

## Memorandum 2008-39

**Nonsubstantive Reorganization of Deadly Weapon Statutes:  
Title 4. Firearms (Divisions 4-5)**

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In its nonsubstantive study of the statutes relating to deadly weapons, the Commission is in the process of preparing a tentative recommendation, which will be broadly circulated for comment. The plan is to reorganize the material in Title 2 of Part 4 of the Penal Code (Penal Code §§ 12000-12809) in a user-friendly manner in a new Part 6 of the Penal Code, without making any substantive changes. For an outline of new Part 6, see Memorandum 2008-38.

Attached is a draft of Divisions 4 and 5 of "Title 4. Firearms" of new Part 6. **Commissioners and interested persons should review the draft and determine whether any revisions are needed before it is incorporated into a tentative recommendation.**

Two general issues relating to the draft are discussed below: (1) the use of singular versus plural form, and (2) conforming of statutory cross-references. Staff Notes (~~is~~ **Staff Note**) in the attached draft raise other matters for Commissioners and interested persons to consider. **The staff does not plan to discuss each of these matters at the upcoming meeting.** Rather, persons should review the draft, identify any issues of concern, and then raise those issues for discussion at the meeting or express their concerns in writing, preferably before the meeting (but afterwards is also acceptable).

Unless otherwise indicated, all statutory references are to the Penal Code.

## SINGULAR VERSUS PLURAL FORM

In preparing the attached draft, the staff tried to use the Commission's usual style of drafting statutory provisions in the singular form instead of in the plural form. For example, we would say "subdivision (a) does not apply to any peace officer of another state or the federal government ...." instead of "subdivision (a) does not apply to peace officers of other states and the federal government ...."

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

The singular form is more crisp and clear. There is no difference in meaning, because “the singular number includes the plural, and the plural the singular ....” Penal Code § 7. The nonsubstantive nature of the reform would be underscored by the Commission’s Comment (“Section X continues former Section Y without substantive change”), the narrative portion of the Commission’s report, and an uncodified provision in the proposed legislation. See Memorandum 2007-5, pp. 10-11; Minutes (Jan. 2007), p. 7.

However, many of the provisions currently in Title 2 of Part 4 of the Penal Code are drafted in the plural form. Converting them to the singular form without any risk of a change in meaning is not always easy, particularly if the current phrasing is unclear.

The staff has therefore left some provisions in the plural form in the attached draft (see, e.g., proposed Sections 25625, 26025, 26030). We expect to have to do this with other provisions as this study progresses. This is perhaps an overabundance of caution, but it may be necessary to help provide assurance that the Commission’s proposal is strictly nonsubstantive. We invite comment on this matter.

If the Commission’s proposal is enacted, it might be appropriate to revisit the plural form provisions and assess whether they should be redrafted in singular form. Unless the Commission otherwise directs, the staff will add this issue to the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” See Memorandum 2008-41.

#### CONFORMING OF STATUTORY CROSS-REFERENCES

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

Often, an existing cross-reference can simply be replaced by a cross-reference to a new provision containing the exact same material as the previously cross-referenced provision. For example, the second sentence of existing Section 12052 says: “Upon receipt of the fingerprints and the fee *as prescribed in Section 12054*, the department shall promptly furnish the forwarding licensing authority a report ....” (Emphasis added.) The substance of existing Section 12054 would be recodified as proposed Section 26190. See Attachment pp. 51-52. Consequently, the existing cross-reference to Section 12054 can be replaced with a cross-

reference to proposed Section 26190. The provision that continues the second sentence of existing Section 12052 (proposed Section 26185) would thus say: "Upon receipt of the fingerprints and the fee *as prescribed in Section 26190*, the department shall promptly furnish the forwarding licensing authority a report ...." See Attachment p. 50 (emphasis added).

In some instances, however, that approach does not make sense. For example, existing Section 12027.1(a)(1)(A)(ii) says:

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

(Emphasis added.) The cross-referenced provision (Section 12027(a)(2)) says:

A retired peace officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall petition the issuing agency for the renewal of his or her privilege to carry a concealed firearm every five years. An honorably retired peace officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a concealed firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of that peace officer, or at any time subsequent thereto, deny or revoke for good cause the retired officer's privilege to carry a concealed firearm. *A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have his or her privilege to carry a concealed firearm denied or revoked by having the agency from which the officer retired stamp on the officer's identification certificate "No CCW privilege."*

(Emphasis added.) The substance of that provision would be recodified as proposed Sections 25465, 25455(d), and 25470.

Suppose the existing cross-reference was replaced by a cross-reference to all three of these sections. Then the provision continuing Section 12027.1(a)(1)(A)(ii) would read:

Any peace officer listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, is authorized to carry a concealed and loaded firearm if the agency issued the officer an identification certificate and the certificate *has*

*not been stamped as specified in Sections 25465, 25470, and subdivision (d) of Section 25455.*

(Emphasis added.) A reader would need to refer to all three sections to determine the meaning of the provision. But the only section that deals with stamping of an identification certificate is Section 25470.

It would thus be more user-friendly to refer only to that section in the provision continuing Section 12027.1(a)(1)(A)(ii). The staff took that approach in the attached draft. Proposed Section 26300(a) would say:

Any peace officer listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, is authorized to carry a concealed and loaded firearm if the agency issued the officer an identification certificate and the certificate *has not been stamped as specified in Section 25470.*

See Attachment p. 58 (emphasis added).

We exercised similar judgment in conforming other cross-references. For example, proposed Section 26150 relates to issuance of a handgun license by a sheriff. It would continue the substance of Section 12050(a)(1)(A), which is the main provision on issuance of a handgun license by a sheriff. It would also continue the substance of Section 12050(a)(1)(D), which states a requirement that is cross-referenced in Section 12050(a)(1)(A). In preparing the attached draft, the staff has replaced cross-references to Section 12050(a)(1)(A) with cross-references to proposed Section 26150, even though proposed Section 26150 includes more material than is now in Section 12050(a)(1)(A). See Attachment pp. 47 (proposed § 26160), 48 (proposed § 26170), 53-54 (proposed § 26210), 56 (proposed § 26220), 57 (proposed § 26225). That makes more sense than trying to refer only to the part of proposed Section 26150 that continues existing Section 12050(a)(1)(A), which would be difficult to describe.

In making such judgment calls, the staff carefully examined the substance of the provisions in question and determined that there would be no substantive change. The Commission's Comments would state as much, and would be official legislative history, to be used by the courts in interpreting the proposed legislation. See *2007-2008 Annual Report*, 37 Cal. L. Revision Comm'n Reports 1, 17-23 (2007) & sources cited therein.

In addition, the narrative portion of the Commission's report would be official legislative history and would emphasize the nonsubstantive nature of the proposed legislation. *See id.* The staff suggests that **the report describe the**

**process of conforming cross-references and expressly state that all cross-references in the proposed legislation are to be construed consistent with the nonsubstantive intent of the reform.**

As previously discussed, the proposed legislation would also include an uncodified provision stating that the legislation is not intended to make any substantive change in the law. The staff further recommends that **the uncodified provision specifically indicate that all cross-references in the proposed legislation are to be interpreted consistent with the nonsubstantive intent of the reform.**

For example, **the uncodified provision could be worded as follows:**

SEC. \_\_. Nothing in this act is intended to substantively change the law relating to deadly weapons. This act is intended to be entirely nonsubstantive in effect. Every provision of this act, including, without limitation, every cross-reference in every provision of this act, shall be interpreted consistent with the nonsubstantive intent of the act.

We encourage comment on this possible language, on the matter of conforming cross-references, and on any other aspect of this study.

Respectfully submitted,

Barbara Gaal  
Chief Deputy Counsel

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1 incendiary material whether or not the device is designed for emergency or  
2 distress signaling purposes.

3 (d) As used in [Sections 12070, 12071, and paragraph (8) of subdivision (a), and  
4 subdivisions (b), (c), (d), and (f) of Section 12072], “firearm” does not include an  
5 unloaded antique firearm.

6 (e) As used in [Section 12030], “firearm” does not include a destructive device.

7 (f) As used in Sections 17280 and [12020(c)(22)(C), 2d ¶], “firearm” has the  
8 same meaning as in Section 922 of Title 18 of the United States Code.

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

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

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

16 Subdivision (d) continues former Section 12001(e) without substantive change. See Section  
17 16710 (“antique firearm”).

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

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

22 **§ 16530. “Firearm capable of being concealed upon the person,” “pistol,” and “revolver”**

23 16530. (a) As used in this part, the terms “firearm capable of being concealed  
24 upon the person,” “pistol,” and “revolver” apply to and include any device  
25 designed to be used as a weapon, from which is expelled a projectile by the force  
26 of any explosion, or other form of combustion, and that has a barrel less than 16  
27 inches in length. These terms also include any device that has a barrel 16 inches or  
28 more in length which is designed to be interchanged with a barrel less than 16  
29 inches in length.

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

33 **Comment.** Subdivision (a) of Section 16530 continues former Section 12001(a)(1) without  
34 substantive change.

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

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



1 has apparent authority to possess or have custody of the firearm. A person who  
2 takes a firearm without the permission of the lawful owner or without the  
3 permission of a person who has lawful custody of the firearm does not have lawful  
4 possession of the firearm.

5 (b) As used in [Section 12031], “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 **Comment.** Subdivision (a) of Section 16750 continues former Section 12025(g) without  
13 substantive change.

14 Subdivision (b) continues former Section 12031(a)(3) without substantive change.

15 See Section 16520 (“firearm”).

16 ....

17 **§ 16840. “Loaded” and “loaded firearm”**

18 16840. (a) As used in [Section 12023], a firearm shall be deemed to be “loaded”  
19 whenever both the firearm and the unexpended ammunition capable of being  
20 discharged from the firearm are in the immediate possession of the same person.

21 (b) As used in [Sections 12025(b)(6)(A), 12031, and 12035],

22 (1) A firearm shall be deemed to be “loaded” when there is an unexpended  
23 cartridge or shell, consisting of a case that holds a charge of powder and a bullet or  
24 shot, in, or attached in any manner to, the firearm, including, but not limited to, in  
25 the firing chamber, magazine, or clip thereof attached to the firearm.

26 (2) Notwithstanding paragraph (1), a muzzle-loader firearm shall be deemed to  
27 be loaded when it is capped or primed and has a powder charge and ball or shot in  
28 the barrel or cylinder.

29 **Comment.** Subdivision (a) of Section 16840 continues former Section 12001(j) without  
30 substantive change.

31 Subdivision (b) continues former Sections 12031(g) and 12035(a)(2) without substantive  
32 change.

33 See Section 16520 (“firearm”).

34 **§ 16850. “Locked container”**

35 16850. As used in [Sections 12020(b)(17)(E), 12026.1, 12026.2, 12035, 12036,  
36 and 12094(b)(4)(E)], “locked container” means a secure container that is fully  
37 enclosed and locked by a padlock, keylock, combination lock, or similar locking  
38 device. The term “locked container” does not include the utility or glove  
39 compartment of a motor vehicle.



## NEW MATERIAL FOR REVIEW AND PROVISIONAL APPROVAL

**Staff Note.** The material shown below is new. Commissioners and other interested persons should review it carefully and determine whether any changes are necessary before it is incorporated into a tentative recommendation.

1

### TITLE 4. FIREARMS

2

#### DIVISION 4. STORAGE OF FIREARMS

3

##### CHAPTER 1. PRELIMINARY PROVISIONS

4

###### § 25000. “Child”

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25000. As used in this division, “child” means a person under 18 years of age.

6

**Comment.** Section 25000 continues former Sections 12035(a)(3) and 12036(a)(2) without substantive change.

7

8

**Staff Note.** Section 12035(a)(3) defines “child” for purposes of that section as “a person under 18 years of age.” Section 12036(a)(2) gives the same definition for purposes of that section. The term is used differently elsewhere.

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To help ensure that the applicable definition of this commonplace word is not overlooked, the Commission decided to place the definition in close proximity to the substance of Sections 12035 and 12036, which relates to storage of firearms. See Memorandum 2008-23, p. 2; Minutes (June 2008), pp. 6-9. Proposed Section 25000 would implement that decision. The Commission and other interested persons should assess whether this treatment of the definition of “child” for the firearm storage restrictions is satisfactory.

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##### CHAPTER 2. CRIMINAL STORAGE OF FIREARM

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###### § 25100. Criminal storage of firearm

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25100. (a) Except as provided in Section 25105, a person commits the crime of “criminal storage of a firearm of the first degree” if all of the following conditions are satisfied:

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22

(1) The person keeps any loaded firearm within any premises that are under the person’s custody or control.

23

24

(2) The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child’s parent or legal guardian.

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(3) The child obtains access to the firearm and thereby causes death or great bodily injury to the child or any other person.

28

29

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(b) Except as provided in Section 25105, a person commits the crime of “criminal storage of a firearm of the second degree” if all of the following conditions are satisfied:

1 (1) The person keeps any loaded firearm within any premises that are under the  
2 person's custody or control.

3 (2) The person knows or reasonably should know that a child is likely to gain  
4 access to the firearm without the permission of the child's parent or legal guardian.

5 (3) The child obtains access to the firearm and thereby causes injury, other than  
6 great bodily injury, to the child or any other person, or carries the firearm either to  
7 a public place or in violation of Section 417.

8 **Comment.** Subdivision (a) of Section 25100 continues former Section 12035(b)(1) without  
9 substantive change.

10 Subdivision (b) continues former Section 12035(b)(2) without substantive change.

11 For a provision requiring a firearms dealer to post a notice with warnings about firearm  
12 storage, see [Section 12071(b)(7)].

13 See Sections 16520 ("firearm"), 16600 ("great bodily injury"), 16840 ("loaded" and "loaded  
14 firearm"), 25000 ("child").

### 15 § 25105. Exceptions

16 25105. Section 25100 does not apply whenever any of the following occurs:

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

19 (b) The firearm is kept in a locked container or in a location that a reasonable  
20 person would believe to be secure.

21 (c) The firearm is carried on the person or within close enough proximity thereto  
22 that the individual can readily retrieve and use the firearm as if carried on the  
23 person.

24 (d) The firearm is locked with a locking device, as defined in Section 16860,  
25 which has rendered the firearm inoperable.

26 (e) The person is a peace officer or a member of the armed forces or the  
27 National Guard and the child obtains the firearm during, or incidental to, the  
28 performance of the person's duties.

29 (f) The child obtains, or obtains and discharges, the firearm in a lawful act of  
30 self-defense or defense of another person.

31 (g) The person who keeps a loaded firearm on any premise that is under the  
32 person's custody or control has no reasonable expectation, based on objective facts  
33 and circumstances, that a child is likely to be present on the premises.

34 **Comment.** Section 25105 continues former Section 12035(c) without substantive change.

35 See Sections 16520 ("firearm"), 16840 ("loaded" and "loaded firearm"), 16850 ("locked  
36 container"), 25000 ("child").

### 37 Staff Notes.

38 (1) Section 12035(a)(1) defines "locking device" for purposes of that section. The definition  
39 refers to a device that can be used to render a firearm inoperable. Section 12036(a)(1) gives the  
40 same definition for purposes of that section. Proposed Section 16850 would continue Sections  
41 12035(a)(1) and 12036(a)(1).

42 The term "locking device" is also used without definition elsewhere, sometimes in a similar  
43 context and sometimes in a different context. At some point in the future (not in this  
44 nonsubstantive reorganization), it might be appropriate to extend proposed Section 16860's

1 definition of “locking device” to other provisions that refer to a device that can be used to render  
2 a firearm inoperable. See Memorandum 2008-17, Attachment p. 32.

3 To help ensure that the applicable definition of this fairly common phrase is not overlooked,  
4 the Commission decided to cross-reference that definition in (1) the provision that would  
5 continue the pertinent substantive part of existing Section 12035 and (2) the provision that would  
6 continue the pertinent substantive part of existing Section 12036. The idea was to draw attention  
7 to the definition of “locking device,” yet leave the definition in a location that would be  
8 appropriate even if the definition were extended more broadly in the future.

9 Section 25105(d) would implement the first prong of that decision. The Commission and other  
10 interested persons should assess whether the chosen approach is satisfactory.

11 (2) Section 12035(c)(6) creates an exception when “[t]he child obtains, or obtains and  
12 discharges, the firearm in a lawful act of self-defense or defense of another person, *or persons.*”  
13 (Emphasis added.) Proposed Section 25105(f) would continue this provision, but we have omitted  
14 the italicized language. It is not necessary to say “person, *or persons,*” because the singular  
15 includes the plural. See Section 7.

#### 16 § 25110. Punishment

17 25110. (a) Criminal storage of a firearm in the first degree is punishable by  
18 imprisonment in the state prison for 16 months, or two or three years, by a fine not  
19 exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine;  
20 or by imprisonment in a county jail not exceeding one year, by a fine not  
21 exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

22 (b) Criminal storage of a firearm in the second degree is punishable by  
23 imprisonment in a county jail not exceeding one year, by a fine not exceeding one  
24 thousand dollars (\$1,000), or by both that imprisonment and fine.

25 **Comment.** Section 25110 continues former Section 12035(d) without substantive change.

26 See Section 25100 (criminal storage of firearm).

#### 27 § 25115. Prosecution of parent or guardian

28 25115. If a person who allegedly violated Section 25100 is the parent or  
29 guardian of a child who is injured or who dies as the result of an accidental  
30 shooting, the district attorney shall consider, among other factors, the impact of  
31 the injury or death on the person alleged to have violated Section 25100 when  
32 deciding whether to prosecute the alleged violation. It is the Legislature’s intent  
33 that a parent or guardian of a child who is injured or who dies as the result of an  
34 accidental shooting shall be prosecuted only in those instances in which the parent  
35 or guardian behaved in a grossly negligent manner or where similarly egregious  
36 circumstances exist. This section shall not otherwise restrict, in any manner, the  
37 factors that a district attorney may consider when deciding whether to prosecute an  
38 alleged violation of Section 25100.

39 **Comment.** Section 25115 continues former Section 12035(f) without substantive change.

40 See Section 25000 (“child”).

#### 41 § 25120. Timing of prosecution of parent or guardian

42 25120. (a) If a person who allegedly violated Section 25100 is the parent or  
43 guardian of a child who was injured or who died as the result of an accidental

1 shooting, no arrest of the person for the alleged violation of Section 25100 shall  
2 occur until at least seven days after the date upon which the accidental shooting  
3 occurred.

4 (b) In addition to the limitation stated in subdivision (a), before arresting a  
5 person for a violation of Section 25100, a law enforcement officer shall consider  
6 the health status of a child who suffered great bodily injury as the result of an  
7 accidental shooting, if the person to be arrested is the parent or guardian of the  
8 injured child. The intent of this section is to encourage law enforcement officials  
9 to delay the arrest of a parent or guardian of a seriously injured child while the  
10 child remains on life-support equipment or is in a similarly critical medical  
11 condition.

12 **Comment.** Section 25120 continues former Section 12035(f) without substantive change.  
13 See Sections 16600 (“great bodily injury”), 25000 (“child”).

14 **§ 25125. Impact of attending firearm safety training course**

15 25125. (a) The fact that a person who allegedly violated Section 25100 attended  
16 a firearm safety training course prior to the purchase of the firearm that was  
17 obtained by a child in violation of Section 25100 shall be considered a mitigating  
18 factor by a district attorney when deciding whether to prosecute the alleged  
19 violation.

20 (b) In any action or trial commenced under Section 25100, the fact that the  
21 person who allegedly violated Section 25100 attended a firearm safety training  
22 course prior to the purchase of the firearm that was obtained by a child in violation  
23 of Section 25100 is admissible.

24 **Comment.** Section 25125 continues former Section 12035(g) without substantive change.  
25 See Sections 16520 (“firearm”), 25000 (“child”).

26 **§ 25130. Posting of required notice**

27 25130. Every person licensed under [Section 12071] shall post within the  
28 licensed premises the notice required by [paragraph (7) of subdivision (b) of that  
29 section], disclosing the duty imposed by this article upon any person who keeps a  
30 loaded firearm.

31 **Comment.** Section 25130 continues former Section 12035(h) without substantive change.  
32 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

33 **Staff Note.** This provision might be unnecessary and redundant with the requirement now  
34 stated in Section 12071(b)(7). We invite comment on this point. Unless the Commission  
35 otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for  
36 Possible Future Legislative Attention.” See Memorandum 2008-41.

1 CHAPTER 3. STORAGE OF FIREARM WHERE CHILD OBTAINS ACCESS AND  
2 CARRIES FIREARM OFF-PREMISES

3 **§ 25200. Storage of firearm where child obtains access and carries firearm off-premises**

4 25200. (a) If all of the following conditions are satisfied, a person shall be  
5 punished by imprisonment in a county jail not exceeding one year, by a fine not  
6 exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine:

7 (1) The person keeps a pistol, revolver, or other firearm capable of being  
8 concealed upon the person, loaded or unloaded, within any premises that are under  
9 the person's custody or control.

10 (2) The person knows or reasonably should know that a child is likely to gain  
11 access to that firearm without the permission of the child's parent or legal  
12 guardian.

13 (3) The child obtains access to that firearm and thereafter carries that firearm  
14 off-premises.

15 (b) If all of the following conditions are satisfied, a person shall be punished by  
16 imprisonment in a county jail not exceeding one year, by a fine not exceeding five  
17 thousand dollars (\$5,000), or by both that imprisonment and fine:

18 (1) The person keeps any firearm within any premises that are under the  
19 person's custody or control.

20 (2) The person knows or reasonably should know that a child is likely to gain  
21 access to the firearm without the permission of the child's parent or legal guardian.

22 (3) The child obtains access to the firearm and thereafter carries that firearm off-  
23 premises to any public or private preschool, elementary school, middle school,  
24 high school, or to any school-sponsored event, activity, or performance, whether  
25 occurring on school grounds or elsewhere.

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

32 (d) As used in this section, "off-premises" means premises other than the  
33 premises where the firearm was stored.

34 **Comment.** Subdivision (a) of Section 25200 continues former Section 12036(b) without  
35 substantive change.

36 Subdivision (b) continues former Section 12036(c) without substantive change.

37 Subdivision (c) continues former Section 12036(d) without substantive change.

38 Subdivision (d) continues former Section 12036(a)(3) without substantive change.

39 For circumstances in which this section does not apply, see Section 25205. For a provision  
40 requiring a firearms dealer to post a notice with warnings about firearm storage, see [Section  
41 12071(b)(7)].

42 See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person,"  
43 "pistol," and "revolver"), 25000 ("child").

1 **☞ Staff Note.** Section 12036(a)(3) defines “off-premises” for purposes of that section. The term  
2 is also used without definition elsewhere in Title 2 of Part 4 of the Penal Code.

3 To help ensure that the applicable definition of this commonplace word is not overlooked, the  
4 Commission decided to place the definition in close proximity to the substance of Section 12036.  
5 See Memorandum 2008-23, p. 2; Minutes (June 2008), pp. 6-9. Proposed Section 25200(d) would  
6 implement that decision. The Commission and other interested persons should assess whether this  
7 treatment of the definition of “off-premises” is satisfactory.

8 **§ 25205. Exceptions**

9 25205. Section 25200 does not apply if any of the following are true:

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

12 (b) The firearm is kept in a locked container or in a location that a reasonable  
13 person would believe to be secure.

14 (c) The firearm is locked with a locking device, as defined in Section 16860,  
15 which has rendered the firearm inoperable.

16 (d) The firearm is carried on the person within close enough range that the  
17 individual can readily retrieve and use the firearm as if carried on the person.

18 (e) The person is a peace officer or a member of the Armed Forces or National  
19 Guard and the child obtains the firearm during, or incidental to, the performance  
20 of the person’s duties.

21 (f) The child obtains, or obtains and discharges, the firearm in a lawful act of  
22 self-defense or defense of another person.

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

26 **Comment.** Section 25205 continues former Section 12036(e) without substantive change.

27 See Sections 16520 (“firearm”), 16850 (“locked container”), 25000 (“child”).

28 **☞ Staff Notes.**

29 (1) Section 12035(a)(1) defines “locking device” for purposes of that section. The definition  
30 refers to a device that can be used to render a firearm inoperable. Section 12036(a)(1) gives the  
31 same definition for purposes of that section. Proposed Section 16850 would continue Sections  
32 12035(a)(1) and 12036(a)(1).

33 The term “locking device” is also used without definition elsewhere, sometimes in a similar  
34 context and sometimes in a different context. At some point in the future (not in this  
35 nonsubstantive reorganization), it might be appropriate to extend proposed Section 16860’s  
36 definition of “locking device” to other provisions that refer to a device that can be used to render  
37 a firearm inoperable. See Memorandum 2008-17, Attachment p. 32.

38 To help ensure that the applicable definition of this fairly common phrase is not overlooked,  
39 the Commission decided to cross-reference that definition in (1) the provision that would  
40 continue the pertinent substantive part of existing Section 12035 and (2) the provision that would  
41 continue the pertinent substantive part of existing Section 12036. The idea was to draw attention  
42 to the definition of “locking device,” yet leave the definition in a location that would be  
43 appropriate even if the definition were extended more broadly in the future.

44 Section 25205(c) would implement the second prong of that decision. The Commission and  
45 other interested persons should assess whether the chosen approach is satisfactory.

1 (2) Section 12036(e)(6) creates an exception when “[t]he child obtains, or obtains and  
2 discharges, the firearm in a lawful act of self-defense or defense of another person, *or persons.*”  
3 (Emphasis added.) Proposed Section 25205(f) would continue this provision, but we have omitted  
4 the italicized language. It is not necessary to say “person, *or persons,*” because the singular  
5 includes the plural. See Section 7.

6 **§ 25210. Prosecution of parent or guardian**

7 25210. If a person who allegedly violated Section 25200 is the parent or  
8 guardian of a child who is injured or who dies as the result of an accidental  
9 shooting, the district attorney shall consider, among other factors, the impact of  
10 the injury or death on the person alleged to have violated Section 25200 when  
11 deciding whether to prosecute the alleged violation. It is the Legislature’s intent  
12 that a parent or guardian of a child who is injured or who dies as the result of an  
13 accidental shooting shall be prosecuted only in those instances in which the parent  
14 or guardian behaved in a grossly negligent manner or where similarly egregious  
15 circumstances exist. This section shall not otherwise restrict, in any manner, the  
16 factors that a district attorney may consider when deciding whether to prosecute  
17 alleged violations of Section 25200.

18 **Comment.** Section 25210 continues former Section 12036(f) without substantive change.  
19 See Section 25000 (“child”).

20 **§ 25215. Timing of prosecution of parent or guardian**

21 25215. (a) If a person who allegedly violated Section 25200 is the parent or  
22 guardian of a child who was injured or who died as the result of an accidental  
23 shooting, no arrest of the person for the alleged violation of Section 25200 shall  
24 occur until at least seven days after the date upon which the accidental shooting  
25 occurred.

26 (b) In addition to the limitation contained in subdivision (a), before arresting a  
27 person for a violation of Section 25200, a law enforcement officer shall consider  
28 the health status of a child who suffers great bodily injury as the result of an  
29 accidental shooting, if the person to be arrested is the parent or guardian of the  
30 injured child. The intent of this section is to encourage law enforcement officials  
31 to delay the arrest of a parent or guardian of a seriously injured child while the  
32 child remains on life-support equipment or is in a similarly critical medical  
33 condition.

34 **Comment.** Section 25215 continues former Section 12036(g) without substantive change.  
35 See Sections 16600 (“great bodily injury”), 25000 (“child”).

36 **§ 25220. Impact of attending firearm safety training course**

37 25220. (a) The fact that the person who allegedly violated Section 25200  
38 attended a firearm safety training course prior to the purchase of the firearm that is  
39 obtained by a child in violation of Section 25200 shall be considered a mitigating  
40 factor by a district attorney when deciding whether to prosecute the alleged  
41 violation.

1 (b) In any action or trial commenced under Section 25200, the fact that the  
2 person who allegedly violated Section 25200 attended a firearm safety training  
3 course prior to the purchase of the firearm that was obtained by a child in violation  
4 of Section 25200 is admissible.

5 **Comment.** Section 25220 continues former Section 12036(h) without substantive change.  
6 See Sections 16520 (“firearm”), 25000 (“child”).

7 **§ 25225. Posting of required notice**

8 25225. Every person licensed under [Section 12071] shall post within the  
9 licensed premises the notice required by [paragraph (7) of subdivision (b) of that  
10 section], disclosing the duty imposed by this article upon any person who keeps  
11 any firearm.

12 **Comment.** Section 25225 continues former Section 12036(i) without substantive change.  
13 See Section 16520 (“firearm”).

14 **Staff Note.** This provision might be unnecessary and redundant with the requirement now  
15 stated in Section 12071(b)(7). We invite comment on this point. Unless the Commission  
16 otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for  
17 Possible Future Legislative Attention.” See Memorandum 2008-41.

18 **DIVISION 5. CARRYING FIREARMS**

19 **CHAPTER 1. MISCELLANEOUS RULES RELATING TO CARRYING FIREARMS**

20 **§ 25300. Carrying firearm in public while masked to hide identity**

21 25300. (a) A person commits criminal possession of a firearm when the person  
22 carries a firearm in a public place or on any public street while masked so as to  
23 hide the person’s identity.

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

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

27 (1) A peace officer in performance of the officer’s duties.

28 (2) A full-time paid peace officer of another state or the federal government who  
29 is carrying out official duties while in this state.

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

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

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

4 **Comment.** Section 25300 continues former Section 12040 without substantive change.  
5 See Section 16520 (“firearm”).

6 CHAPTER 2. CARRYING A CONCEALED FIREARM

7 Article 1. Crime of Carrying a Concealed Firearm

8 **§ 25400. Crime of carrying concealed firearm**

9 25400. (a) A person is guilty of carrying a concealed firearm when the person  
10 does any of the following:

11 (1) Carries concealed within any vehicle that is under the person’s control or  
12 direction any pistol, revolver, or other firearm capable of being concealed upon the  
13 person.

14 (2) Carries concealed upon the person any pistol, revolver, or other firearm  
15 capable of being concealed upon the person.

16 (3) Causes to be carried concealed within any vehicle in which the person is an  
17 occupant any pistol, revolver, or other firearm capable of being concealed upon  
18 the person.

19 (b) A firearm carried openly in a belt holster is not concealed within the  
20 meaning of this section.

21 (c) Carrying a concealed firearm in violation of this section is punishable as  
22 follows:

23 (1) If the person previously has been convicted of any felony, or of any crime  
24 made punishable by [this chapter], as a felony.

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

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

31 (4) If the person is not in lawful possession of the firearm or the person is within  
32 a class of persons prohibited from possessing or acquiring a firearm pursuant to  
33 [Section 12021 or 12021.1 of this code] or [Section 8100 or 8103 of the Welfare  
34 and Institutions Code], as a felony.

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

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

4 (A) The pistol, revolver, or other firearm capable of being concealed upon the  
5 person is loaded, or both it and the unexpended ammunition capable of being  
6 discharged from it are in the immediate possession of the person or readily  
7 accessible to that person.

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

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

14 (d)(1) Every person convicted under this section who previously has been  
15 convicted of a misdemeanor offense enumerated in [Section 12001.6] shall be  
16 punished by imprisonment in a county jail for at least three months and not  
17 exceeding six months, or, if granted probation, or if the execution or imposition of  
18 sentence is suspended, it shall be a condition thereof that the person be imprisoned  
19 in a county jail for at least three months.

20 (2) Every person convicted under this section who has previously been  
21 convicted of any felony, or of any crime made punishable by [this chapter], if  
22 probation is granted, or if the execution or imposition of sentence is suspended, it  
23 shall be a condition thereof that the person be imprisoned in a county jail for not  
24 less than three months.

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

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

39 **Comment.** Subdivision (a) of Section 25400 continues former Section 12025(a) without  
40 substantive change.

41 Subdivision (b) continues former Section 12025(f) without substantive change.

42 Subdivision (c) continues former Section 12025(b) without substantive change.

43 Subdivision (d) continues former Section 12025 (d) without substantive change.

44 Subdivision (e) continues former Section 12025(e) without substantive change.

1 Subdivision (f) continues former Section 12025(c) without substantive change.  
2 Former Section 12025(g) is continued in Section 16750 (“lawful possession of the firearm”).  
3 Former Section 12025(h) was repealed by its own terms on January 1, 2005, so it is not  
4 continued. See 1999 Cal. Stat. ch. 571, § 2.  
5 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”  
6 “pistol,” and “revolver”), 16750 (“lawful possession of the firearm”), 16840 (“loaded” and  
7 “loaded firearm”).

8 **☞ Staff Notes.**

9 (1) Subdivision (h) of existing Section 12025 provides:

10 (h)(1) The district attorney of each county shall submit annually a report on or before June  
11 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any  
12 person charged with a felony or a misdemeanor under this section and any other offense  
13 charged in the same complaint, indictment, or information.

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

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

18 (Emphasis added.) Because this provision only remained operative until January 1, 2005, and was  
19 to be repealed by its own terms as of that date, the staff did not continue it in proposed Section  
20 25400, but did refer to it in the Comment. We solicit comment on whether that treatment of  
21 subdivision (h) is appropriate.

22 (2) Existing Section 12025 is a long section (over two pages in the attachment to Memorandum  
23 2007-59). In redrafting the section, the staff considered the possibility of dividing its substance  
24 into several different sections. We decided, however, that the potential benefits of that approach  
25 did not outweigh the potential detriments. Aside from eliminating subdivision (h) and placing  
26 subdivision (g)’s definition of “lawful possession of the firearm” with other definitions, we kept  
27 the entire substance intact in drafting proposed Section 25400. We solicit comment on that  
28 drafting decision.

29 (3) Existing Section 12025(b)(3) specifies the punishment for a violation of the section  
30 “[w]here the person is an active participant in a criminal street gang, as defined in subdivision (a)  
31 of Section 186.22 ....” The definition of a “criminal street gang” is located in subdivision (f) of  
32 Section 186.22, not subdivision (a). But subdivision (a) provides guidance on what level of  
33 involvement in a criminal street gang is punishable:

34 (a) Any person who actively participates in any criminal street gang with knowledge that  
35 its members engage in or have engaged in a pattern of criminal gang activity, and who  
36 willfully promotes, furthers, or assists in any felonious criminal conduct by members of that  
37 gang, shall be punished by imprisonment in a county jail for a period not to exceed one year,  
38 or by imprisonment in the state prison for 16 months, or two or three years.

39 The staff has assumed that the Legislature intended to cross-refer to subdivision (a), not  
40 subdivision (f). Proposed Section 25400 would thus continue the existing cross-reference.

41 (4) Existing Section 12025(b)(6)(A) refers to a pistol, revolver, or other firearm capable of  
42 being concealed upon the person that is “loaded *as defined in subdivision (g) of Section 12031.*”  
43 (Emphasis added.) Unlike existing Section 12025(b)(6)(A), proposed Section 25400(c)(6)(A)  
44 would not cross-refer to the provision defining “loaded.”

45 Similarly, existing Section 12025(b)(4) refers to a person who “not in lawful possession of the  
46 firearm, as defined in this section ....” Unlike existing Section 12025(b)(4), proposed Section  
47 25400(c)(4) would not cross-refer to the definition of “lawful possession of the firearm.”

48 Instead, the Comment would cross-refer to the definitions of “loaded” and “lawful possession  
49 of the firearm.” The Comment would also state that “[s]ubdivision (c) continues former Section

1 12025(b) without substantive change.” The definition of “loaded” is drafted to encompass  
2 proposed Section 25400, as is the definition of “lawful possession of the firearm.”

3 We chose this approach because it would further the Legislature’s directive to “[a]void  
4 unnecessary use of cross-references” while “[n]either expand[ing] nor contracting the scope of  
5 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great  
6 weight to the Commission’s Comments, we think this would be sufficient to preserve the  
7 substance of Section 12025(b)(4) & (6)(A). See *2006-2007 Annual Report*, 36 Cal. L. Revision  
8 Comm’n Reports 1, 18-24 (2006).

## 9 Article 2. Peace Officer Exemption

10 **☞ Staff Note.** Existing law contains extensive provisions relating to identification certificates  
11 for retired peace officers and endorsements on those certificates authorizing officers to (1) carry a  
12 concealed firearm, (2) carry a loaded firearm, or (3) carry a concealed and loaded firearm. The  
13 current and proposed future locations of those provisions are as follows:

- 14 • Existing Section 12027(a) (peace officer exemption to crime of carrying concealed  
15 firearm). This material would be recodified as proposed Sections 25450-25475.
- 16 • Existing Section 12031(b)(1)-(3) (peace officer exemption to crime of carrying loaded  
17 firearm in public). This material would be recodified as proposed Sections 25900-25925.
- 18 • Existing Section 12027.1 (retired peace officer carrying concealed and loaded firearm).  
19 This material would be recodified as proposed Sections 26300-26325.

20 There is much repetition among these three separate sets of statutory material, albeit in  
21 different contexts. The material could perhaps be reorganized more concisely, without any change  
22 in meaning.

23 To avoid any risk of a substantive change, the staff advises against attempting such  
24 reorganization in the context of this nonsubstantive study. Unless the Commission otherwise  
25 directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for Possible  
26 Future Legislative Attention.” See Memorandum 2008-41.

### 27 § 25450. Peace officer exemption

28 25450. As provided in this article, Section 25400 does not apply to, or affect,  
29 any of the following:

30 (a) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a) of  
31 Section 830.33, whether active or honorably retired.

32 (b) Any other duly appointed peace officer.

33 (c) Any honorably retired peace officer listed in subdivision (c) of Section  
34 830.5.

35 (d) Any other honorably retired peace officer who during the course and scope  
36 of employment as a peace officer was authorized to, and did, carry a firearm.

37 (e) Any full-time paid peace officer of another state or the federal government  
38 who is carrying out official duties while in California.

39 (f) Any person summoned by any of these officers to assist in making arrests or  
40 preserving the peace while the person is actually engaged in assisting that officer.

41 **Comment.** Section 25450 continues the first sentence of former Section 12027(a)(1)(A)  
42 without substantive change.

43 For an exemption relating to honorably retired federal officers and agents, see Section 25650.

1 For guidance on a retired peace officer carrying a loaded firearm, see Sections 25900-25925.  
2 For guidance on a retired peace officer carrying a concealed and loaded firearm, see Sections  
3 26300-26325.

4 See Sections 16520 (“firearm”), 16690 (“honorably retired”).

5 **§ 25455. Identification certificate for honorably retired peace officer**

6 25455. (a) Any peace officer described in Section 25450 who has been  
7 honorably retired shall be issued an identification certificate by the law  
8 enforcement agency from which the officer retired.

9 (b) The issuing agency may charge a fee necessary to cover any reasonable  
10 expenses incurred by the agency in issuing certificates pursuant to this article.

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

15 (d) An honorably retired peace officer listed in Section 830.1 or 830.2,  
16 subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired  
17 prior to January 1, 1981, shall not be required to obtain an endorsement from the  
18 issuing agency to carry a concealed firearm.

19 **Comment.** Subdivision (a) of Section 25455 continues the second sentence of former Section  
20 12027(a)(1)(A) without substantive change.

21 Subdivision (b) continues the third sentence of former Section 12027(a)(1)(A) without  
22 substantive change.

23 Subdivision (c) continues former Section 12027(a)(1)(B) without substantive change.

24 Subdivision (d) continues the second sentence of former Section 12027(a)(2) without  
25 substantive change.

26 For guidance on a retired peace officer carrying a loaded firearm, see Sections 25900-25925.  
27 For guidance on a retired peace officer carrying a concealed and loaded firearm, see Sections  
28 26300-26325.

29 See Sections 16520 (“firearm”), 16690 (“honorably retired”).

30 **§ 25460. Format of endorsement on identification certificate**

31 25460. (a) Except as provided in subdivision (b), no endorsement or renewal  
32 endorsement issued pursuant to Section 25465 shall be effective unless it is in the  
33 format set forth in subdivision (c).

34 (b) Any peace officer listed in subdivision (f) of Section 830.2 or in subdivision  
35 (c) of Section 830.5, who retired between January 2, 1981, and on or before  
36 December 31, 1988, and who is authorized to carry a concealed firearm pursuant  
37 to this article, shall not be required to have an endorsement in the format set forth  
38 in subdivision (c) until the time of the issuance, on or after January 1, 1989, of a  
39 renewal endorsement pursuant to Section 25465.

40 (c) A certificate issued pursuant to Section 25455 for any person who is not  
41 listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision  
42 (c) of Section 830.5, or for any person retiring after January 1, 1981, shall be in  
43 the following format: it shall be on a 2x3 inch card, bear the photograph of the  
44 retiree, include the retiree’s name, date of birth, the date that the retiree retired,

1 and the name and address of the agency from which the retiree retired, and have  
2 stamped on it the endorsement “CCW Approved” and the date the endorsement is  
3 to be renewed. A certificate issued pursuant to Section 25455 shall not be valid as  
4 identification for the sale, purchase, or transfer of a firearm.

5 **Comment.** Subdivisions (a) and (b) of Section 25460 continue former Section 12027(a)(1)(C)  
6 without substantive change.

7 Subdivision (c) continues former Section 12027(a)(1)(D) without substantive change.

8 See Sections 16360 (“CCW”), 16520 (“firearm”).

9 **Staff Note.** The substance of proposed Section 25460(b) may be obsolete. The staff solicits  
10 comment on this point. Unless the Commission otherwise directs, we will add this issue to the  
11 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” See  
12 Memorandum 2008-41.

13 **§ 25465. Renewal of privilege to carry concealed firearm**

14 25465. Every five years, a retired peace officer, except an officer listed in  
15 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of  
16 Section 830.5 who retired prior to January 1, 1981, shall petition the issuing  
17 agency for renewal of the officer’s privilege to carry a concealed firearm.

18 **Comment.** Section 25465 continues the first sentence of former Section 12027(a)(2) without  
19 substantive change.

20 See Section 16520 (“firearm”).

21 **§ 25470. Denial or revocation of privilege to carry concealed firearm**

22 25470. (a) The agency from which a peace officer is honorably retired may,  
23 upon initial retirement of that peace officer, or at any time subsequent thereto,  
24 deny or revoke for good cause the retired officer’s privilege to carry a concealed  
25 firearm.

26 (b) A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of  
27 Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1,  
28 1981, shall have the privilege to carry a concealed firearm denied or revoked by  
29 having the agency from which the officer retired stamp on the officer’s  
30 identification certificate “No CCW privilege.”

31 **Comment.** Subdivision (a) of Section 25470 continues the third sentence of former Section  
32 12027(a)(2) without substantive change.

33 Subdivision (b) continues the fourth sentence of former Section 12027(a)(2) without  
34 substantive change.

35 See Sections 16360 (“CCW”), 16520 (“firearm”), 16690 (“honorably retired”).

36 **§ 25475. Maintaining privilege to carry concealed firearm**

37 25475. (a) An honorably retired peace officer who is listed in subdivision (c) of  
38 Section 830.5 and authorized to carry a concealed firearm by this article shall meet  
39 the training requirements of Section 832 and shall qualify with the firearm at least  
40 annually.

41 (b) The individual retired peace officer shall be responsible for maintaining  
42 eligibility to carry a concealed firearm.

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

4 **Comment.** Section 25475 continues former Section 12027(a)(3) without substantive change.  
5 See Sections 16520 (“firearm”), 16690 (“honorably retired”).

### 6 Article 3. Conditional Exemptions

#### 7 § 25500. Effect of article

8 25500. This article does not prohibit or limit the otherwise lawful carrying or  
9 transportation of any pistol, revolver, or other firearm capable of being concealed  
10 upon the person in accordance with [this chapter].

11 **Comment.** Section 25500 continues former Section 12026.2(c) without substantive change.  
12 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and  
13 “revolver”).

#### 14 § 25505. Conditions for exemption to apply

15 25505. In order for a firearm to be exempted under this article, while being  
16 transported to or from a place, the firearm shall be unloaded and kept in a locked  
17 container, and the course of travel shall include only those deviations between  
18 authorized locations as are reasonably necessary under the circumstances.

19 **Comment.** Section 25505 continues former Section 12026.2(b) without substantive change.  
20 For another provision on transporting a firearm in a locked container, see Section 25610  
21 (carrying firearm in locked container).  
22 See Sections 16520 (“firearm”), 16850 (“locked container”).

#### 23 § 25510. Motion picture, television, video production, or entertainment event

24 25510. Section 25400 does not apply to, or affect, any of the following:

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

29 (b) The transportation of a firearm by an authorized employee or agent of a  
30 supplier of firearms when going directly to, or coming directly from, a motion  
31 picture, television, or video production, or an entertainment event, for the purpose  
32 of providing that firearm to an authorized participant to lawfully use as a part of  
33 that production or event.

34 **Comment.** Subdivision (a) of Section 25510 continues former Section 12026.2(a)(1) without  
35 substantive change.

36 Subdivision (b) continues former Section 12026.2(a)(8) without substantive change.

37 For conditions on invoking these exemptions, see Section 25505.

38 See Section 16520 (“firearm”).

1    **§ 25515. Club or organization for lawfully collecting and displaying firearms**

2       25515. Section 25400 does not apply to, or affect, the possession of a firearm in  
3    a locked container by a member of any club or organization, organized for the  
4    purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other  
5    firearms, while the member is at a meeting of the club or organization or while  
6    going directly to, and coming directly from, a meeting of the club or organization.

7       **Comment.** Section 25515 continues former Section 12026.2(a)(2) without substantive change.  
8       For conditions on invoking this exemption, see Section 25505. For an exemption relating to  
9    transportation of a curio or relic brought into the state by licensed collector, see Section 25580.

10      See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”  
11    “pistol,” and “revolver”), 16850 (“locked container”).

12    **§ 25520. Recognized sporting event or safety or hunter safety class**

13      25520. Section 25400 does not apply to, or affect, the transportation of a firearm  
14    by a participant when going directly to, or coming directly from, a recognized  
15    safety or hunter safety class, or a recognized sporting event involving that firearm.

16      **Comment.** Section 25520 continues former Section 12026.2(a)(3) without substantive change.  
17      For conditions on invoking this exemption, see Section 25505. For another exemption relating  
18    to hunting, see Section 25640 (licensed hunters or fishermen).

19      See Section 16520 (“firearm”).

20    **§ 25525. Transportation of firearm by owner or person in lawful possession to place of**  
21    **residence, place of business, or other private property of that person**

22      25525. (a) Section 25400 does not apply to, or affect, the transportation of a  
23    firearm by any citizen of the United States or legal resident over the age of 18  
24    years who resides or is temporarily within this state, and who is not within the  
25    excepted classes prescribed by [Section 12021 or 12021.1 of this code] or Section  
26    8100 or 8103 of the Welfare and Institutions Code, directly between any of the  
27    following places:

28      (1) The person’s place of residence.

29      (2) The person’s place of business.

30      (3) Private property owned or lawfully possessed by the person.

31      (b) Section 25400 does not apply to, or affect, the transportation of a firearm by  
32    a person listed in subdivision (a) when going directly from the place where that  
33    person lawfully received that firearm to that person’s place of residence or place  
34    of business or to private property owned or lawfully possessed by that person.

35      **Comment.** Subdivision (a) of Section 25525 continues former Section 12026.2(a)(4) without  
36    substantive change.

37      Subdivision (b) continues former Section 12026.2(a)(6) without substantive change.

38      For conditions on invoking these exemptions, see Section 25505. For an exemption relating to  
39    carrying or possession of a firearm at one’s place of residence, place of business, or other private  
40    property, see Section 25605.

41      See Section 16520 (“firearm”).

42      **Staff Note.** Existing Section 12026.2(a)(4) says that Section 12025 does not apply to or affect  
43    the “transportation of a firearm by a person listed in Section 12026 directly between any of the  
44    places mentioned in Section 12026.” (Emphasis added.) Similarly, existing Section 12026.2(a)(6)

1 says that Section 12025 does not apply to or affect the “transportation of a firearm by *a person*  
2 *listed in Section 12026* when going directly from ....” (Emphasis added.) The meaning of these  
3 provisions cannot be discerned without referring to Section 12026.

4 To make the provisions more user-friendly, we have incorporated the relevant substance of  
5 Section 12026 into proposed Section 25525. We solicit comment on that approach.

6 **§ 25530. Repair, transfer, sale, or loan of firearm**

7 25530. Section 25400 does not apply to, or affect, the transportation of a firearm  
8 by a person when going directly to, or coming directly from, a fixed place of  
9 business or private residential property for the purpose of the lawful repair or the  
10 lawful transfer, sale, or loan of that firearm.

11 **Comment.** Section 25530 continues former Section 12026.2(a)(5) without substantive change.  
12 For conditions on invoking this exemption, see Section 25505.  
13 See Section 16520 (“firearm”).

14 **§ 25535. Gun show, swap meet, or similar event**

15 25535. Section 25400 does not apply to, or affect, any of the following:

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

19 (b) The transportation of a firearm by a person when going directly to, or  
20 coming directly from, a gun show or event, as defined in Section 478.100 of Title  
21 27 of the Code of Federal Regulations, for the purpose of lawfully transferring,  
22 selling, or loaning that firearm in accordance with [subdivision (d) of Section  
23 12072].

24 **Comment.** Subdivision (a) of Section 25535 continues former Section 12026.2(a)(7) without  
25 substantive change.

26 Subdivision (b) continues former Section 12026.2(a)(14) without substantive change.

27 For conditions on invoking these exemptions, see Section 25505.

28 See Section 16520 (“firearm”).

29 **§ 25540. Target range**

30 25540. Section 25400 does not apply to, or affect, the transportation of a firearm  
31 by a person when going directly to, or coming directly from, a target range, which  
32 holds a regulatory or business license, for the purposes of practicing shooting at  
33 targets with that firearm at that target range.

34 **Comment.** Section 25540 continues former Section 12026.2(a)(9) without substantive change.

35 For conditions on invoking this exemption, see Section 25505. For another exemption relating  
36 to practicing at a target range, see Section 25635 (member of club or organization for purpose of  
37 practicing at established target ranges).

38 See Section 16520 (“firearm”).

39 **§ 25545. Transportation to place designated by person authorized to issue license to carry  
40 firearm**

41 25545. Section 25400 does not apply to, or affect, the transportation of a firearm  
42 by a person when going directly to, or coming directly from, a place designated by

1 a person authorized to issue licenses pursuant to [Section 12050], when done at the  
2 request of the issuing agency so that the issuing agency can determine whether or  
3 not a license should be issued to that person to carry that firearm.

4 **Comment.** Section 25545 continues former Section 12026.2(a)(10) without substantive  
5 change.

6 For conditions on invoking this exemption, see Section 25505. For an exemption relating to a  
7 person with a license to carry a concealed pistol, revolver, or other firearm capable of being  
8 concealed upon the person, see Section 25655.

9 See Section 16520 (“firearm”).

10 **§ 25550. Camping**

11 25550. (a) Section 25400 does not apply to, or affect, the transportation of a  
12 firearm by a person when going directly to, or coming directly from, a lawful  
13 camping activity for the purpose of having that firearm available for lawful  
14 personal protection while at the lawful campsite.

15 (b) This section shall not be construed to override the statutory authority granted  
16 to the Department of Parks and Recreation or any other state or local  
17 governmental agencies to promulgate rules and regulations governing the  
18 administration of parks and campgrounds.

19 **Comment.** Section 25550 continues former Section 12026.2(a)(11) without substantive  
20 change.

21 For conditions on invoking this exemption, see Section 25505.

22 See Section 16520 (“firearm”).

23 **§ 25555. Person taking title or possession of firearm by operation of law, or person receiving**  
24 **firearm by gift, bequest, intestate succession, or other means from immediate family**  
25 **member**

26 25555. Section 25400 does not apply to, or affect, the transportation of a firearm  
27 by a person in order to comply with [subdivision (c) or (i) of Section 12078] as it  
28 pertains to that firearm.

29 **Comment.** Section 25555 continues former Section 12026.2(a)(12) without substantive  
30 change.

31 For conditions on invoking this exemption, see Section 25505.

32 See Section 16520 (“firearm”).

33 **Staff Note.** Existing Section 12026.2(a)(12) says that Section 12025 does not apply to or  
34 affect the “transportation of a firearm by a person *in order to comply with subdivision (c) or (i) of*  
35 *Section 12078* as it pertains to that firearm.” (Emphasis added.) The meaning of this provision  
36 cannot be discerned without referring to Section 12078.

37 In drafting proposed Section 25555, the staff considered the possibility of making the provision  
38 more user-friendly by incorporating the relevant substance of Section 12078(c) and (i). We opted  
39 against that approach, however, because the relevant substance of Section 12078(c) and (i) is too  
40 complicated to readily incorporate.

41 Some indication of the nature of Section 12078(c) and (i) would be provided by the leadline for  
42 proposed Section 25555 (“Person taking title or possession of firearm by operation of law, or  
43 person receiving firearm by gift, bequest, intestate succession, or other means from immediate  
44 family member”). Like all leadlines in Commission recommendations, that leadline would not  
45 become law. But it could serve as a model for code publishers in preparing their own leadlines for  
46 the provision.

1 **§ 25560. Transportation of firearm to utilize Section 12078(l)**

2 25560. Section 25400 does not apply to, or affect, the transportation of a firearm  
3 by a person in order to utilize [subdivision (l) of Section 12078] as it pertains to  
4 that firearm.

5 **Comment.** Section 25560 continues former Section 12026.2(a)(13) without substantive  
6 change.

7 For conditions on invoking this exemption, see Section 25505.

8 See Section 16520 (“firearm”).

9 **Staff Note.** Existing Section 12026.2(a)(13) says that Section 12025 does not apply to or  
10 affect the “transportation of a firearm by a person *in order to utilize subdivision (l) of Section*  
11 *12078* as it pertains to that firearm.” (Emphasis added.) The meaning of this provision cannot be  
12 discerned without referring to existing Section 12078.

13 In drafting proposed Section 25560, the staff considered the possibility of making the provision  
14 more user-friendly by incorporating the relevant substance of existing Section 12078(l). We opted  
15 against that approach, however, because it is not entirely clear what substance of existing Section  
16 12078(l) would need to be incorporated.

17 The staff also considered the possibility of giving some indication of the nature of Section  
18 12078(l) in the leadline for proposed Section 25560. But Section 12078(l) provides:

19 (l) A person who is exempt from subdivision (d) of Section 12072 or is otherwise not  
20 required by law to report his or her acquisition, ownership, or disposal of a handgun or who  
21 moves out of this state with his or her handgun may submit a report of the same to the  
22 Department of Justice in a format prescribed by the department.

23 Because the provision covers multiple situations and cross-refers to Section 12072(d), which  
24 itself cross-refers to Sections 12071 and 12082, it would be difficult to draft a leadline that  
25 effectively conveys the nature of the provision. We welcome any suggestions on this matter.

26 **§ 25565. Sale, delivery, or transfer of firearm to governmental entity as part of program**  
27 **where entity is buying or receiving weapons from private individuals**

28 25565. Section 25400 does not apply to, or affect, the transportation of a firearm  
29 by a person in order to sell, deliver, or transfer the firearm as specified in  
30 [paragraph (6) of subdivision (a) of Section 12078] to an authorized representative  
31 of a city, city and county, county, or state or federal government that is acquiring  
32 the weapon as part of an authorized, voluntary program in which the entity is  
33 buying or receiving weapons from private individuals.

34 **Comment.** Section 25565 continues former Section 12026.2(a)(15) without substantive  
35 change.

36 For conditions on invoking this exemption, see Section 25505.

37 See Section 16520 (“firearm”).

38 **Staff Note.** Existing Section 12026.2(a)(15) says that Section 12025 does not apply to or  
39 affect the “transportation of a firearm by a person *in order to utilize paragraph (6) of subdivision*  
40 *(a) of Section 12078* as it pertains to that firearm.” (Emphasis added.) The meaning of this  
41 provision cannot be discerned without referring to existing Section 12078.

42 In drafting proposed Section 25565, the staff attempted to make the provision more user-  
43 friendly by incorporating the relevant substance of existing Section 12078(a)(6), which provides:

44 (6) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 do not apply  
45 to sales, deliveries, or transfers of firearms to authorized representatives of cities, cities and  
46 counties, counties, or state or federal governments for those governmental agencies where the

1 entity is acquiring the weapon as part of an authorized, voluntary program where the entity is  
2 buying or receiving weapons from private individuals. Any weapons acquired pursuant to this  
3 paragraph shall be disposed of pursuant to the applicable provisions of Section 12028 or  
4 12032.

5 We solicit comment on that approach.

6 **§ 25570. Transportation of firearm by finder to law enforcement agency**

7 25570. Section 25400 does not apply to, or affect, any of the following:

8 (a) The transportation of a firearm by a person who finds the firearm, if the  
9 person is transporting the firearm in order to comply with Article 1 (commencing  
10 with Section 2080) of Chapter 4 of Division 3 of the Civil Code as it pertains to  
11 that firearm, and, if the person is transporting the firearm to a law enforcement  
12 agency, the person gives prior notice to the law enforcement agency that the  
13 person is transporting the firearm to the law enforcement agency.

14 (b) The transportation of a firearm by a person who finds the firearm and is  
15 transporting it to a law enforcement agency for disposition according to law, if the  
16 person gives prior notice to the law enforcement agency that the person is  
17 transporting the firearm to the law enforcement agency for disposition according  
18 to law.

19 **Comment.** Subdivision (a) of Section 25570 continues former Section 12026.2(a)(16) without  
20 substantive change.

21 Subdivision (b) continues former Section 12026.2(a)(18) without substantive change.

22 For conditions on invoking these exemptions, see Section 25505.

23 See Section 16520 (“firearm”).

24 **§ 25575. Compliance with restrictions relating to importation of handgun by personal**  
25 **handgun importer**

26 25575. Section 25400 does not apply to, or affect, the transportation of a firearm  
27 by a person in order to comply with [paragraph (2) of subdivision (f) of Section  
28 12072] as it pertains to that firearm.

29 **Comment.** Section 25575 continues former Section 12026.2(a)(17) without substantive  
30 change.

31 For conditions on invoking this exemption, see Section 25505. For an exemption relating to  
32 transportation of unloaded handguns by a licensed manufacturer, importer, wholesaler, repairer,  
33 or dealer, see Section 25615.

34 See Section 16520 (“firearm”).

35 **Staff Note.** Existing Section 12026.2(a)(17) says that Section 12025 does not apply to or  
36 affect the “transportation of a firearm by a person *in order to comply with paragraph (2) of*  
37 *subdivision (f) of Section 12072* as it pertains to that firearm.” (Emphasis added.) The meaning of  
38 this provision cannot be discerned without referring to existing Section 12072(f)(2).

39 In drafting proposed Section 25560, the staff considered the possibility of making the provision  
40 more user-friendly by incorporating the relevant substance of existing Section 12072(f)(2). We  
41 opted against that approach, however, because Section 12072(f)(2) is long and it is not entirely  
42 clear which of its substance would need to be incorporated.

43 Some indication of the nature of Section 12072(f)(2) would be provided by the leadline for  
44 proposed Section 25575 (“Compliance with restrictions relating to importation of handgun by  
45 personal handgun importer”). Like all leadlines in Commission recommendations, that leadline

1 would not become law. But it could serve as a model for code publishers in preparing their own  
2 leadlines for the provision.

3 **§ 25580. Transportation of curio or relic brought into state by licensed collector**

4 25580. Section 25400 does not apply to, or affect, the transportation of a firearm  
5 that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of  
6 Federal Regulations, by a person in order to comply with [paragraph (3) of  
7 subdivision (f) of Section 12072] as it pertains to that firearm.

8 **Comment.** Section 25580 continues former Section 12026.2(a)(19) without substantive  
9 change.

10 For conditions on invoking this exemption, see Section 25505. For an exemption relating to a  
11 club or organization for lawfully collecting and displaying firearms, see Section 25515.

12 See Section 16520 (“firearm”).

13 **Staff Note.** Existing Section 12026.2(a)(19) says that Section 12025 does not apply to or  
14 affect the “transportation of a firearm by a person *in order to comply with paragraph (3) of*  
15 *subdivision (f) of Section 12072* as it pertains to that firearm.” (Emphasis added.) The meaning of  
16 this provision cannot be discerned without referring to existing Section 12072(f)(3).

17 In drafting proposed Section 25560, the staff considered the possibility of making the provision  
18 more user-friendly by incorporating the relevant substance of existing Section 12072(f)(3).  
19 Because Section 12072(f)(3) is detailed and complicated, we largely opted against that approach.

20 We did, however, incorporate language indicating that the exemption only applies to “a firearm  
21 that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal  
22 Regulations.” It is clear that Section 12072(f)(3) is limited to this type of firearm. Stating that  
23 limitation in proposed Section 25580 would not change the substance of the exemption, but  
24 would make readily apparent that the exemption is inapplicable to a firearm other than a curio or  
25 relic.

26 Further indication of the nature of Section 12072(f)(3) would be provided by the leadline for  
27 proposed Section 25575 (“Transportation of curio or relic brought into state by licensed  
28 collector”). Like all leadlines in Commission recommendations, that leadline would not become  
29 law. But it could serve as a model for code publishers in preparing their own leadlines for the  
30 provision.

31 **§ 25585. Transportation of firearm to obtain identification number or mark**

32 25585. Section 25400 does not apply to, or affect, the transportation of a firearm  
33 by a person for the purpose of obtaining an identification number or mark assigned  
34 to that firearm from the Department of Justice pursuant to [Section 12092].

35 **Comment.** Section 25585 continues former Section 12026.2(a)(20) without substantive  
36 change.

37 For conditions on invoking this exemption, see Section 25505.

38 See Section 16520 (“firearm”).

39 **Article 4. Other Exemptions**

40 **§ 25600. Carrying concealed firearm when in reasonable belief of grave danger to self**

41 25600. (a) A violation of Section 25400 is justifiable when a person who  
42 possesses a firearm reasonably believes that person is in grave danger because of  
43 circumstances forming the basis of a current restraining order issued by a court  
44 against another person who has been found to pose a threat to the life or safety of

1 the person who possesses the firearm. This section may not apply when the  
2 circumstances involve a mutual restraining order issued pursuant to Division 10  
3 (commencing with Section 6200) of the Family Code absent a factual finding of a  
4 specific threat to the person’s life or safety. It is not the intent of the Legislature to  
5 limit, restrict, or narrow the application of current statutory or judicial authority to  
6 apply this or other justifications to a defendant charged with violating Section  
7 25400 or committing another similar offense.

8 (b) Upon trial for violating Section 25400, the trier of fact shall determine  
9 whether the defendant was acting out of a reasonable belief that the defendant was  
10 in grave danger.

11 **Comment.** Section 25600 continues former Section 12025.5 without substantive change.  
12 See Section 16520 (“firearm”).

13 **§ 25605. Carrying or possession of firearm at one’s place of residence, place of business, or**  
14 **other private property**

15 25605. (a) Section 25400 shall not apply to or affect any citizen of the United  
16 States or legal resident over the age of 18 years who resides or is temporarily  
17 within this state, and who is not within the excepted classes prescribed by [Section  
18 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare and  
19 Institutions Code, who carries, either openly or concealed, anywhere within the  
20 citizen’s or legal resident’s place of residence, place of business, or on private  
21 property owned or lawfully possessed by the citizen or legal resident, any pistol,  
22 revolver, or other firearm capable of being concealed upon the person.

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

32 (c) Nothing in this section shall be construed as affecting the application of  
33 [Section 12031].

34 **Comment.** Section 25605 continues former Section 12026 without substantive change.

35 For an exemption relating to transportation of a firearm by the owner or a person in lawful  
36 possession of the firearm to that person’s place of residence, place of business, or other private  
37 property, see Section 25525.

38 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and  
39 “revolver”).

40 **§ 25610. Carrying firearm in locked container**

41 25610. (a) Section 25400 shall not be construed to prohibit any citizen of the  
42 United States over the age of 18 years who resides or is temporarily within this

1 state, and who is not within the excepted classes prescribed by [Section 12021 or  
2 12021.1 of this code] or Section 8100 or 8103 of the Welfare and Institutions  
3 Code, from transporting or carrying any pistol, revolver, or other firearm capable  
4 of being concealed upon the person, provided that the following applies to the  
5 firearm:

6 (1) The firearm is within a motor vehicle and it is locked in the vehicle’s trunk  
7 or in a locked container in the vehicle.

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

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

14 **Comment.** Subdivision (a) of Section 25610 continues former Section 12026.1(a) without  
15 substantive change, except for the last phrase of paragraph (a)(1) (“other than the utility or glove  
16 compartment”). That phrase and former Section 12026.1(c) are continued in Section 16850  
17 (“locked container”).

18 Subdivision (b) continues former Section 12026.1(b) without substantive change.

19 For another provision on transporting a firearm in a locked container, see Section 25505  
20 (conditions for Article 3 exemptions to apply).

21 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”  
22 “pistol,” and “revolver”), 16850 (“locked container”).

23 **§ 25615. Transportation of unloaded handguns by licensed manufacturer, importer,  
24 wholesaler, repairer, or dealer**

25 25615. Section 25400 does not apply to, or affect, the possession or  
26 transportation of unloaded pistols, revolvers, or other firearms capable of being  
27 concealed upon the person as merchandise by a person who is engaged in the  
28 business of manufacturing, importing, wholesaling, repairing, or dealing in  
29 firearms and who is licensed to engage in that business, or the authorized  
30 representative or authorized agent of that person, while engaged in the lawful  
31 course of the business.

32 **Comment.** Section 25615 continues former Section 12027(b) without substantive change.

33 For an exemption relating to compliance with restrictions on importation of handguns by a  
34 personal handgun importer, see Section 25575.

35 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and  
36 “revolver”).

37 **§ 25620. Member of military on duty or organization authorized by law to purchase or  
38 receive weapons**

39 25620. Section 25400 does not apply to, or affect, any member of the Army,  
40 Navy, Air Force, Coast Guard, or Marine Corps of the United States, or the  
41 National Guard, when on duty, or any organization that is by law authorized to  
42 purchase or receive those weapons from the United States or this state.

43 **Comment.** Section 25620 continues former Section 12027(c) without substantive change.

1 For an exemption relating to parading by a duly authorized military or civil organization, or  
2 traveling to a meeting of such an organization, see Section 25625.

3 **☞ Staff Note.** Existing Section 12027(c) provides:

4 12027. Section 12025 does not apply to, or affect, any of the following:

5 ....

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

9 (Emphasis added.) The phrase “those weapons” is not clear in the context of this sentence. It  
10 would be better to use a more precise phrase instead. Unless the Commission otherwise directs,  
11 we will add this issue to the Commission’s list of “Minor Clean-up Issues for Possible Future  
12 Legislative Attention.” See Memorandum 2008-41.

13 **§ 25625. Parading by, or traveling to meeting of, duly authorized military or civil**  
14 **organization**

15 25625. Section 25400 does not apply to, or affect, the carrying of unloaded  
16 pistols, revolvers, or other firearms capable of being concealed upon the person by  
17 duly authorized military or civil organizations while parading, or the members  
18 thereof when going to and from the places of meeting of their respective  
19 organizations.

20 **Comment.** Section 25625 continues former Section 12027(d) without substantive change.

21 For an exemption relating to a member of the military on duty or an organization authorized by  
22 law to purchase or receive weapons, see Section 25620.

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

25 **§ 25630. Guard or messenger of common carrier, bank, or financial institution, when**  
26 **involved in shipping, transporting, or delivering money or other thing of value**

27 25630. Section 25400 does not apply to, or affect, any guard or messenger of  
28 any common carrier, bank, or other financial institution, while actually employed  
29 in and about the shipment, transportation, or delivery of any money, treasure,  
30 bullion, bonds, or other thing of value within this state.

31 **Comment.** Section 25630 continues former Section 12027(e) without substantive change.

32 For another exemption relating to common carriers, see Section 25645 (transportation of  
33 unloaded firearms by person operating licensed common carrier).

34 **§ 25635. Member of club or organization for purpose of practicing at established target**  
35 **ranges**

36 25635. Section 25400 does not apply to, or affect, members of any club or  
37 organization organized for the purpose of practicing shooting at targets upon  
38 established target ranges, whether public or private, while the members are using  
39 pistols, revolvers, or other firearms capable of being concealed upon the person  
40 upon the target ranges, or transporting these firearms unloaded when going to and  
41 from the ranges.

42 **Comment.** Section 25635 continues former Section 12027(f) without substantive change.

1 For another exemption relating to practicing at a target range, see Section 25540 (target range).  
2 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and  
3 “revolver”).

4 **§ 25640. Licensed hunters or fishermen**

5 25640. Section 25400 does not apply to, or affect, licensed hunters or fishermen  
6 carrying pistols, revolvers, or other firearms capable of being concealed upon the  
7 person while engaged in hunting or fishing, or transporting those firearms  
8 unloaded when going to or returning from the hunting or fishing expedition.

9 **Comment.** Section 25640 continues former Section 12027(g) without substantive change.

10 For another exemption relating to hunting, see Section 25520 (recognized sporting event or  
11 safety or hunter safety class).

12 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and  
13 “revolver”).

14 **§ 25645. Transportation of unloaded firearms by person operating licensed common carrier**

15 25645. Section 25400 does not apply to, or affect, the transportation of unloaded  
16 firearms by a person operating a licensed common carrier or an authorized agent  
17 or employee thereof when the firearms are transported in conformance with  
18 applicable federal law.

19 **Comment.** Section 25645 continues former Section 12027(h) without substantive change.

20 For another exemption relating to common carriers, see Section 25630 (guard or messenger of  
21 common carrier, bank, or financial institution, when involved in shipping, transporting, or  
22 delivering money or other thing of value).

23 See Section 16520 (“firearm”).

24 **§ 25650. Honorably retired federal officer or agent**

25 25650. (a) Upon approval of the sheriff of the county in which the retiree  
26 resides, Section 25400 does not apply to, or affect, any honorably retired federal  
27 officer or agent of any federal law enforcement agency, including, but not limited  
28 to, the Federal Bureau of Investigation, the Secret Service, the United States  
29 Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the  
30 Federal Bureau of Narcotics, the Drug Enforcement Administration, the United  
31 States Border Patrol, and any officer or agent of the Internal Revenue Service who  
32 was authorized to carry weapons while on duty, who was assigned to duty within  
33 the state for a period of not less than one year, or who retired from active service  
34 in the state.

35 (b) A retired federal officer or agent shall provide the sheriff with certification  
36 from the agency from which the officer or agent retired certifying that person’s  
37 service in the state, the nature of that person’s retirement, and indicating the  
38 agency’s concurrence that the retired federal officer or agent should be accorded  
39 the privilege of carrying a concealed firearm.

40 (c) Upon that approval, the sheriff shall issue a permit to the retired federal  
41 officer or agent indicating that the retiree may carry a concealed firearm in  
42 accordance with this section. The permit shall be valid for a period not exceeding

1 five years, shall be carried by the retiree while carrying a concealed firearm, and  
2 may be revoked for good cause.

3 (d) 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 **Comment.** Section 25650 continues former Section 12027(i) without substantive change.

8 For an exemption relating to honorably retired peace officers, see Section 25450 (peace officer  
9 exemption).

10 For an honorably retired federal officer or agent carrying a loaded firearm, see Section 26020.

11 See Section 16520 (“firearm”).

12 **§ 25655. Person licensed to carry concealed pistol, revolver, or other firearm capable of**  
13 **being concealed upon the person**

14 25655. Section 25400 does not apply to, or affect, the carrying of a pistol,  
15 revolver, or other firearm capable of being concealed upon the person by a person  
16 who is authorized to carry that weapon in a concealed manner pursuant to [Article  
17 3 (commencing with Section 12050)].

18 **Comment.** Section 25655 continues former Section 12027(j) without substantive change.

19 For an exemption relating to transportation of a firearm to a place designated by a person who  
20 is authorized to issue licenses to carry firearms, see Section 25545.

21 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and  
22 “revolver”).

23 Article 5. Concealed Carrying of Firearm as a Nuisance

24 **§ 25700. Unlawful carrying of handgun as nuisance**

25 25700. (a) The unlawful carrying of any handgun in violation of Section 25400  
26 is a nuisance and is subject to Sections 18000 and 18005.

27 (b) This section does not apply to any of the following:

28 (1) Any firearm in the possession of the Department of Fish and Game.

29 (2) Any firearm that was used in the violation of any provision of the Fish and  
30 Game Code or any regulation adopted pursuant thereto.

31 (3) Any firearm that is forfeited pursuant to Section 5008.6 of the Public  
32 Resources Code.

33 **Comment.** With respect to unlawful carrying of a handgun, subdivision (a) of Section 25700  
34 continues former Section 12028(a) without substantive change.

35 With respect to unlawful carrying of a handgun, subdivision (b) continues former Section  
36 12028(e) without substantive change.

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

CHAPTER 3. CARRYING A LOADED FIREARM

1 Article 1. Armed Criminal Action

2 § 25800. Armed criminal action

3 25800. (a) Every person who carries a loaded firearm with the intent to commit  
4 a felony is guilty of armed criminal action.

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

7 **Comment.** Section 25800 continues former Section 12023 without substantive change.

8 The definition of “loaded” for armed criminal action differs from the definition of “loaded” for  
9 the crime of carrying a loaded firearm in public. See Section 16840 (“loaded” and “loaded  
10 firearm”).

11 See also Section 16520 (“firearm”).

12 Article 2. Crime of Carrying a Loaded Firearm in Public

13 § 25850. Crime of carrying loaded firearm in public

14 25850. (a) A person is guilty of carrying a loaded firearm when the person  
15 carries a loaded firearm on the person or in a vehicle while in any public place or  
16 on any public street in an incorporated city or in any public place or on any public  
17 street in a prohibited area of unincorporated territory.

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

24 (c) Carrying a loaded firearm in violation of this section is punishable, as  
25 follows:

26 (1) Where the person previously has been convicted of any felony, or of any  
27 crime made punishable by [this chapter], as a felony.

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

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

34 (4) Where the person is not in lawful possession of the firearm, or is within a  
35 class of persons prohibited from possessing or acquiring a firearm pursuant to  
36 [Section 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare  
37 and Institutions Code, as a felony.

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

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

10 (7) In all cases other than those specified in paragraphs (1) to (6), inclusive, as a  
11 misdemeanor, punishable by imprisonment in a county jail not to exceed one year,  
12 by a fine not to exceed one thousand dollars (\$1,000), or by both that  
13 imprisonment and fine.

14 (d)(1) Every person convicted under this section who has previously been  
15 convicted of an offense enumerated in [Section 12001.6], or of any crime made  
16 punishable under [this chapter], shall serve a term of at least three months in a  
17 county jail, or, if granted probation or if the execution or imposition of sentence is  
18 suspended, it shall be a condition thereof that the person be imprisoned for a  
19 period of at least three months.

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

28 (e) A violation of this section that is punished by imprisonment in a county jail  
29 not exceeding one year shall not constitute a conviction of a crime punishable by  
30 imprisonment for a term exceeding one year for the purposes of determining  
31 federal firearms eligibility under Section 922(g)(1) of Title 18 of the United States  
32 Code.

33 (f) Nothing in this section, or in Articles 3 (commencing with Section 25900) or  
34 4 (commencing with Section 26000), shall preclude prosecution under [Sections  
35 12021 and 12021.1 of this code], Section 8100 or 8103 of the Welfare and  
36 Institutions Code, or any other law with a greater penalty than this section.

37 (g) Notwithstanding paragraphs (2) and (3) of subdivision (a) of Section 836, a  
38 peace officer may make an arrest without a warrant:

39 (1) When the person arrested has violated this section, although not in the  
40 officer's presence.

41 (2) Whenever the officer has reasonable cause to believe that the person to be  
42 arrested has violated this section, whether or not this section has, in fact, been  
43 violated.

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

8 **Comment.** Subdivision (a) of Section 25850 continues former Section 12031(a)(1) without  
9 substantive change.

10 Subdivision (b) continues former Section 12031(e) without substantive change.

11 Subdivision (c) continues former Section 12031(a)(2) without substantive change.

12 Subdivision (d) continues former Section 12031(a)(6) without substantive change.

13 Subdivision (e) continues former Section 12031(a)(7) without substantive change.

14 Subdivision (f) continues former Section 12031(a)(4) without substantive change.

15 Subdivision (g) continues former Section 12031(a)(5)(A) without substantive change.

16 Subdivision (h) continues former Section 12031(a)(5)(B) without substantive change.

17 For a provision that required preparation of reports on the race, age, gender, and ethnicity of  
18 persons charged with violating the predecessor of this section, see former Section 12031(m)  
19 (1999 Cal. Stat. ch. 571, § 3). That provision is not continued, because by its terms it ceased to be  
20 operative on January 1, 2005.

21 The definition of “loaded” for the crime of carrying a loaded firearm in public differs from the  
22 definition of “loaded” for armed criminal action. See Section 16840 (“loaded” and “loaded  
23 firearm”).

24 See also Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the  
25 person,” “pistol,” and “revolver”), 16750 (“lawful possession of the firearm”), 17030 (“prohibited  
26 area”).

27 **Staff Notes.**

28 (1) Subdivision (m) of existing Section 12025 provides:

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

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

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

36 (Emphasis added.) Because this provision only remained operative until January 1, 2005, the staff  
37 did not continue it in proposed Section 25850, but did refer to it in the Comment. We solicit  
38 comment on whether that treatment of subdivision (m) is appropriate.

39 (2) Existing Section 12031 is a very long section (over six pages in the attachment to  
40 Memorandum 2007-59). Proposed Section 25850 would continue all of Section 12031(a), except  
41 the definition of “lawful possession of the firearm,” which would be placed with other definitions  
42 (see proposed Section 16750). Proposed Section 25850 would also continue Section 12031(e),  
43 which concerns a police officer’s authority to determine whether a firearm is “loaded” in  
44 violation of the section.

45 The remainder of Section 12031 consists of:

- 46 • Exemptions relating to peace officers and retired peace officers (Section 12031(b)(1)-(3)). This  
47 material would be placed in “Article 3. Peace Office Exemption to the Crime of Carrying a  
48 Loaded Firearm in Public.”

- 1 • Various other exemptions (Section 12031(b)(4)-(8), (c), (d), (h)-(l)). This material would be  
2 placed in “Article 4. Other Exemptions to the Crime of Carrying a Loaded Firearm in Public.”
- 3 • A definition of “prohibited area” (Section 12031(f)) and a provision on when a firearm is  
4 deemed loaded (Section 12031(g)), which would be placed with other definitions (see  
5 proposed Sections 16840, 17030).
- 6 • Section 12031(m), which is inoperative as discussed above and would not be continued.

7 The staff solicits comment on this drafting approach.

8 (3) Existing Section 12031(a)(2)(C) specifies the punishment for a violation of the section  
9 “[w]here the person is an active participant in a criminal street gang, as defined in subdivision (a)  
10 of Section 186.22 ....” The definition of a “criminal street gang” is located in subdivision (f) of  
11 Section 186.22, not subdivision (a). But subdivision (a) provides guidance on what level of  
12 involvement in a criminal street gang is punishable:

13 (a) Any person who actively participates in any criminal street gang with knowledge that  
14 its members engage in or have engaged in a pattern of criminal gang activity, and who  
15 willfully promotes, furthers, or assists in any felonious criminal conduct by members of that  
16 gang, shall be punished by imprisonment in a county jail for a period not to exceed one year,  
17 or by imprisonment in the state prison for 16 months, or two or three years.

18 The staff has assumed that the Legislature intended to cross-refer to subdivision (a), not  
19 subdivision (f). Proposed Section 25850 would thus continue the existing cross-reference.

20 (4) Existing Section 12031(a)(2)(D) refers to a person who “is not in lawful possession of the  
21 firearm, *as defined in this section.*” (Emphasis added.) Unlike existing Section 12031(a)(2)(D),  
22 proposed Section 25850(c)(4) would not cross-refer to the provision defining “lawful possession  
23 of the firearm.”

24 Instead, the Comment would cross-refer to the definition of “lawful possession of the firearm.”  
25 The Comment would also state that “[s]ubdivision (c) continues former Section 12031(a)(2)  
26 without substantive change.” The definition of “lawful possession of the firearm” is drafted to  
27 encompass the provisions that would continue existing Section 12031, including proposed  
28 Section 25850.

29 We chose this approach because it would further the Legislature’s directive to “[a]void  
30 unnecessary use of cross-references” while “[n]either expand[ing] nor contracting the scope of  
31 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great  
32 weight to the Commission’s Comments, we think this would be sufficient to preserve the  
33 substance of Section 12031(a)(2)(D). See *2006-2007 Annual Report*, 36 Cal. L. Revision  
34 Comm’n Reports 1, 18-24 (2006).

### 35 Article 3. Peace Office Exemption to the Crime 36 of Carrying a Loaded Firearm in Public

37 **Staff Note.** Existing law contains extensive provisions relating to identification certificates  
38 for retired peace officers and endorsements on those certificates authorizing officers to (1) carry a  
39 concealed firearm, (2) carry a loaded firearm, or (3) carry a concealed and loaded firearm. The  
40 current and proposed future locations of those provisions are as follows:

- 41 • Existing Section 12027(a) (peace officer exemption to crime of carrying concealed  
42 firearm). This material would be recodified as proposed Sections 25450-25475.
- 43 • Existing Section 12031(b)(1)-(3) (peace officer exemption to crime of carrying loaded  
44 firearm in public). This material would be recodified as proposed Sections 25900-25925.
- 45 • Existing Section 12027.1 (retired peace officer carrying concealed and loaded firearm).  
46 This material would be recodified as proposed Sections 26300-26325.

1 There is much repetition among these three separate sets of statutory material, albeit in  
2 different contexts. The material could perhaps be reorganized more concisely, without any change  
3 in meaning.

4 To avoid any risk of a substantive change, the staff advises against attempting such  
5 reorganization in the context of this nonsubstantive study. Unless the Commission otherwise  
6 directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for Possible  
7 Future Legislative Attention.” See Memorandum 2008-41.

8 **§ 25900. Peace officer exemption**

9 25900. As provided in this article, Section 25850 does not apply to any of the  
10 following:

11 (a) Any peace officer, listed in Section 830.1 or 830.2, or subdivision (a) of  
12 Section 830.33, whether active or honorably retired.

13 (b) Any other duly appointed peace officer.

14 (c) Any honorably retired peace officer listed in subdivision (c) of Section  
15 830.5.

16 (d) Any other honorably retired peace officer who during the course and scope  
17 of employment as a peace officer was authorized to, and did, carry a firearm.

18 (e) Any full-time paid peace officer of another state or the federal government  
19 who is carrying out official duties while in California.

20 (f) Any person summoned by any of these officers to assist in making arrests or  
21 preserving the peace while the person is actually engaged in assisting that officer.

22 **Comment.** Section 25900 continues the first sentence of the first paragraph of former Section  
23 12031(b)(1) without substantive change.

24 For an exemption relating to honorably retired federal officers and agents, see Section 16020.

25 For guidance on a retired peace officer carrying a concealed firearm, see Sections 25450-  
26 25475. For guidance on a retired peace officer carrying a concealed and loaded firearm, see  
27 Sections 26300-26325.

28 See Sections 16520 (“firearm”), 16690 (“honorably retired”).

29 **§ 25905. Identification certificate for honorably retired peace officer**

30 25905. (a) Any peace officer described in Section 25900 who has been  
31 honorably retired shall be issued an identification certificate by the law  
32 enforcement agency from which the officer has retired.

33 (b) The issuing agency may charge a fee necessary to cover any reasonable  
34 expenses incurred by the agency in issuing certificates pursuant to this article.

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

39 (d) An honorably retired peace officer listed in Section 830.1 or 830.2,  
40 subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired  
41 prior to January 1, 1981, shall not be required to obtain an endorsement from the  
42 issuing agency to carry a loaded firearm.

43 **Comment.** Subdivision (a) of Section 25905 continues the second sentence of the first  
44 paragraph of former Section 12031(b)(1) without substantive change.

1 Subdivision (b) continues the third sentence of the first paragraph of former Section  
2 12031(b)(1) without substantive change.

3 Subdivision (c) continues the second paragraph of former Section 12031(b)(1) without  
4 substantive change.

5 Subdivision (d) continues the second sentence of former Section 12031(b)(2) without  
6 substantive change.

7 For guidance on a retired peace officer carrying a concealed firearm, see Sections 25450-  
8 25475. For guidance on a retired peace officer carrying a concealed and loaded firearm, see  
9 Sections 26300-26325.

10 See Sections 16520 (“firearm”), 16690 (“honorably retired”), 16840 (“loaded” and “loaded  
11 firearm”).

12 **☞ Staff Note.** The third sentence of the first paragraph of existing Section 12031(b)(1) says that  
13 “The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the  
14 agency in issuing certificates pursuant to this paragraph *and paragraph (3)*. (Emphasis added.)  
15 The cross-reference to paragraph (3) appears to be incorrect. That paragraph does not concern  
16 issuance of certificates. Rather, it provides:

17 (3) An honorably retired peace officer who is listed in subdivision (c) of Section 830.5 and  
18 authorized to carry loaded firearms by this subdivision shall meet the training requirements of  
19 Section 832 and shall qualify with the firearm at least annually. The individual retired peace  
20 officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The  
21 Department of Justice shall provide subsequent arrest notification pursuant to Section  
22 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5  
23 to the agency from which the officer has retired.

24 The staff suspects that the Legislature intended to refer to paragraph (2), which relates to renewal,  
25 denial, and revocation of the privilege to carry a loaded firearm, instead of paragraph (3).

26 The staff has corrected the cross-reference in drafting proposed Section 25905. Instead of  
27 referring to “expenses incurred by the agency in issuing certificates pursuant to *this paragraph*  
28 *and paragraph (3)*,” proposed Section 25905 would refer to “expenses incurred by the agency in  
29 issuing certificates pursuant to *this article*.”

30 This approach seems more reasonable than perpetuating an obviously incorrect reference.  
31 Although this is a strictly nonsubstantive study, some degree of commonsense is appropriate in  
32 interpreting existing law. We would exercise such commonsense here and note the situation in the  
33 preliminary part of the Commission’s report.

34 We encourage comment on this point.

### 35 § 25910. Format of endorsement on identification certificate

36 25910. (a) Except as provided in subdivision (b), no endorsement or renewal  
37 endorsement issued pursuant to Section 25915 shall be effective unless it is in the  
38 format set forth in subdivision (c) of Section 25460.

39 (b) Any peace officer listed in subdivision (f) of Section 830.2 or in subdivision  
40 (c) of Section 830.5, who is retired between January 2, 1981, and on or before  
41 December 31, 1988, and who is authorized to carry a loaded firearm pursuant to  
42 this article, shall not be required to have an endorsement in the format set forth in  
43 subdivision (c) of Section 25460 until the time of the issuance, on or after January  
44 1, 1989, of a renewal endorsement pursuant to 25915.

45 **Comment.** Section 25910 continues the third paragraph of former Section 12031(b)(1) without  
46 substantive change.

47 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

1 **☞ Staff Note.** The substance of proposed Section 25910(b) may be obsolete. The staff solicits  
2 comment on this point. Unless the Commission otherwise directs, we will add this issue to the  
3 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” See  
4 Memorandum 2008-41.

5 **§ 25915. Renewal of privilege to carry loaded firearm**

6 25915. Every five years, a retired peace officer, except an officer listed in  
7 Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of  
8 Section 830.5 who retired prior to January 1, 1981, shall petition the issuing  
9 agency for renewal of the privilege to carry a loaded firearm.

10 **Comment.** Section 25915 continues the first sentence of former Section 12031(b)(2) without  
11 substantive change.

12 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

13 **§ 25920. Denial or revocation of privilege to carry loaded firearm**

14 25920. (a) The agency from which a peace officer is honorably retired may,  
15 upon initial retirement of the peace officer, or at any time subsequent thereto, deny  
16 or revoke for good cause the retired officer’s privilege to carry a loaded firearm.

17 (b) A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of  
18 Section 830.33, or subdivision (c) of Section 830.5 who is retired prior to January  
19 1, 1981, shall have the privilege to carry a loaded firearm denied or revoked by  
20 having the agency from which the officer retired stamp on the officer’s  
21 identification certificate “No CCW privilege.”

22 **Comment.** Section 25920 continues the third sentence of former Section 12031(b)(2) without  
23 substantive change.

24 See Sections 16360 (“CCW”), 16520 (“firearm”), 16690 (“honorably retired”), 16840  
25 (“loaded” and “loaded firearm”).

26 **§ 25925. Maintaining privilege to carry loaded firearm**

27 25925. (a) An honorably retired peace officer who is listed in subdivision (c) of  
28 Section 830.5 and authorized to carry a loaded firearm by this article shall meet  
29 the training requirements of Section 832 and shall qualify with the firearm at least  
30 annually.

31 (b) The individual retired peace officer shall be responsible for eligibility to  
32 carry a loaded firearm.

33 (c) The Department of Justice shall provide subsequent arrest notification  
34 pursuant to Section 11105.2 regarding honorably retired peace officers listed in  
35 subdivision (c) of Section 830.5 to the agency from which the officer has retired.

36 **Comment.** Section 25925 continues former Section 12031(b)(3) without substantive change.

37 See Sections 16520 (“firearm”), 16690 (“honorably retired”), 16840 (“loaded” and “loaded  
38 firearm”).

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

3 **§ 26000. Members of military on duty**

4 26000. Section 25850 does not apply to members of the military forces of this  
5 state or of the United States engaged in the performance of their duties.

6 **Comment.** Section 26000 continues former Section 12031(b)(4) without substantive change.

7 **§ 26005. Target range or shooting club**

8 26005. Section 25850 does not apply to either of the following:

9 (a) Persons who are using target ranges for the purpose of practice shooting with  
10 a firearm.

11 (b) Members of shooting clubs while hunting on the premises of those clubs.

12 **Comment.** Section 26005 continues former Section 12031(b)(5) without substantive change.  
13 See Section 16520 (“firearm”).

14 **§ 26010. Person licensed to carry concealed pistol, revolver, or other firearm capable of  
15 being concealed upon the person**

16 26010. Section 25850 does not apply to the carrying of any pistol, revolver, or  
17 other firearm capable of being concealed upon the person by any person who is  
18 authorized to carry that weapon pursuant to Chapter 4 (commencing with Section  
19 26150) of Division 5.

20 **Comment.** Section 26010 continues former Section 12031(b)(6) without substantive change.

21 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and  
22 “revolver.”)

23 **§ 26015. Armored vehicle guard**

24 26015. Section 25850 does not apply to any armored vehicle guard, as defined  
25 in Section 7521 of the Business and Professions Code, if either of the following  
26 conditions is satisfied:

27 (a) The guard was hired prior to January 1, 1977, and is acting within the course  
28 and scope of employment.

29 (b) The guard was hired on or after January 1, 1977, has received a firearms  
30 qualification card from the Department of Consumer Affairs, and is acting within  
31 the course and scope of employment.

32 **Comment.** Section 26015 continues former Section 12031(b)(7) without substantive change.

33 **§ 26020. Honorably retired federal officer or agent**

34 26020. (a) Upon approval of the sheriff of the county in which the retiree  
35 resides, Section 25850 does not apply to any honorably retired federal officer or  
36 agent of any federal law enforcement agency, including, but not limited to, the  
37 Federal Bureau of Investigation, the Secret Service, the United States Customs  
38 Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal

1 Bureau of Narcotics, the Drug Enforcement Administration, the United States  
2 Border Patrol, and any officer or agent of the Internal Revenue Service who was  
3 authorized to carry weapons while on duty, who was assigned to duty within the  
4 state for a period of not less than one year, or who retired from active service in  
5 the state.

6 (b) A retired federal officer or agent shall provide the sheriff with certification  
7 from the agency from which the officer or agent retired certifying that person's  
8 service in the state, the nature of that person's retirement, and indicating the  
9 agency's concurrence that the retired federal officer or agent should be accorded  
10 the privilege of carrying a loaded firearm.

11 (c) Upon approval, the sheriff shall issue a permit to the retired federal officer or  
12 agent indicating that the retiree may carry a loaded firearm in accordance with this  
13 section. The permit shall be valid for a period not exceeding five years, shall be  
14 carried by the retiree while carrying a loaded firearm, and may be revoked for  
15 good cause.

16 (d) The sheriff of the county in which the retired federal officer or agent resides  
17 may require recertification prior to a permit renewal, and may suspend the  
18 privilege for cause. The sheriff may charge a fee necessary to cover any  
19 reasonable expenses incurred by the county.

20 **Comment.** Section 26020 continues former Section 12031(b)(8) without substantive change.

21 For an exemption relating to honorably retired peace officers, see Section 25900 (peace officer  
22 exemption).

23 For an honorably retired federal officer or agent carrying a concealed firearm, see Section  
24 25650.

25 See Sections 16520 ("firearm"), 16840 ("loaded" and "loaded firearm").

26 **§ 26025. Patrol special police officers, animal control officers, zookeepers, humane officers,**  
27 **and harbor police officers**

28 26025. Section 25850 does not apply to any of the following who have  
29 completed a regular course in firearms training approved by the Commission on  
30 Peace Officer Standards and Training:

31 (a) Patrol special police officers appointed by the police commission of any city,  
32 county, or city and county under the express terms of its charter who also, under  
33 the express terms of the charter, satisfy all of the following requirements:

34 (1) They are subject to suspension or dismissal after a hearing on charges duly  
35 filed with the commission after a fair and impartial trial.

36 (2) They are not less than 18 years of age or more than 40 years of age.

37 (3) They possess physical qualifications prescribed by the commission.

38 (4) They are designated by the police commission as the owners of a certain beat  
39 or territory as may be fixed from time to time by the police commission.

40 (b) Animal control officers or zookeepers, regularly compensated in that  
41 capacity by a governmental agency, when carrying weapons while acting in the  
42 course and scope of their employment and when designated by a local ordinance

1 or, if the governmental agency is not authorized to act by ordinance, by a  
2 resolution, either individually or by class, to carry the weapons.

3 (c) Persons who are authorized to carry the weapons pursuant to Section 14502  
4 of the Corporations Code, while actually engaged in the performance of their  
5 duties pursuant to that section.

6 (c) Harbor police officers designated pursuant to Section 663.5 of the Harbors  
7 and Navigation Code.

8 **Comment.** Section 26025 continues former Section 12031(c) without substantive change.

9 **§ 26030. Guards, messengers, private investigators, private patrol operators, and alarm**  
10 **company operators**

11 26030. (a) Section 25850 does not apply to any of the following who have been  
12 issued a certificate pursuant to subdivision (d):

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

17 (2) Guards of contract carriers operating armored vehicles pursuant to California  
18 Highway Patrol and Public Utilities Commission authority, if they were hired prior  
19 to January 1, 1977.

20 (3) Guards of contract carriers operating armored vehicles pursuant to California  
21 Highway Patrol and Public Utilities Commission authority, if they were hired on  
22 or after January 1, 1977, and they have completed a course in the carrying and use  
23 of firearms that meets the standards prescribed by the Department of Consumer  
24 Affairs.

25 (4) Private investigators licensed pursuant to Chapter 11.3 (commencing with  
26 Section 7512) of Division 3 of the Business and Professions Code, while acting  
27 within the course and scope of their employment.

28 (5) Uniformed employees of private investigators licensed pursuant to Chapter  
29 11.3 (commencing with Section 7512) of Division 3 of the Business and  
30 Professions Code, while acting within the course and scope of their employment.

31 (6) Private patrol operators licensed pursuant to Chapter 11.5 (commencing with  
32 Section 7580) of Division 3 of the Business and Professions Code, while acting  
33 within the course and scope of their employment.

34 (7) Uniformed employees of private patrol operators licensed pursuant to  
35 Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and  
36 Professions Code, while acting within the course and scope of their employment.

37 (8) Alarm company operators licensed pursuant to Chapter 11.6 (commencing  
38 with Section 7590) of Division 3 of the Business and Professions Code, while  
39 acting within the course and scope of their employment.

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

1 (10) Uniformed security guards, regularly employed and compensated in that  
2 capacity by persons engaged in any lawful business, and uniformed alarm agents  
3 employed by an alarm company operator, while actually engaged in protecting and  
4 preserving the property of their employers, or on duty or en route to or from their  
5 residences or their places of employment, and security guards and alarm agents en  
6 route to or from their residences or employer-required range training.

7 (b) Nothing in paragraph (10) of subdivision (a) shall be construed to prohibit  
8 cities and counties from enacting ordinances requiring alarm agents to register  
9 their names.

10 (c) A certificate under this section shall not be required of any person who is a  
11 peace officer, who has completed all training required by law for the exercise of  
12 the person's power as a peace officer, and who is employed while not on duty as a  
13 peace officer.

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

20 **Comment.** The introductory clause of subdivision (a) of Section 26030 continues the first  
21 sentence of the introductory paragraph of former Section 12031(d) without substantive change.

22 Subdivision (a)(1) continues former Section 12031(d)(1) without substantive change.

23 Subdivision (a)(2)-(3) continues former Section 12031(d)(2) without substantive change.

24 With respect to licensed private investigators, subdivision (a)(4) continues former Section  
25 12031(d)(3) without substantive change.

26 With respect to uniformed employees of licensed private investigators, subdivision (a)(5)  
27 continues former Section 12031(d)(6) without substantive change.

28 With respect to licensed private patrol operators, subdivision (a)(6) continues former Section  
29 12031(d)(3) without substantive change.

30 With respect to uniformed employees of licensed private patrol operators, subdivision (a)(7)  
31 continues former Section 12031(d)(6) without substantive change.

32 With respect to licensed alarm company operators, subdivision (a)(8) continues former Section  
33 12031(d)(3) without substantive change.

34 Subdivision (a)(9) continues former Section 12031(d)(4) without substantive change.

35 Subdivision (a)(10) continues the first sentence of former Section 12031(d)(5) without  
36 substantive change.

37 Subdivision (b) continues the second sentence of former Section 12031(d)(5) without  
38 substantive change.

39 Subdivision (c) continues the second sentence of the introductory paragraph of former Section  
40 12031(d) without substantive change.

41 Subdivision (d) continues former Section 12033 without substantive change.

42 See Section 16520 ("firearm").

43 **Staff Note.** Existing Section 12031(d)(3) refers to "[p]rivate investigators and private patrol  
44 operators who are licensed pursuant to *Chapter 11.5 (commencing with Section 7512) of ...*  
45 *Division 3 of the Business and Professions Code ....*" (Emphasis added.) Similarly, existing  
46 Section 12031(d)(6) refers to "[u]niformed employees of private patrol operators and private  
47 investigators licensed pursuant to *Chapter 11.5 (commencing with Section 7512) of Division 3 of*  
48 *the Business and Professions Code ....*" (Emphasis added.)

1 Those cross-references are incorrect. Private investigators are now licensed pursuant to Chapter  
2 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code.  
3 Private patrol operators are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of  
4 Division 3 of the Business and Professions Code.

5 The staff has corrected the cross-references in drafting proposed Section 26030 (see paragraphs  
6 (a)(4)-(a)(7)). This approach seems more reasonable than perpetuating obviously incorrect  
7 references. Although this is a strictly nonsubstantive study, some degree of commonsense is  
8 appropriate in interpreting existing law. We would exercise such commonsense here and note the  
9 situation in the preliminary part of the Commission's report.

10 We encourage comment on this point.

11 **§ 26035. Loaded firearm at one's place of business or own private property**

12 26035. Nothing in Section 25850 shall prevent any person engaged in any  
13 lawful business, including a nonprofit organization, or any officer, employee, or  
14 agent authorized by that person for lawful purposes connected with that business,  
15 from having a loaded firearm within the person's place of business, or any person  
16 in lawful possession of private property from having a loaded firearm on that  
17 property.

18 **Comment.** Section 26035 continues former Section 12031(h) without substantive change.

19 See Sections 16520 ("firearm"), 16840 ("loaded" and "loaded firearm").

20 **§ 26040. Hunting**

21 26040. Nothing in Section 25850 shall prevent any person from carrying a  
22 loaded firearm in an area within an incorporated city while engaged in hunting,  
23 provided that the hunting at that place and time is not prohibited by the city  
24 council.

25 **Comment.** Section 26040 continues former Section 12031(i) without substantive change.

26 See Sections 16520 ("firearm"), 16840 ("loaded" and "loaded firearm").

27 **§ 26045. Reasonable belief of immediate, grave danger to person or property**

28 26045. (a) Nothing in Section 25850 is intended to preclude the carrying of any  
29 loaded firearm, under circumstances where it would otherwise be lawful, by a  
30 person who reasonably believes that any person or the property of any person is in  
31 immediate, grave danger and that the carrying of the weapon is necessary for the  
32 preservation of that person or property.

33 (b) A violation of Section 25850 is justifiable when a person who possesses a  
34 firearm reasonably believes that person is in grave danger because of  
35 circumstances forming the basis of a current restraining order issued by a court  
36 against another person who has been found to pose a threat to the life or safety of  
37 the person who possesses the firearm. This paragraph may not apply when the  
38 circumstances involve a mutual restraining order issued pursuant to Division 10  
39 (commencing with Section 6200) of the Family Code absent a factual finding of a  
40 specific threat to the person's life or safety. It is not the intent of the Legislature to  
41 limit, restrict, or narrow the application of current statutory or judicial authority to  
42 apply this or other justifications to a defendant charged with violating [Section

1 12025] or committing another similar offense. Upon trial for violating Section  
2 25850, the trier of fact shall determine whether the defendant was acting out of a  
3 reasonable belief that the defendant was in grave danger.

4 (c) As used in this section, “immediate” means the brief interval before and after  
5 the local law enforcement agency, when reasonably possible, has been notified of  
6 the danger and before the arrival of its assistance.

7 **Comment.** Subdivision (a) of Section 26045 continues the first sentence of former Section  
8 12031(j)(1) without substantive change.

9 Subdivision (b) continues former Section 12031(j)(2) without substantive change.

10 Subdivision (c) continues the second sentence of former Section 12031(j)(1) without  
11 substantive change.

12 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

13 **☞ Staff Notes.**

14 (1) The first sentence of existing Section 12031(j)(1) says: “Nothing in Section 25850 is  
15 intended to preclude the carrying of any loaded firearm, under circumstances where it would  
16 otherwise be lawful, by a person who reasonably believes that *the person or property of himself*  
17 *or herself or of another* is in immediate, grave danger ....” (Emphasis added.) In drafting statutes,  
18 the Law Revision Commission generally tries to avoid using awkward phrases like “his or her,”  
19 “he or she,” and “himself or herself.”

20 In drafting proposed Section 26045 the staff has revised the sentence in question to read:  
21 “Nothing in Section 25850 is intended to preclude the carrying of any loaded firearm, under  
22 circumstances where it would otherwise be lawful, by a person who reasonably believes that *any*  
23 *person or the property of any person* is in immediate, grave danger ....” (Emphasis added.) We do  
24 not think this changes the meaning of the sentence.

25 We encourage input on this point.

26 (2) The second sentence of existing Section 12031(j)(1) defines “immediate” for purposes of  
27 that subdivision as “the brief interval before and after the local law enforcement agency, when  
28 reasonably possible, has been notified of the danger and before the arrival of its assistance.” The  
29 term is also used without definition elsewhere.

30 To help ensure that the applicable definition of this commonplace word is not overlooked, the  
31 Commission decided to place the definition in close proximity to the substance of Section  
32 12031(j). See Memorandum 2008-23, p. 3; Minutes (June 2008), pp. 6-9. Proposed Section 26045  
33 would implement that decision. The Commission and other interested persons should assess  
34 whether this treatment of the definition of “immediate” is satisfactory.

35 (3) Existing Section 12031(j)(2) provides:

36 A violation of this section is justifiable when a person who possesses a  
37 firearm reasonably believes that he or she is in grave danger because of  
38 circumstances forming the basis of a current restraining order issued by a court  
39 against another person or persons who has or have been found to pose a threat to  
40 his or her life or safety. This paragraph may not apply when the circumstances  
41 involve a mutual restraining order issued pursuant to Division 10 (commencing  
42 with Section 6200) of the Family Code absent a factual finding of a specific  
43 threat to the person’s life or safety. It is not the intent of the Legislature to limit,  
44 restrict, or narrow the application of current statutory or judicial authority to  
45 apply this or other justifications to defendants charged with violating *Section*  
46 *12025* or of committing other similar offenses. Upon trial for violating this  
47 section, the trier of fact shall determine whether the defendant was acting out of a  
48 reasonable belief that he or she was in grave danger.

1 (Emphasis added.) The staff suspects that the italicized cross-reference to Section 12025 is  
2 incorrect and should be replaced with a cross-reference to Section 12031.

3 In coming to this conclusion, we noted that existing Section 12025.5 is almost identical to  
4 Section 12031(j)(2), but is an exemption to Section 12025 rather than Section 12031. It is easy to  
5 imagine that someone used a cut-and-paste function in drafting Section 12031(j)(2) and forgot to  
6 replace “Section 12025” with “Section 12031.”

7 We solicit comment on whether proposed Section 26045(b) should refer to the provision that  
8 continues the elements of the crime stated in existing Section 12025 (proposed Section 25400) or  
9 the provision that continues the elements of the crime stated in existing Section 12031 (proposed  
10 Section 25850). Absent input on this point, we will not correct the cross-reference (i.e., proposed  
11 Section 26045(b) will refer to proposed Section 25400), but we will add this issue to the  
12 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” See  
13 Memorandum 2008-41.

#### 14 § 26050. Making lawful arrest

15 26050. Nothing in Section 25850 is intended to preclude the carrying of a loaded  
16 firearm by any person while engaged in the act of making or attempting to make a  
17 lawful arrest.

18 **Comment.** Section 26050 continues former Section 12031(k) without substantive change.  
19 See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

#### 20 § 26055. Place of residence, including campsite

21 26055. Nothing in Section 25850 shall prevent any person from having a loaded  
22 weapon, if it is otherwise lawful, at the person’s place of residence, including any  
23 temporary residence or campsite.

24 **Comment.** Section 26055 continues former Section 12031(l) without substantive change.  
25 See Section 16840 (“loaded” and “loaded firearm”).

#### 26 § 26060. Rocket or other emergency or distress signaling device

27 26060. Nothing in Section 25850 shall prevent any person from storing aboard  
28 any vessel or aircraft any loaded or unloaded rocket, rocket propelled projectile  
29 launcher, or similar device designed primarily for emergency or distress signaling  
30 purposes, or from possessing that type of a device while in a permitted hunting  
31 area or traveling to or from a permitted hunting area and carrying a valid  
32 California permit or license to hunt.

33 **Comment.** Section 26060 continues former Section 12031.1 without substantive change.

### 34 Article 5. Loaded Firearm in Motor Vehicle

#### 35 § 26100. Loaded firearm in motor vehicle

36 26100. (a) It is a misdemeanor for a driver of any motor vehicle or the owner of  
37 any motor vehicle, whether or not the owner of the vehicle is occupying the  
38 vehicle, knowingly to permit any other person to carry into or bring into the  
39 vehicle a firearm in violation of Section 25850 of this code or Section 2006 of the  
40 Fish and Game Code.

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

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

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

12 **Comment.** Section 26100 continues former Section 12034 without substantive change.  
13 See Section 16520 (“firearm”).

14 CHAPTER 4. LICENSE TO CARRY PISTOL, REVOLVER, OR OTHER FIREARM  
15 CAPABLE OF BEING CONCEALED UPON PERSON

16 § 26150. Issuance of license by sheriff

17 26150. (a) When a person applies for a license to carry a pistol, revolver, or  
18 other firearm capable of being concealed upon the person, the sheriff of a county  
19 may issue a license to that person upon proof of all of the following:

20 (1) The applicant is of good moral character.

21 (2) Good cause exists for issuance of the license.

22 (3) The applicant is a resident of the county or a city within the county, or the  
23 applicant’s principal place of employment or business is in the county or a city  
24 within the county and the applicant spends a substantial period of time in that  
25 place of employment or business.

26 (4) The applicant has completed a course of training as described in Section  
27 26165.

28 (b) The sheriff may issue a license under subdivision (a) in either of the  
29 following formats:

30 (1) A license to carry concealed a pistol, revolver, or other firearm capable of  
31 being concealed upon the person.

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

36 **Comment.** Section 26150 continues former Section 12050(a)(1)(A) & (D) without substantive  
37 change.

38 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”  
39 “pistol,” and “revolver”), 17020 (“principal place of employment or business”).

1 § 26155. Issuance of license by head of municipal police department

2 26155. (a) When a person applies for a license to carry a pistol, revolver, or  
3 other firearm capable of being concealed upon the person, the chief or other head  
4 of a municipal police department of any city or city and county may issue a license  
5 to that person upon proof of all of the following:

6 (1) The applicant is of good moral character.

7 (2) Good cause exists for issuance of the license.

8 (3) The applicant is a resident of that city.

9 (4) The applicant has completed a course of training as described in Section  
10 26165.

11 (b) The chief or other head of a municipal police department may issue a license  
12 under subdivision (a) in either of the following formats:

13 (1) A license to carry concealed a pistol, revolver, or other firearm capable of  
14 being concealed upon the person.

15 (2) Where the population of the county in which the city is located is less than  
16 200,000 persons according to the most recent federal decennial census, a license to  
17 carry loaded and exposed in that county a pistol, revolver, or other firearm capable  
18 of being concealed upon the person.

19 (c) Nothing in this chapter shall preclude the chief or other head of a municipal  
20 police department of any city from entering an agreement with the sheriff of the  
21 county in which the city is located for the sheriff to process all applications for  
22 licenses, renewals of licenses, and amendments to licenses, pursuant to this  
23 chapter.

24 **Comment.** Subdivisions (a) and (b) of Section 26155 continue former Section 12050(a)(1)(B)  
25 without substantive change.

26 Subdivision (c) continues former Section 12050(g) without substantive change.

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

29 § 26160. Written policy

30 26160. Each licensing authority shall publish and make available a written  
31 policy summarizing the provisions of Section 26150 and subdivisions (a) and (b)  
32 of Section 26155.

33 **Comment.** Section 26160 continues former Section 12050.2 without substantive change.

34 **Staff Note.** Existing Section 12050.2 provides:

35 12050.2. *Within three months of the effective date of the act adding this section, each*  
36 *licensing authority shall publish and make available a written policy summarizing the*  
37 *provisions of subparagraphs (A) and (B) of paragraph (1) of subdivision (a) of Section 12050.*

38 (Emphasis added.) The compliance deadline indicated in italics passed long ago. The effective  
39 date of the act adding Section 12050.2 to the Penal Code was January 1, 1999, and the deadline  
40 was three months later (i.e., April 1, 1999). See 1998 Cal. Stat. ch. 910, § 2; see also Cal. Const.  
41 art. IV, § 8(c)(1); Gov’t Code § 9600(a).

42 Because the compliance deadline has passed and rewording it to reflect recodification of  
43 existing Section 12050.2 would be awkward, the staff has not continued it in proposed Section  
44 26160. We solicit comment on whether that would create any problems.

1    **§ 26165. Training course**

2    26165. (a) For new license applicants, the course of training for issuance of a  
3 license under Section 26150 or 26155 may be any course acceptable to the  
4 licensing authority, shall not exceed 16 hours, and shall include instruction on at  
5 least firearm safety and the law regarding the permissible use of a firearm.

6    (b) Notwithstanding subdivision (a), the licensing authority may require a  
7 community college course certified by the Commission on Peace Officer  
8 Standards and Training, up to a maximum of 24 hours, but only if required  
9 uniformly of all license applicants without exception.

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

16    **Comment.** Section 26165 continues former Section 12050(a)(1)(E) without substantive  
17 change.

18    See Section 16520 (“firearm”).

19    **§ 26170. Issuance of license to person deputized or appointed as peace officer**

20    26170. (a) Upon proof of all of the following, the sheriff of a county, or the  
21 chief or other head of a municipal police department of any city or city and  
22 county, may issue to an applicant a license to carry concealed a pistol, revolver, or  
23 other firearm capable of being concealed upon the person:

24    (1) The applicant is of good moral character.

25    (2) Good cause exists for issuance of the license.

26    (3) The applicant has been deputized or appointed as a peace officer pursuant to  
27 subdivision (a) or (b) of Section 830.6 by that sheriff or that chief of police or  
28 other head of a municipal police department.

29    (b) Direct or indirect fees for the issuance of a license pursuant to this section  
30 may be waived.

31    (c) The fact that an applicant for a license to carry a pistol, revolver, or other  
32 firearm capable of being concealed upon the person has been deputized or  
33 appointed as a peace officer pursuant to subdivision (a) or (b) of Section 830.6  
34 shall be considered only for the purpose of issuing a license pursuant to this  
35 section, and shall not be considered for the purpose of issuing a license pursuant to  
36 Section 26150 or 26155.

37    **Comment.** Section 26170 continues former Section 12050(a)(1)(C) without substantive  
38 change.

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

1    **§ 26175. License application**

2       26175. (a)(1) Applications for licenses, applications for amendments to licenses,  
3 amendments to licenses, and licenses under this article shall be uniform  
4 throughout the state, upon forms to be prescribed by the Attorney General.

5       (2) The Attorney General shall convene a committee composed of one  
6 representative of the California State Sheriffs' Association, one representative of  
7 the California Police Chiefs' Association, and one representative of the  
8 Department of Justice to review, and as deemed appropriate, revise the standard  
9 application form for licenses. The committee shall meet for this purpose if two of  
10 the committee's members deem that necessary.

11       (b) The application shall include a section summarizing the statutory provisions  
12 of state law that result in the automatic denial of a license.

13       (c) The standard application form for licenses described in subdivision (a) shall  
14 require information from the applicant including, but not limited to, the name,  
15 occupation, residence and business address of the applicant, the applicant's age,  
16 height, weight, color of eyes and hair, and reason for desiring a license to carry the  
17 weapon.

18       (d) Applications for licenses shall be filed in writing, and signed by the  
19 applicant.

20       (e) Applications for amendments to licenses shall be filed in writing and signed  
21 by the applicant, and shall state what type of amendment is sought pursuant to  
22 Section 26215 and the reason for desiring the amendment.

23       (f) The forms shall contain a provision whereby the applicant attests to the truth  
24 of statements contained in the application.

25       (g) An applicant shall not be required to complete any additional application or  
26 form for a license, or to provide any information other than that necessary to  
27 complete the standard application form described in subdivision (a), except to  
28 clarify or interpret information provided by the applicant on the standard  
29 application form.

30       (h) The standard application form described in subdivision (a) is deemed to be a  
31 local form expressly exempt from the requirements of the Administrative  
32 Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of  
33 Division 3 of Title 2 of the Government Code.

34       (i) Any license issued upon the application shall set forth the licensee's name,  
35 occupation, residence and business address, the licensee's age, height, weight,  
36 color of eyes and hair, and the reason for desiring a license to carry the weapon,  
37 and shall, in addition, contain a description of the weapon or weapons authorized  
38 to be carried, giving the name of the manufacturer, the serial number, and the  
39 caliber. The license issued to the licensee may be laminated.

40       **Comment.** Subdivision (a) of Section 26175 continues the first, second, and third sentences of  
41 former Section 12051(a)(3)(A) without substantive change.

42       Subdivision (b) continues the fourth sentence of former Section 12051(a)(3)(A) without  
43 substantive change.

1 Subdivision (c) continues the first sentence of former Section 12051(a)(1) without substantive  
2 change.

3 Subdivision (d) continues the second sentence of former Section 12051(a)(1) without  
4 substantive change.

5 Subdivision (e) continues former Section 12051(a)(2) without substantive change.

6 Subdivision (f) continues former Section 12051(a)(3)(B) without substantive change.

7 Subdivision (g) continues former Section 12051(a)(3)(C) without substantive change.

8 Subdivision (h) continues former Section 12051(a)(3)(D) without substantive change.

9 Subdivision (i) continues the third and fourth sentences of former Section 12051(a)(1) without  
10 substantive change.

11 **§ 26180. False statement on application form**

12 26180. (a) Any person who files an application required by Section 26175  
13 knowing that any statement contained therein is false is guilty of a misdemeanor.

14 (b) Any person who knowingly makes a false statement on the application  
15 regarding any of the following is guilty of a felony:

16 (1) The denial or revocation of a license, or the denial of an amendment to a  
17 license, issued pursuant to this article.

18 (2) A criminal conviction.

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

20 (4) The use of a controlled substance.

21 (5) A dishonorable discharge from military service.

22 (6) A commitment to a mental institution.

23 (7) A renunciation of United States citizenship.

24 **Comment.** Subdivision (a) of Section 26180 continues former Section 12051(b) without  
25 substantive change.

26 Subdivision (b) continues former Section 12051(c) without substantive change.

27 **§ 26185. Fingerprinting and Department of Justice report**

28 26185. (a)(1) The fingerprints of each applicant shall be taken and two copies on  
29 forms prescribed by the Department of Justice shall be forwarded to the  
30 department.

31 (2) Upon receipt of the fingerprints and the fee as prescribed in Section 26190,  
32 the department shall promptly furnish the forwarding licensing authority a report  
33 of all data and information pertaining to any applicant of which there is a record in  
34 its office, including information as to whether the person is prohibited under  
35 [Section 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare  
36 and Institutions Code from possessing, receiving, owning, or purchasing a firearm.

37 (3) No license shall be issued by any licensing authority until after receipt of the  
38 report from the department.

39 (b) Notwithstanding subdivision (a), if the license applicant has previously  
40 applied to the same licensing authority for a license to carry firearms pursuant to  
41 this article and the applicant's fingerprints and fee have been previously forwarded  
42 to the Department of Justice, as provided by this section, the licensing authority  
43 shall note the previous identification numbers and other data that would provide

1 positive identification in the files of the Department of Justice on the copy of any  
2 subsequent license submitted to the department in conformance with Section  
3 26225 and no additional application form or fingerprints shall be required.

4 (c) If the license applicant has a license issued pursuant to this article and the  
5 applicant's fingerprints have been previously forwarded to the Department of  
6 Justice, as provided in this section, the licensing authority shall note the previous  
7 identification numbers and other data that would provide positive identification in  
8 the files of the Department of Justice on the copy of any subsequent license  
9 submitted to the department in conformance with Section 26225 and no additional  
10 fingerprints shall be required.

11 **Comment.** Section 26185 continues former Section 12052 without substantive change.  
12 See Section 16520 ("firearm").

13 **§ 26190. Application fees**

14 26190. (a)(1) Each applicant for a new license or for the renewal of a license  
15 shall pay at the time of filing the application a fee determined by the Department  
16 of Justice. The fee shall not exceed the application processing costs of the  
17 Department of Justice for the direct costs of furnishing the report required by  
18 Section 26185.

19 (2) After the department establishes fees sufficient to reimburse the department  
20 for processing costs, fees charged shall increase at a rate not to exceed the  
21 legislatively approved annual cost-of-living adjustments for the department's  
22 budget.

23 (3) The officer receiving the application and the fee shall transmit the fee, with  
24 the fingerprints if required, to the Department of Justice.

25 (b)(1) The licensing authority of any city, city and county, or county may charge  
26 an additional fee in an amount equal to the actual costs for processing the  
27 application for a new license, excluding fingerprint and training costs, but in no  
28 case to exceed one hundred dollars (\$100), and shall transmit the additional fee, if  
29 any, to the city, city and county, or county treasury.

30 (2) The first 20 percent of this additional local fee may be collected upon filing  
31 of the initial application. The balance of the fee shall be collected only upon  
32 issuance of the license.

33 (c) The licensing authority may charge an additional fee, not to exceed twenty-  
34 five dollars (\$25), for processing the application for a license renewal, and shall  
35 transmit an additional fee, if any, to the city, city and county, or county treasury.

36 (d) These local fees may be increased at a rate not to exceed any increase in the  
37 California Consumer Price Index as compiled and reported by the California  
38 Department of Industrial Relations.

39 (e)(1) In the case of an amended license pursuant to Section 26215, the licensing  
40 authority of any city, city and county, or county may charge a fee, not to exceed  
41 ten dollars (\$10), for processing the amended license.

1 (2) This fee may be increased at a rate not to exceed any increase in the  
2 California Consumer Price Index as compiled and reported by the California  
3 Department of Industrial Relations.

4 (3) The licensing authority shall transmit the fee to the city, city and county, or  
5 county treasury.

6 (f)(1) If psychological testing on the initial application is required by the  
7 licensing authority, the license applicant shall be referred to a licensed  
8 psychologist used by the licensing authority for the psychological testing of its  
9 own employees. The applicant may be charged for the actual cost of the testing in  
10 an amount not to exceed one hundred fifty dollars (\$150).

11 (2) Additional psychological testing of an applicant seeking license renewal  
12 shall be required only if there is compelling evidence to indicate that a test is  
13 necessary. The cost to the applicant for this additional testing shall not exceed one  
14 hundred fifty dollars (\$150).

15 (g) Except as authorized pursuant to this section, no requirement, charge,  
16 assessment, fee, or condition that requires the payment of any additional funds by  
17 the applicant may be imposed by any licensing authority as a condition of the  
18 application for a license.

19 **Comment.** Subdivision (a) of Section 26190 continues the first, second, and third sentences of  
20 the first paragraph of former Section 12054(a) without substantive change.

21 Subdivision (b) continues the fourth, fifth, and sixth sentences of the first paragraph of former  
22 Section 12054(a) without substantive change.

23 Subdivision (c) continues the first sentence of the second paragraph of former Section 12054(a)  
24 without substantive change.

25 Subdivision (d) continues the second sentence of the second paragraph of former Section  
26 12054(a) without substantive change.

27 Subdivision (e) continues former Section 12054(b) without substantive change.

28 Subdivision (f) continues former Section 12054(c) without substantive change.

29 Subdivision (g) continues former Section 12054(d) without substantive change.

30 **§ 26195. No license for person in prohibited class**

31 26195. (a) A license under this article shall not be issued if the Department of  
32 Justice determines that the person is within a prohibited class described in [Section  
33 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare and  
34 Institutions Code.

35 (b)(1) A license under this article shall be revoked by the local licensing  
36 authority if at any time either the local licensing authority is notified by the  
37 Department of Justice that a licensee is within a prohibited class described in  
38 [Section 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare  
39 and Institutions Code, or the local licensing authority determines that the person is  
40 within a prohibited class described in [Section 12021 or 12021.1 of this code] or  
41 Section 8100 or 8103 of the Welfare and Institutions Code.

42 (2) If at any time the Department of Justice determines that a licensee is within a  
43 prohibited class described in [Section 12021 or 12021.1 of this code] or Section

1 8100 or 8103 of the Welfare and Institutions Code, the department shall  
2 immediately notify the local licensing authority of the determination.

3 (3) If the local licensing authority revokes the license, the Department of Justice  
4 shall be notified of the revocation pursuant to Section 26225. The licensee shall  
5 also be immediately notified of the revocation in writing.

6 **Comment.** Subdivision (a) of Section 26195 continues former Section 12050(d) without  
7 substantive change.

8 Subdivision (b) continues former Section 12050(e) without substantive change.

9 **§ 26200. Restrictions or conditions on license**

10 26200. (a) A license issued pursuant to this article may include any reasonable  
11 restrictions or conditions that the issuing authority deems warranted, including  
12 restrictions as to the time, place, manner, and circumstances under which the  
13 licensee may carry a pistol, revolver, or other firearm capable of being concealed  
14 upon the person.

15 (b) Any restrictions imposed pursuant to subdivision (a) shall be indicated on  
16 any license issued.

17 **Comment.** Subdivision (a) of Section 26200 continues former Section 12050(b) without  
18 substantive change.

19 Subdivision (b) continues former Section 12050(c) without substantive change.

20 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and  
21 “revolver”).

22 **§ 26205. Notification of applicant**

23 26205. The licensing authority shall give written notice to the applicant  
24 indicating if the license under this article is approved or denied. The licensing  
25 authority shall give this notice within 90 days of the initial application for a new  
26 license or a license renewal, or 30 days after receipt of the applicant’s criminal  
27 background check from the Department of Justice, whichever is later.

28 **Comment.** Section 26205 continues former Section 12052.5 without substantive change.

29 **§ 26210. Change of licensee’s address**

30 26210. (a) When a licensee under this article has a change of address, the license  
31 shall be amended to reflect the new address and a new license shall be issued  
32 pursuant to subdivision (b) of Section 26215.

33 (b) The licensee shall notify the licensing authority in writing within 10 days of  
34 any change in the licensee’s place of residence.

35 (c) If the license is one to carry concealed a pistol, revolver, or other firearm  
36 capable of being concealed upon the person, then it may not be revoked solely  
37 because the licensee changes his or her place of residence to another county if the  
38 licensee has not breached any conditions or restrictions set forth in the license or  
39 has not fallen into a prohibited class described in [Section 12021 or 12021.1 of  
40 this code] or Section 8100 or 8103 of the Welfare and Institutions Code. However,  
41 any license issued pursuant to Section 26150 or 26155 shall expire 90 days after

1 the licensee moves from the county of issuance if the licensee’s place of residence  
2 was the basis for issuance of the license.

3 (d) If the license is one to carry loaded and exposed a pistol, revolver, or other  
4 firearm capable of being concealed upon the person, the license shall be revoked  
5 immediately upon a change of the licensee’s place of residence to another county.

6 **Comment.** Subdivision (a) of Section 26210 continues former Section 12050(f)(2) without  
7 substantive change.

8 Subdivision (b) continues former Section 12050(f)(4)(A) without substantive change.

9 Subdivision (c) continues former Section 12050(f)(4)(B) without substantive change.

10 Subdivision (d) continues former Section 12050(f)(4)(C) without substantive change.

11 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and  
12 “revolver”).

13 **Staff Note.** Existing Section 12050(f)(4)(B) provides:

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

22 The wording of this provision is somewhat awkward. Instead of stating all of the conditions at the  
23 beginning of the first sentence, one condition is stated at the beginning of the sentence (“If the  
24 license is one to carry concealed ...”) and other conditions are stated at the end (“if the licensee  
25 has not breached any ...”).

26 The staff considered revising the sentence to improve its structure. We noticed, however, a  
27 possible error in the sentence.

28 Specifically, the sentence says that a license to carry a handgun may not be revoked solely due  
29 to a change in county of residence “if the licensee has not breached any conditions or restrictions  
30 set forth in the license *or* has not fallen into a prohibited class described in Section 12021 or  
31 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.” (Emphasis  
32 added.) The use of “or” suggests that the two requirements are alternatives: It is enough to satisfy  
33 one or the other; it is not necessary to fulfill both.

34 We suspect, however, that the actual intent is otherwise. In other words, to avoid having a  
35 license to carry a concealed handgun revoked due to a change in county of residence, *both* of the  
36 following must be true: (1) the licensee must not have breached any conditions or restrictions set  
37 forth in the license, *and* (2) the licensee must not have fallen into a prohibited class.

38 If that is the actual intent, proposed Section 26210 should perhaps be revised as follows:

39 26210. (a) When a licensee under this article has a change of address, the license shall be  
40 amended to reflect the new address and a new license shall be issued pursuant to [paragraph  
41 (3)].

42 (b) The licensee shall notify the licensing authority in writing within 10 days of any change  
43 in the licensee’s place of residence.

44 ~~(c) If the license is one to carry concealed a pistol, revolver, or other firearm capable of~~  
45 ~~being concealed upon the person, then it may not be revoked solely because the licensee~~  
46 ~~changes his or her place of residence to another county if the licensee has not breached any~~  
47 ~~conditions or restrictions set forth in the license or has not fallen into a prohibited class~~  
48 ~~described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare~~  
49 ~~and Institutions Code. However, any license issued pursuant to Section 26150 or 26155 shall~~

1 ~~expire 90 days after the licensee moves from the county of issuance if the licensee's place of~~  
2 ~~residence was the basis for issuance of the license.~~

3 ~~(d) If the license is one to carry loaded and exposed a pistol, revolver, or other firearm~~  
4 ~~capable of being concealed upon the person, the license shall be revoked immediately upon a~~  
5 ~~change of the licensee's place of residence to another county.~~

6 (c) If both of the following conditions are satisfied, a license to carry a concealed handgun  
7 may not be revoked solely because the licensee's place of residence has changed to another  
8 county:

9 (1) The licensee has not breached any of the conditions or restrictions set forth in the  
10 license.

11 (2) The licensee has not fallen into a prohibited class described in [Section 12021 or  
12 12021.1 of this code] or Section 8100 or 8103 of the Welfare and Institutions Code.

13 (d) Notwithstanding subdivision (c), if a licensee's place of residence was the basis for  
14 issuance of a license, any license issued pursuant to Section 26150 or 26155 shall expire 90  
15 days after the licensee moves from the county of issuance.

16 (e) A license to carry a loaded and exposed handgun shall be revoked immediately upon a  
17 change of the licensee's place of residence to another county.

18 Because this a strictly nonsubstantive study, the staff did not take this approach. Unless the  
19 Commission otherwise directs, we will add this issue to the Commission's list of "Minor Clean-  
20 up Issues for Possible Future Legislative Attention." See Memorandum 2008-41.

21 **§ 26215. Amendment of license**

22 26215. (a) A person issued a license pursuant to this article may apply to the  
23 licensing authority for an amendment to the license to do one or more of the  
24 following:

25 (1) Add or delete authority to carry a particular pistol, revolver, or other firearm  
26 capable of being concealed upon the person.

27 (2) Authorize the licensee to carry concealed a pistol, revolver, or other firearm  
28 capable of being concealed upon the person.

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

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

36 (b) If the licensing authority amends the license, a new license shall be issued to  
37 the licensee reflecting the amendments.

38 (c) An amendment to the license does not extend the original expiration date of  
39 the license and the license shall be subject to renewal at the same time as if the  
40 license had not been amended.

41 (d) An application to amend a license does not constitute an application for  
42 renewal of the license.

43 **Comment.** Subdivision (a) of Section 26215 continues former Section 12050(f)(1) without  
44 substantive change.

45 Subdivision (b) continues former Section 12050(f)(3) without substantive change.

46 Subdivision (c) continues former Section 12050(f)(5) without substantive change.

1 Subdivision (d) continues former Section 12050(f)(6) without substantive change.  
2 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and  
3 “revolver”).

4 **§ 26220. Duration of license**

5 26220. (a) Except as otherwise provided in this section and in subdivision (c) of  
6 Section 26210, a license issued pursuant to Section 26150 or 26155 is valid for  
7 any period of time not to exceed two years from the date of the license.

8 (b) If the licensee’s place of employment or business was the basis for issuance  
9 of a license pursuant to Section 26150, the license is valid for any period of time  
10 not to exceed 90 days from the date of the license. The license shall be valid only  
11 in the county in which the license was originally issued. The licensee shall give a  
12 copy of this license to the licensing authority of the city, county, or city and  
13 county in which the licensee resides. The licensing authority that originally issued  
14 the license shall inform the licensee verbally and in writing in at least 16-point  
15 type of this obligation to give a copy of the license to the licensing authority of the  
16 city, county, or city and county of residence. Any application to renew or extend  
17 the validity of, or reissue, the license may be granted only upon the concurrence of  
18 the licensing authority that originally issued the license and the licensing authority  
19 of the city, county, or city and county in which the licensee resides.

20 (c) A license issued pursuant to Section 26150 or 26155 is valid for any period  
21 of time not to exceed three years from the date of the license if the license is  
22 issued to any of the following individuals:

- 23 (1) A judge of a California court of record.
- 24 (2) A full-time court commissioner of a California court of record.
- 25 (3) A judge of a federal court.
- 26 (4) A magistrate of a federal court.

27 (d) A license issued pursuant to Section 26150 or 26155 is valid for any period  
28 of time not to exceed four years from the date of the license if the license is issued  
29 to a custodial officer who is an employee of the sheriff as provided in Section  
30 831.5, except that the license shall be invalid upon the conclusion of the person’s  
31 employment pursuant to Section 831.5 if the four-year period has not otherwise  
32 expired or any other condition imposed pursuant to this article does not limit the  
33 validity of the license to a shorter time period.

34 (e) A license issued pursuant to Section 26170 to a peace officer appointed  
35 pursuant to Section 830.6 is valid for any period of time not to exceed four years  
36 from the date of the license, except that the license shall be invalid upon the  
37 conclusion of the person’s appointment pursuant to Section 830.6 if the four-year  
38 period has not otherwise expired or any other condition imposed pursuant to this  
39 article does not limit the validity of the license to a shorter time period.

40 **Comment.** Subdivision (a) of Section 26220 continues former Section 12050(a)(2)(A)(i)  
41 without substantive change.

42 Subdivision (b) continues former Section 12050(a)(2)(A)(ii) without substantive change.

43 Subdivision (c) continues former Section 12050(a)(2)(C) without substantive change.

- 1 Subdivision (d) continues former Section 12050(a)(2)(D) without substantive change.  
2 Subdivision (e) continues former Section 12050(a)(2)(B) without substantive change.

3 **§ 26225. Duties of licensing authority and Attorney General**

4 26225. (a) A record of the following shall be maintained in the office of the  
5 licensing authority:

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

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

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

18 (c)(1) Commencing on or before January 1, 2000, and annually thereafter, each  
19 licensing authority shall submit to the Attorney General the total number of  
20 licenses issued to peace officers pursuant to Section 26170, and to judges pursuant  
21 to Section 26150 or 26155.

22 (2) The Attorney General shall collect and record the information submitted  
23 pursuant to this subdivision by county and licensing authority.

24 **Comment.** Section 26225 continues former Section 12053 without substantive change.

25 CHAPTER 5. RETIRED PEACE OFFICER CARRYING  
26 CONCEALED AND LOADED FIREARM

27 **Staff Note.** Existing law contains extensive provisions relating to identification certificates  
28 for retired peace officers and endorsements on those certificates authorizing officers to (1) carry a  
29 concealed firearm, (2) carry a loaded firearm, or (3) carry a concealed and loaded firearm. The  
30 current and proposed future locations of those provisions are as follows:

- 31 • Existing Section 12027(a) (peace officer exemption to crime of carrying concealed  
32 firearm). This material would be recodified as proposed Sections 25450-25475.  
33 • Existing Section 12031(b)(1)-(3) (peace officer exemption to crime of carrying loaded  
34 firearm in public). This material would be recodified as proposed Sections 25900-25925.  
35 • Existing Section 12027.1 (retired peace officer carrying concealed and loaded firearm).  
36 This material would be recodified as proposed Sections 26300-26325.

37 There is much repetition among these three separate sets of statutory material, albeit in  
38 different contexts. The material could perhaps be reorganized more concisely, without any change  
39 in meaning.

40 To avoid any risk of a substantive change, the staff advises against attempting such  
41 reorganization in the context of this nonsubstantive study. Unless the Commission otherwise  
42 directs, we will add this issue to the Commission's list of "Minor Clean-up Issues for Possible  
43 Future Legislative Attention." See Memorandum 2008-41.

1    **§ 26300. Requirements for retired peace officer to carry concealed and loaded firearm**

2       26300. (a) Any peace officer listed in Section 830.1 or 830.2 or subdivision (c)  
3 of Section 830.5 who retired prior to January 1, 1981, is authorized to carry a  
4 concealed and loaded firearm if the agency issued the officer an identification  
5 certificate and the certificate has not been stamped as specified in Section 25470.

6       (b) Any peace officer employed by an agency and listed in Section 830.1 or  
7 830.2 or subdivision (c) of Section 830.5 who retired after January 1, 1981, shall  
8 have an endorsement on the officer's identification certificate stating that the  
9 issuing agency approves the officer's carrying of a concealed and loaded firearm.

10       (c) Any peace officer not listed in subdivision (a) or (b) who was authorized to,  
11 and did, carry a firearm during the course and scope of employment as a peace  
12 officer shall have an endorsement on the officer's identification certificate stating  
13 that the issuing agency approves the officer's carrying of a concealed and loaded  
14 firearm.

15       **Comment.** Subdivision (a) of Section 26300 continues former Section 12027.1(a)(1)(A)(ii)  
16 without substantive change.

17       Subdivision (b) continues former Section 12027.1(a)(1)(A)(i) without substantive change.

18       Subdivision (c) continues former Section 12027.1(a)(1)(A)(iii) without substantive change.

19       Section 26300 and the other provisions in this article provide guidance on a retired peace  
20 officer carrying a concealed and loaded firearm. For guidance on a retired peace officer carrying a  
21 concealed firearm, see Sections 25450-25475. For guidance on a retired peace officer carrying a  
22 loaded firearm, see Sections 25900-25925.

23       See Section 16520 ("firearm").

24    **§ 26305. Grounds for revocation or denial of privilege to carry concealed and loaded**  
25    **firearm**

26       26305. (a) No peace officer who is retired after January 1, 1989, because of a  
27 psychological disability shall be issued an endorsement to carry a concealed and  
28 loaded firearm pursuant to this article.

29       (b) A retired peace officer may have the privilege to carry a concealed and  
30 loaded firearm revoked or denied by violating any departmental rule, or state or  
31 federal law that, if violated by an officer on active duty, would result in that  
32 officer's arrest, suspension, or removal from the agency.

33       (c) An identification certificate authorizing the officer to carry a concealed and  
34 loaded firearm or an endorsement may be revoked or denied by the issuing agency  
35 only upon a showing of good cause. Good cause shall be determined at a hearing,  
36 as specified in Section 26320.

37       **Comment.** Subdivision (a) of Section 26305 continues former Section 12027.1(e) without  
38 substantive change.

39       Subdivision (b) continues former Section 12027.1(a)(2) without substantive change.

40       Subdivision (c) continues former Section 12027.1(a)(1)(B) & (b)(1) without substantive  
41 change.

42       See Section 16520 ("firearm").

1    **§ 26310. Procedure for denial of privilege to carry concealed and loaded firearm**

2    26310. (a) An identification certificate authorizing the officer to carry a  
3    concealed and loaded firearm or an endorsement may be denied prior to a hearing.

4    (b) If a hearing is not conducted prior to the denial of an endorsement, a retired  
5    peace officer, within 15 days of the denial, shall have the right to request a  
6    hearing. A retired peace officer who fails to request a hearing pursuant to this  
7    section shall forfeit the right to a hearing.

8    **Comment.** Section 26310 continues former Section 12027.1(b)(3) without substantive change.  
9    See Section 16520 (“firearm”).

10   **§ 26315. Procedure for revocation of privilege to carry concealed and loaded firearm**

11   26315. (a) An identification certificate authorizing the officer to carry a  
12   concealed and loaded firearm or an endorsement may be revoked only after a  
13   hearing, as specified in Section 26320.

14   (b) Any retired peace officer whose identification certificate authorizing the  
15   officer to carry a concealed and loaded firearm or an endorsement is to be revoked  
16   shall receive notice of the hearing. Notice of the hearing shall be served either  
17   personally on the retiree or sent by first-class mail, postage prepaid, return receipt  
18   requested to the retiree’s last known place of residence.

19   (c) Upon the date the agency receives the signed registered receipt or upon the  
20   date the notice is served personally on the retiree, the retiree shall have 15 days to  
21   respond to the notification. A retired peace officer who fails to respond to the  
22   notice of the hearing shall forfeit the right to respond.

23   **Comment.** Section 26315 continues former Section 12027.1(b)(2) without substantive change.  
24   See Section 16520 (“firearm”).

25   **§ 26320. Hearing**

26   26320. (a) Any hearing conducted under this article shall be held before a three-  
27   member hearing board. One member of the board shall be selected by the agency  
28   and one member shall be selected by the retired peace officer or his or her  
29   employee organization. The third member shall be selected jointly by the agency  
30   and the retired peace officer or his or her employee organization.

31   (b) Any decision by the board shall be binding on the agency and the retired  
32   peace officer.

33   **Comment.** Section 26320 continues former Section 12027.1(d) without substantive change.

34   **§ 26325. Procedure when privilege to carry concealed and loaded firearm is revoked**

35   26325. (a) A retired peace officer, when notified of the revocation of the  
36   privilege to carry a concealed and loaded firearm, after the hearing, or upon  
37   forfeiting the right to a hearing, shall immediately surrender to the issuing agency  
38   the officer’s identification certificate.

39   (b) The issuing agency shall reissue a new identification certificate without an  
40   endorsement.

1 (c) Notwithstanding subdivision (b), if the peace officer retired prior to January  
2 1, 1981, and was at the time of retirement a peace officer listed in Section 830.1 or  
3 830.2 or subdivision (c) of Section 830.5, the issuing agency shall stamp on the  
4 identification certificate “No CCW privilege.”

5 **Comment.** Section 26325 continues former Section 12027.1(c) without substantive change.  
6 See Sections 16360 (“CCW”), 16520 (“firearm”).

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