ammunition that (1) is designed to be  
23 used in any less lethal weapon or any other kind of weapon (including, but not  
24 limited to, firearms, pistols, revolvers, shotguns, rifles, and spring, compressed air,  
25 and compressed gas weapons) and (2) when used in the less lethal weapon or other  
26 weapon is designed to immobilize or incapacitate or stun a human being through  
27 the infliction of any less than lethal impairment of physical condition, function, or  
28 senses, including physical pain or discomfort.

## 29 Article 7. Stun Guns

### 30 Penal Code § 12650. “Stun gun”

31 12650. **“Stun gun”** as used in this chapter shall include any item, except a taser,  
32 used or intended to be used as either an offensive or defensive weapon capable of  
33 temporarily immobilizing a person by the infliction of an electrical charge.

### 34 Penal Code § 12651. Unlawful acts relating to stun guns

35 12651. Notwithstanding any other provision of law, any person may purchase,  
36 possess, or use a stun gun, subject to the following requirements:

37 (a) No person convicted of a felony or any crime involving an assault under the  
38 laws of the United States, of the State of California, or any other state,  
39 government, or country or convicted of misuse of a stun gun under Section 244.5,  
40 shall purchase, possess, or use stun guns.

1 (b) No person who is addicted to any narcotic drug shall purchase, possess, or  
2 use a stun gun.

3 (c) No person shall sell or furnish any stun gun to a minor unless the minor is at  
4 least 16 years of age and has the written consent of his or her parent or legal  
5 guardian.

6 Violation of **this subdivision** shall be a public offense punishable by a fifty  
7 dollar (\$50) fine for the first offense. Any subsequent violation of **this subdivision**  
8 is a misdemeanor.

9 (d) No minor shall possess any stun gun unless the minor is at least 16 years of  
10 age and has the written consent of his or her parent or legal guardian.

11 **Penal Code § 12652. Serial number and name of manufacturer**

12 12652. Each stun gun sold shall contain both of the following:

13 (a) The name of the manufacturer stamped on the stun gun.

14 (b) The serial number applied by the manufacturer.

15 **Penal Code § 12653. Violation punishable as misdemeanor**

16 12653. Unless otherwise specified, any violation of **this article** is a  
17 misdemeanor.

18 **Penal Code § 12654. Instruction booklet for stun gun**

19 12654. Each stun gun sold in this state shall be accompanied by an instruction  
20 booklet.

21 Violation of **this section** shall be a public offense punishable by a fifty dollar  
22 (\$50) fine for each weapon sold without the booklet.

23 Article 8. Handgun Safety Certificate

24 **Penal Code § 12800. Intent of Legislature**

25 12800. It is the intent of the Legislature in enacting **this article** to require that  
26 persons who obtain handguns have a basic familiarity with those firearms,  
27 including, but not limited to, the safe handling and storage of those firearms. It is  
28 not the intent of the Legislature to require a handgun safety certificate for the mere  
29 possession of a firearm.

30 **Penal Code § 12801. Definitions and handgun safety certificate requirement**

31 12801. (a) As used in **this article**, the following definitions shall apply:

32 (1) **“Department”** means the Department of Justice.

33 (2) **“DOJ Certified Instructor”** or **“certified instructor”** means a person  
34 designated as a handgun safety instructor by the Department of Justice pursuant to  
35 **subdivision (d) of Section 12804**.

36 (b) No person shall do either of the following:

1 (1) Purchase or receive any handgun, except an antique firearm, as defined in  
2 paragraph (16) of subsection (a) of Section 921 of Title 18 of the United States  
3 Code, without a valid handgun safety certificate.

4 (2) Sell, deliver, loan, or transfer any handgun, except an antique firearm, as  
5 defined in paragraph (16) of subsection (a) of Section 921 of Title 18 of the United  
6 States Code, to any person who does not have a valid handgun safety certificate.

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

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

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

14 12802. (a) No person may commit an act of collusion as specified in Section  
15 12072.

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

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

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

25 12803. (a) No certified instructor may issue a handgun safety certificate to any  
26 person who has not complied with this article. Proof of compliance shall be  
27 forwarded to the department by certified instructors as frequently as the  
28 department may determine.

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

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

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

34 12804. (a) The department shall develop an instruction manual in English and in  
35 Spanish by October 1, 2002. The department shall make the instructional manual  
36 available to firearms dealers licensed pursuant to Section 12071, who shall make it  
37 available to the general public. Essential portions of the manual may be included  
38 in the pamphlet described in Section 12080.

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

1 (c)(1) The department shall develop a written objective test, in English and in  
2 Spanish, and prescribe its content, form, and manner, to be administered by an  
3 instructor certified by the department. If the person taking the test is unable to  
4 read, the examination shall be administered orally. The test shall cover, but not be  
5 limited to, all of the following:

6 (A) The laws applicable to carrying and handling firearms, particularly  
7 handguns.

8 (B) The responsibilities of ownership of firearms, particularly handguns.

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

10 (D) Current law as it relates to the permissible use of lethal force.

11 (E) What constitutes safe firearm storage.

12 (F) Issues associated with bringing a handgun into the home.

13 (G) Prevention strategies to address issues associated with bringing firearms into  
14 the home.

15 (2) If the person taking the test is unable to read English or Spanish, the test may  
16 be applied orally by a translator.

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

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

24 (f) The department shall solicit input from any reputable association or  
25 organization, including any law enforcement association that has as one of its  
26 objectives the promotion of firearms safety, in the development of the handgun  
27 safety certificate instructional materials.

28 (g) The department shall develop handgun safety certificates to be issued by  
29 instructors certified by the department, to those persons who have complied with  
30 **this article**.

31 (h) The department shall be immune from any liability arising from  
32 implementing **this section**.

33 (i) The department shall update test materials related to **this article** every five  
34 years.

35 (j) Department Certified Instructor applicants shall have a certification to  
36 provide training from one of the following organizations as specified, or any entity  
37 found by the department to give comparable instruction in firearms safety, or the  
38 applicant shall have similar or equivalent training to that provided by the  
39 following, as determined by the department:

40 (1) Department of Consumer Affairs, State of California-Firearm Training  
41 Instructor.

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

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

1 (4) Federal Law Enforcement Training Center, Firearm Instructor Training  
2 Program or Rangemaster.

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

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

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

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

12 **Penal Code § 12805. Test procedure and fees**

13 12805. (a) An applicant for a handgun safety certificate shall successfully pass  
14 the objective test referred to in paragraph (1) of subdivision (c) of Section 12804,  
15 with a passing grade of at least 75 percent. Any person receiving a passing grade  
16 on the objective test shall immediately be issued a handgun safety certificate by  
17 the instructor.

18 (b) An applicant who fails to pass the objective test upon the first attempt shall  
19 be offered additional instructional materials by the instructor such as a videotape  
20 or booklet. The person may not retake the objective test under any circumstances  
21 until 24 hours have elapsed after the failure to pass the objective test upon the first  
22 attempt. The person failing the test on the first attempt shall take another version  
23 of the test upon the second attempt. All tests shall be taken from the same  
24 instructor except upon permission by the department, which shall be granted only  
25 for good cause shown. The instructor shall make himself or herself available to the  
26 applicant during regular business hours in order to retake the test.

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

29 (d) An applicant to renew a handgun safety certificate shall be required to pass  
30 the objective test. The certified instructor may charge a fee of twenty-five dollars  
31 (\$25), fifteen dollars (\$15) of which is to be forwarded to the department pursuant  
32 to subdivision (e).

33 (e) The department may charge the certified instructor up to fifteen dollars (\$15)  
34 for each handgun safety certificate issued by that instructor to cover the  
35 department's cost in carrying out and enforcing this article, and enforcing this title,  
36 as determined annually by the department.

37 (f) All money received by the department pursuant to this article shall be  
38 deposited into the Firearms Safety and Enforcement Special Fund created pursuant  
39 to Section 12076.5.

40 (g) The department shall conduct enforcement activities, including, but not  
41 limited to, law enforcement activities to ensure compliance with Title 2  
42 (commencing with Section 12000) of Part 4.

1 **Penal Code § 12806. Content of handgun safety certificate**

2 12806. (a) A handgun safety certificate shall include, but not be limited to, the  
3 following information:

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

5 (2) The holder's full name.

6 (3) The holder's date of birth.

7 (4) The holder's driver's license or identification number.

8 (5) The holder's signature.

9 (6) The signature of the issuing instructor.

10 (7) The date of issuance.

11 (b) The handgun safety certificate shall expire five years after the date that it  
12 was issued by the certified instructor.

13 **Penal Code § 12807. Exemptions from handgun safety certificate requirement**

14 12807. (a) The following persons, properly identified, are exempted from the  
15 handgun safety certificate requirement in subdivision (b) of Section 12801:

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

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

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

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

22 (5) A firearms dealer licensed pursuant to Section 12071, who is acting in the  
23 course and scope of his or her activities as a person licensed pursuant to Section  
24 12071.

25 (6) A federally licensed collector who is acquiring or being loaned a handgun  
26 that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of  
27 Federal Regulations, who has a current certificate of eligibility issued to him or  
28 her by the department pursuant to Section 12071.

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

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

33 (9) Any individual who has a valid concealed weapons permit issued pursuant to  
34 Section 12050.

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

41 (11) Any person who is authorized to carry loaded firearms pursuant to  
42 subdivision (c) or (d) of Section 12031.

1 (12) Persons who are the holders of a special weapons permit issued by the  
2 department pursuant to Section 12095, 12230, 12250, or 12305.

3 (b) The following persons who take title or possession of a handgun by  
4 operation of law in a representative capacity, until or unless they transfer title  
5 ownership of the handgun to themselves in a personal capacity, are exempted from  
6 the handgun safety certificate requirement in subdivision (b) of Section 12801:

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

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

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

14 (4) A receiver performing his or her functions as a receiver.

15 (5) A trustee in bankruptcy performing his or her duties.

16 (6) An assignee for the benefit of creditors performing his or her functions as an  
17 assignee.

18 **Penal Code § 12808. Duplicate certificate**

19 12808. (a) In the case of loss or destruction of a handgun safety certificate, the  
20 issuing instructor shall issue a duplicate certificate upon request and proof of  
21 identification to the certificate holder.

22 (b) The department may authorize the issuing instructor to charge a fee not to  
23 exceed fifteen dollars (\$15), for a duplicate certificate. Revenues from this fee  
24 shall be deposited in the Firearms Safety and Enforcement Special Fund, created  
25 pursuant to Section 12076.5.

26 **Penal Code § 12809. Operative date**

27 12809. Except for the provisions of Section 12804, this article shall become  
28 operative on January 1, 2003.