

Memorandum 2008-49

**Nonsubstantive Reorganization of Deadly Weapon Statutes:
Title 4. Firearms (Division 6)**

In its nonsubstantive study of the statutes relating to deadly weapons, the Commission is in the process of preparing a tentative recommendation. The plan is to reorganize almost all of 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 2008-48.

Attached is a draft of Division 6 of "Title 4. Firearms" of new Part 6. Division 6, entitled "Sale, Lease, or Transfer of Firearms," contains the substance of a few short and several extremely long existing provisions governing firearm transactions. Among the long provisions is Penal Code Section 12078, which consists of 48 different exceptions, each of which applies to one or more statutory provisions. The staff has tried to reorganize this material in a logical and readily comprehensible manner in the attached draft. This has been by far the most challenging aspect of the deadly weapons study to date.

In preparing the attached draft, the staff had the benefit of research projects by two students: Elizabeth Lyon (who graduated from UC Hastings College of the Law in May) and Andrew Slade (who is now a third year student at UC Davis School of Law). The staff is grateful for their assistance.

The attached draft of Division 6 does not incorporate legislation enacted in 2008. The staff will incorporate the 2008 legislation later in this study.

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

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

Respectfully submitted,

Barbara Gaal
Chief Deputy Counsel

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PROPOSED LEGISLATION

Staff Note. This is a work in progress. The material shown below may be changed. For an outline of new Part 6 of the Penal Code, see Memorandum 2008-48.

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

Staff Notes (**Staff Note**) in the attached draft raise matters for Commissioners and interested persons to consider. We do not plan to discuss each of these matters at the upcoming meeting. Rather, persons should review the draft, identify any issues of concern, and then raise those issues for discussion at the meeting or express their concerns in writing before the meeting, or both.

Some of the provisions in this draft contain a bracketed cross-reference to one or more existing code sections. As new Part 6 of the Penal Code is drafted, these cross-references will be conformed to the new numbering scheme.

Blanks are used to indicate references to sections that have not yet been drafted (e.g., “Section _____”).

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

SELECTED PROVISIONS FROM THE “DEFINITIONS” PORTION OF NEW PART 6

Staff Note. The definitions shown below have previously been considered by the Commission, but issues relating to them arose in drafting Division 6. Those issues are explained in the Staff Notes accompanying the definitions.

1 TITLE 1. PRELIMINARY PROVISIONS

2

3 DIVISION 2. DEFINITIONS

4

5 **§ 16440. “Dealer”**

6 16440. Use of the term “dealer” is governed by Section 26700.

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

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

10 **Staff Note.** The draft attached to Memorandum 2008-23 includes the following definition:

11 **§ 16440. “Dealer,” “licensee,” or “person licensed pursuant to [Section 12071]”**

12 16440. (a) As used in [Sections 12000-12101, 12804, and 12809], “dealer,” “licensee,” or
13 “person licensed pursuant to [Section 12071]” means a person who has all of the following:

14 (1) A valid federal firearms license.

- 1 (2) Any regulatory or business license, or licenses, required by local government.
- 2 (3) A valid seller’s permit issued by the State Board of Equalization.
- 3 (4) A certificate of eligibility issued by the Department of Justice pursuant to [Section
- 4 12071(a)(4)].
- 5 (5) A license issued in the format prescribed by [Section 12071(a)(6)].
- 6 (6) Is among those recorded in the centralized list specified in [Section 12071(e)].
- 7 (b) As used in [Section 12086], “licensee” means a person, firm, or corporation that
- 8 satisfies both of the following:
- 9 (1) Has a license issued pursuant to [Section 12086(b)(2)].
- 10 (2) Is among those recorded in the centralized list specified in [Section 12086(f)].
- 11 **Comment.** Subdivision (a) of Section 16440 continues former Section 12071(a)(1)
- 12 without substantive change.
- 13 Subdivision (b) continues former Section 12086(a)(1) without substantive change.
- 14 See also Section 16790 (“licensed gun dealer”).

15 The same draft includes the following guidepost provisions, which are intended to help readers
16 find the definitions of “licensee” and “person licensed pursuant to [Section 12071]”:

17 **§ 16820. “Licensee”**

18 16820. Use of the term “licensee” is governed by Section 16440.

19 **Comment.** Section 16820 is new. It is intended to help persons locate the definition of
20 “licensee,” which is the same as the definition of “dealer” for certain purposes.

21 **§ 16980. “Person licensed pursuant to [Section 12071]”**

22 16980. Use of the term “person licensed pursuant to [Section 12071]” is governed by
23 Section 16440.

24 **Comment.** Section 16980 is new. It is intended to help persons locate the definition of
25 “person licensed pursuant to [Section 12071],” which is the same as the definition of
26 “dealer.”

27 In preparing “Chapter 2. Issuance, Forfeiture, and Conditions of License to Sell, Lease, or
28 Transfer Firearms at Retail” of Division 6 of Title 4 of new Part 6, the staff quickly realized that
29 the above provisions required revision. In particular, it was immediately obvious that the
30 substance of the definition of “dealer” had to be included within that chapter, instead of being
31 placed in the portion of new Part 6 devoted to definitions. Otherwise, there would be no context
32 for the other provisions in the chapter. Cross-referencing the definition of “dealer” would not be
33 sufficient.

34 Accordingly, we propose to replace the three definitions quoted above with new versions of
35 proposed Sections 16440, 16820, and 16980, as shown in this draft and in the cumulative draft
36 attached to Memorandum 2008-50. Each of those sections would be a guidepost provision
37 referring to proposed Section 26700, which would be located in “Chapter 2. Issuance, Forfeiture,
38 and Conditions of License to Sell, Lease, or Transfer Firearms at Retail.” Proposed Section 26700
39 would contain the substance of the definition of “dealer.”

40 We believe this new approach will work well. Unless the Commission otherwise directs, we
41 will proceed with it.

42

43 **§ 16730. “Infrequent”**

44 16730. (a) As used in Division 6 (commencing with Section 26500) of Title 4
45 and [Section 12078(s)(1), as it pertains to Section 12801(b)], “infrequent” means:

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

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

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

11 (c) As used in this section, “transaction” means a single sale, lease, or transfer of
12 any number of pistols, revolvers, or other firearms capable of being concealed
13 upon the person.

14 **Comment.** Subdivision (a) of Section 16730 continues the first sentence of former Section
15 12070(c)(1)(A), former Section 12070(c)(1)(B), and former Section 12078(u)(1) without
16 substantive change.

17 Subdivision (b) continues the second paragraph of former Section 12078(g)(1) without
18 substantive change.

19 Subdivision (c) continues the second sentence of former Section 12070(c)(1)(A) without
20 substantive change.

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

23 **Staff Note.** In the draft attached to Memorandum 2008-17, the staff placed the definitions of
24 “infrequent” and “transaction” in the portion of new Part 6 devoted to definitions (“Division 2.
25 Definitions” of “Title 1. Preliminary Provisions”).

26 In a later memorandum, however, the staff recommended that those definitions be placed
27 elsewhere. See Memorandum 2008-23, pp. 4-5, 14. The concern was that “infrequent” and
28 “transaction” are commonplace words and their definitions might be overlooked if placed in the
29 portion of new Part 6 devoted to definitions, rather than closer to where the terms are used as
30 defined. The Commission implicitly adopted the staff’s recommendation on how to handle these
31 definitions. See Minutes (June 2008), p. 6.

32 In drafting “Division 6. Sale, Lease, or Transfer of Firearms,” the staff began to implement its
33 recommended approach. We quickly realized, however, that the approach would not work well.
34 On the one hand, if the definitions of “infrequent” and “transaction” were placed at the beginning
35 of “Division 6. Sale, Lease, or Transfer of Firearms,” they would not be close to the substantive
36 material to which they apply, and they might be harder to find than if they were located in the
37 portion of new Part 6 devoted to definitions. On the other hand, if those definitions were placed
38 even closer to the substantive material to which they apply, they would have to be repeated in
39 multiple places, or else stated in one place in Division 6 and cross-referenced elsewhere. The staff
40 was aware of this to some extent when it made its recommendation, but failed to appreciate the
41 full magnitude of the problem.

42 Having given the matter further thought, the staff now recommends that

- 43 • The dual definitions of “infrequent” (the general definition and the special definition now
44 in Section 12078(g)(1)) be placed in the portion of new Part 6 devoted to definitions.
- 45 • The general definition of “infrequent” be limited in scope as shown in proposed Section
46 16730(a) above, instead of applying to the entirety of new Part 6. This limitation is
47 appropriate because the general definition of “infrequent” pertains specifically to
48 frequency of firearm transactions. Future legislation might use the term “infrequent” in a
49 completely different context, which should not be subject to such a definition.

- 1 • Proposed Section 16730 be cross-referenced in the text of any provision that uses the
- 2 term “infrequent” as defined. This will help to alert readers to the existence of the
- 3 definition.
- 4 • The definition of “transaction” that applies to the general definition of “infrequent” be
- 5 placed in proposed Section 16730(c) as shown above.
- 6 • The definition of “transaction” that applies to existing Section 12077(d) be placed in
- 7 proximity to the provision that continues existing Section 12077(d).

8 We have followed this approach in drafting “Division 6. Sale, Lease, or Transfer of Firearms.”
9 See proposed Sections 26520, 27820, 27870, 27875, 27880, 27900, 27955, 27965, 28170. We
10 invite comment on whether the approach is effective. Unless the Commission otherwise directs,
11 we will continue to follow it.

12 § 16820. “Licensee”

13 16820. (a) In the provisions listed in Section 16580, use of the term “licensee” is
14 governed by Section 26700.

15 (b) In [Section 12086], “licensee” means a person, firm, or corporation that
16 satisfies both of the following:

17 (1) Has a license issued pursuant to [Section 12086(b)(2)].

18 (2) Is among those recorded in the centralized list specified in [Section
19 12086(f)].

20 **Comment.** Subdivision (a) of Section 16820 is new. It is intended to help persons locate the
21 definition of “licensee” that applies for purposes of the specified provisions.

22 Subdivision (b) continues former Section 12086(a)(1) without substantive change.

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

24 Staff Notes.

25 (1) The staff has redrafted proposed Section 16820 for the reasons discussed in the Staff Note
26 on proposed Section 16440.

27 (2) Existing Section 12071(a)(1) defines “licensee” as used “in this chapter.” The chapter in
28 question includes existing Section 12086. But existing Section 12086(a)(1) defines “licensee” in a
29 different manner as used “in this section.”

30 Proposed Section 26700 (cross-referenced in proposed Section 16820(a)) would continue the
31 definition of “licensee” in existing Section 12071(a)(1). Proposed Section 16820(b) would
32 continue the definition of “licensee” in existing Section 12086(a)(1).

33 It is clear from the context of Section 12086 that the definition stated in it, not the definition in
34 Section 12071(a)(1), is meant to apply. Ideally, however, that would be made explicit. For
35 example, proposed Section 16820(b) could be redrafted as follows:

36 (b) ~~In~~ Notwithstanding Section 26700, for purposes of [Section 12086], “licensee” means a
37 person, firm, or corporation that satisfies both of the following:

38 (1) Has a license issued pursuant to [Section 12086(b)(2)].

39 (2) Is among those recorded in the centralized list specified in [Section 12086(f)].

40 Because this is a strictly nonsubstantive study, we did not draft proposed Section 16820(b) this
41 way. But it might be worth doing in the future, in a different reform. Unless the Commission
42 otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for
43 Possible Future Legislative Attention.” See Memorandum 2008-52.

1

2 **§ 16980. “Person licensed pursuant to Sections 26700 to 26915, inclusive”**

3 16980. Use of the term “person licensed pursuant to Sections 26700 to 26915,
4 inclusive” is governed by Section 26700.

5 **Comment.** Section 16980 is new. It is intended to help persons locate the definition of “person
6 licensed pursuant to Sections 26700 to 26915, inclusive.”

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

8 **Staff Note.** For discussion of this provision, see the Staff Note on proposed Section 16440.

9

NEW MATERIAL FOR REVIEW AND PROVISIONAL APPROVAL

Staff Note. The material shown below has not previously been presented to the Commission in any form. Commissioners and other interested persons should review it carefully and determine whether any changes are necessary before it is incorporated into a tentative recommendation.

10 TITLE 4. FIREARMS

11 DIVISION 6. SALE, LEASE, OR TRANSFER OF FIREARMS

12 CHAPTER 1. LICENSE REQUIREMENT FOR SALE, LEASE,
13 OR TRANSFER OF FIREARMS

14 Article 1. License Requirement and Miscellaneous Exceptions

15 **Staff Note.** Existing Section 12070 states the general rule that a license is required for sale,
16 lease, or transfer of firearms. The section also includes several definitions and states a number of
17 exceptions to the general rule.

18 Existing Section 12078 is an enormous provision consisting of exceptions to various other
19 provisions. Among these exceptions are four that apply to “the preceding provisions of this
20 article,” which includes Section 12070. Those four exceptions are found in paragraphs (a)(2)-(5).
21 Each of them relates to law enforcement.

22 The Commission has previously decided to divide up the material in Section 12078 such that
23 each exception is stated close to each general rule it modifies. See Minutes (April 2007), p. 9.
24 Thus, the exceptions found in paragraphs (a)(2)-(5) are to be stated close to the general rule that a
25 license is required for sale, lease, or transfer of firearms. The same exceptions will also be stated
26 close to the other general rules they modify.

27 To implement that approach, the staff has:

- 28 • Placed the material currently in Section 12070 (except definitions that would be in the
29 “Definitions” portion of new Part 6) in an article entitled “License Requirement and
30 Miscellaneous Exceptions.”
- 31 • Placed the four exceptions from Section 12078 in an adjacent article, which would be
32 entitled “Exceptions Relating to Law Enforcement.”

1 This approach will facilitate conforming of cross-references to Section 12070.

2 **§ 26500. License requirement**

3 26500. (a) No person shall sell, lease, or transfer firearms unless the person has
4 been issued a license pursuant to Articles 1 (commencing with Section 26700) and
5 2 (commencing with Section 26800) of Chapter 2.

6 (b) Any person violating this article is guilty of a misdemeanor.

7 **Comment.** Section 26500 continues former Section 12070(a) without substantive change.
8 See Section 16520 (“firearm”).

9 **§ 26505. Exception when person liquidates personal firearm collection or acts pursuant to**
10 **operation of law, court order, or Enforcement of Judgments Law**

11 26505. Section 26500 does not include the sale, lease, or transfer of any firearm
12 by any of the following:

13 (a) A person acting pursuant to operation of law.

14 (b) A person acting pursuant to a court order.

15 (c) A person acting pursuant to the Enforcement of Judgments Law (Title 9
16 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure).

17 (d) A person who liquidates a personal firearm collection to satisfy a court
18 judgment.

19 **Comment.** Section 26505 continues former Section 12070(b)(1) without substantive change.
20 See Sections 16520 (“firearm”), 16960 (“operation of law”).

21 **§ 26510. Exception for person acting pursuant to nuisance law**

22 26510. Section 26500 does not include a person acting pursuant to subdivision
23 (f) of Section 186.22a or Section 18000 or 18005.

24 **Comment.** Section 26510 continues former Section 12070(b)(2) without substantive change.

25 **☞ Staff Notes.**

26 (1) Existing Section 12070(b)(2) cross-refers to “subdivision (e) of Section 186.22a,” which
27 simply says “Nothing in this chapter shall preclude any aggrieved person from seeking any other
28 remedy provided by law.”

29 This cross-reference appears to be incorrect. The staff suspects that the Legislature intended to
30 refer to subdivision (f) of Section 186.22a, instead of subdivision (e). Subdivision (f) concerns
31 confiscation of firearms, ammunition, and deadly weapons as a nuisance, and disposal of those
32 items following confiscation. It was formerly labeled as subdivision (e).

33 The staff has corrected the cross-reference in drafting proposed Section 26510. This approach
34 seems more reasonable than perpetuating an obviously incorrect reference. Although this is a
35 strictly nonsubstantive study, some degree of commonsense is appropriate in interpreting existing
36 law. We would exercise such commonsense here and note the situation in the preliminary part of
37 the Commission’s report.

38 (2) Existing Section 12070(b)(2) states that subdivision (a) does not include “[a] person acting
39 pursuant to subdivision (c) of Section 12028.” (Emphasis added.) Similarly, existing Section
40 12070(b)(8) states that subdivision (a) does not include “[d]eliveries and transfers of firearms
41 made pursuant to Section 12028” (Emphasis added.)

42 These provisions appear to be redundant to some extent. Because this is a strictly
43 nonsubstantive study and the Commission is striving to minimize any concern that the proposed

1 legislation would have a substantive impact, the staff does not recommend attempting to
2 eliminate this apparent redundancy in this study. Existing Section 12070(b)(2) would be
3 continued without substantive change in proposed Section 26510, and existing Section
4 12070(b)(8) would be continued without substantive change in proposed Section 26540. Unless
5 the Commission otherwise directs, we will add the issue of whether these provisions are
6 redundant to the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative
7 Attention.” See Memorandum 2008-52.

8 **§ 26515. Exception for person who obtains title to firearm as surviving spouse or by**
9 **intestate succession or bequest**

10 26515. Section 26500 does not include the sale, lease, or transfer of a firearm if
11 both of the following conditions are satisfied:

12 (a) The sale, lease, or transfer is made by a person who obtains title to the
13 firearm by intestate succession or bequest, or as a surviving spouse pursuant to
14 Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate
15 Code.

16 (b) The person disposes of the firearm within 60 days of receipt of the firearm.

17 **Comment.** Section 26515 continues former Section 12070(b)(3) without substantive change.
18 See Section 16520 (“firearm”).

19 **☞ Staff Note.** Existing Section 12070(b)(3) applies only when a person obtains title to a firearm
20 by intestate succession or bequest, not when a firearm is conveyed by another type of at-death
21 transfer (e.g., by a trust). Logically, it may make sense to extend the provision to any type of at-
22 death transfer. Such a reform might also be appropriate for other provisions in the Penal Code.
23 See, e.g., Section 12020(b)(7)-(8), which would be continued as proposed Sections 17705 &
24 17710 in the draft attached to Memorandum 2008-50.

25 Because this is a strictly nonsubstantive study, proposed Section 26515 would simply continue
26 existing law. The staff is not sure whether the possibility of extending that provision (and other
27 similar provisions) to other types of at-death transfers should be included on the Commission’s
28 list of “Minor Clean-up Issues for Possible Future Legislative Attention.” The issue might be too
29 significant to belong on that list. We invite comment on the point.

30 **§ 26520. Exception for infrequent sale, lease, or transfer of firearms**

31 26520. Section 26500 does not include the infrequent sale, lease, or transfer of
32 firearms, as defined in Section 16730.

33 **Comment.** Section 26520 continues former Section 12070(b)(4) without substantive change.
34 See Section 16520 (“firearm”).

35 **§ 26525. Exception for sale, lease, or transfer of certain used firearms at gun shows, with**
36 **program to be administered by Department of Justice**

37 26525. (a) Section 26500 does not include the sale, lease, or transfer of used
38 firearms, other than pistols, revolvers, or other firearms capable of being
39 concealed upon the person, at gun shows or events, as specified in Articles 1
40 (commencing with Section 26700) and 2 (commencing with Section 26800) of
41 Chapter 2, by a person other than a licensee or dealer, provided the person has a
42 valid federal firearms license and a current certificate of eligibility issued by the
43 Department of Justice, as specified in Section 26710, and provided all the sales,
44 leases, or transfers fully comply with Section 27545. However, the person shall

1 not engage in the sale, lease, or transfer of used firearms other than pistols,
2 revolvers, or other firearms capable of being concealed upon the person at more
3 than 12 gun shows or events in any calendar year and shall not sell, lease, or
4 transfer more than 15 used firearms other than pistols, revolvers, or other firearms
5 capable of being concealed upon the person at any single gun show or event. In no
6 event shall the person sell more than 75 used firearms other than pistols, revolvers,
7 or other firearms capable of being concealed upon the person in any calendar year.

8 (b) The Department of Justice shall adopt regulations to administer this program
9 and shall recover the full costs of administration from fees assessed applicants.

10 **Comment.** Subdivision (a) of Section 26525 continues the first paragraph of former Section
11 12070(b)(5) without substantive change. A person who meets the description in subdivision (a) is
12 known as a Gun Show Trader. See Section 16620 (“Gun Show Trader”).

13 Subdivision (b) continues the third paragraph of former Section 12070(b)(5) without
14 substantive change.

15 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
16 “pistol,” and “revolver”), 17310 (“used firearm”), 26700 (“dealer,” “licensee,” or “person
17 licensed pursuant to Sections 26700 to 26915, inclusive”).

18 **§ 26530. Exception for sales, deliveries, or transfers of firearms between or to licensed**
19 **importers and manufacturers**

20 26530. Section 26500 does not include sales, deliveries, or transfers of firearms
21 between or to importers and manufacturers of firearms licensed to engage in that
22 business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
23 United States Code and the regulations issued pursuant thereto.

24 **Comment.** Section 26530 continues former Section 12070(b)(6) without substantive change.
25 See Section 16520 (“firearm”).

26 **§ 26535. Exception for sale, delivery, or transfer by licensed importer or manufacturer to**
27 **dealer or wholesaler**

28 26535. Section 26500 does not include any sale, delivery, or transfer of firearms
29 that satisfies both of the following conditions:

30 (a) It is made by an importer or manufacturer licensed pursuant to Chapter 44
31 (commencing with Section 921) of Title 18 of the United States Code and the
32 regulations issued pursuant thereto.

33 (b) It is made to a dealer or wholesaler.

34 **Comment.** Section 26535 continues former Section 12070(b)(7) without substantive change.

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

37 **§ 26540. Exception for deliveries and transfers made pursuant to specified laws relating to**
38 **weapons surrendered to, seized by, or in custody of law enforcement**

39 26540. Section 26500 does not include deliveries and transfers of firearms made
40 pursuant to Section 18000, 18005, or [12030], or pursuant to Division 4
41 (commencing with Section 18250) of Title 2.

42 **Comment.** Section 26540 continues former Section 12070(b)(8) without substantive change.

1 See Section 16520 (“firearm”).

2 **☞ Staff Note.** Existing Section 12070(b)(8) appears to be redundant to some extent with
3 existing Section 12070(b)(2). See the Staff Note on proposed Section 26510 above.

4 **§ 26545. Exception for loan made for purpose of target shooting**

5 26545. Section 26500 does not include the loan of a firearm for the purposes of
6 shooting at targets, if either of the following conditions is satisfied:

7 (a) The loan occurs on the premises of a target facility that holds a business or
8 regulatory license, or on the premises of any club or organization organized for the
9 purposes of practicing shooting at targets upon established ranges, whether public
10 or private.

11 (b) The firearm is at all times kept within the premises of the target range, or on
12 the premises of the club or organization.

13 **Comment.** Section 26545 continues former Section 12070(b)(9) without substantive change.
14 See Section 16520 (“firearm”).

15 **§ 26550. Exception for sale, delivery, or transfer by licensed manufacturer, importer, or**
16 **wholesaler to licensed person residing outside California**

17 26550. Section 26500 does not include any sale, delivery, or transfer of firearms
18 that satisfies all of the following requirements:

19 (a) It is made by a manufacturer, importer, or wholesaler licensed pursuant to
20 Chapter 44 (commencing with Section 921) of Title 18 of the United States Code
21 and the regulations issued pursuant thereto.

22 (b) It is made to a person who resides outside this state and is licensed pursuant
23 to Chapter 44 (commencing with Section 921) of Title 18 of the United States
24 Code and the regulations issued pursuant thereto.

25 (c) It is made in accordance with Chapter 44 (commencing with Section 921) of
26 Title 18 of the United States Code and the regulations issued pursuant thereto.

27 **Comment.** Section 26550 continues former Section 12070(b)(10) without substantive change.
28 See Sections 16520 (“firearm”), 17340 (“wholesaler”).

29 **§ 26555. Exception for sale, delivery, or transfer by licensed person residing outside**
30 **California to manufacturer, importer, or wholesaler**

31 26555. Section 26500 does not include any sale, delivery, or transfer of firearms
32 that satisfies all of the following requirements:

33 (a) It is made by a person who resides outside this state and is licensed outside
34 this state pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
35 United States Code and the regulations issued pursuant thereto.

36 (b) It is made to a manufacturer, importer, or wholesaler.

37 (c) It is made in accordance with Chapter 44 (commencing with Section 921) of
38 Title 18 of the United States Code and the regulations issued pursuant thereto.

39 **Comment.** Section 26555 continues former Section 12070(b)(11) without substantive change.
40 See Sections 16520 (“firearm”), 17340 (“wholesaler”).

1 **§ 26560. Exception for sale, delivery, or transfer by wholesaler to dealer**

2 26560. Section 26500 does not include any sale, delivery, or transfer of firearms
3 by a wholesaler to a dealer.

4 **Comment.** Section 26560 continues former Section 12070(b)(12) without substantive change.
5 See Sections 16520 (“firearm”), 17340 (“wholesaler”), 26700 (“dealer,” “licensee,” or “person
6 licensed pursuant to Sections 26700 to 26915, inclusive”).

7 **§ 26565. Exception for sale, delivery, or transfer by nonresident to licensed dealer**

8 26565. Section 26500 does not include any sale, delivery, or transfer of firearms
9 that satisfies all of the following conditions:

10 (a) It is made by a person who resides outside this state.

11 (b) It is made to a person licensed pursuant to Sections 26700 to 26915,
12 inclusive.

13 (c) It is made in accordance with Chapter 44 (commencing with Section 921) of
14 Title 18 of the United States Code, and the regulations issued pursuant thereto.

15 **Comment.** Section 26565 continues former Section 12070(b)(13) without substantive change.
16 See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
17 Sections 26700 to 26915, inclusive”).

18 **Staff Note.** Existing Section 12070(b)(13) states that subdivision (a) does not include:

19 (13) Sales, deliveries, or transfers of firearms by persons who reside outside this state to
20 persons licensed pursuant to Section 12071, if the sale, delivery, or transfer is in accordance
21 with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and
22 the regulations issued pursuant thereto.

23 Similarly, existing Section 12070(b)(14) states that subdivision (a) does not include:

24 (14) Sales, deliveries, or transfers of firearms by persons who reside outside this state and
25 are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
26 States Code and the regulations issued pursuant thereto to dealers, if the sale, delivery, or
27 transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the
28 United States Code and the regulations issued pursuant thereto.

29 Section 12070(b)(13) refers to “persons licensed pursuant to Section 12071,” while Section
30 12070(b)(14) refers to “dealers.” Those terms are synonymous. See Section 12071(a)(1).
31 Consequently, Section 12070(b)(13) and 12070(b)(14) appear to be redundant to some extent.

32 Because this is a strictly nonsubstantive study and the Commission is striving to minimize any
33 concern that the proposed legislation would have a substantive impact, the staff does not
34 recommend attempting to eliminate this apparent redundancy in this study. Existing Section
35 12070(b)(13) would be continued without substantive change in proposed Section 26565, and
36 existing Section 12070(b)(14) would be continued without substantive change in proposed
37 Section 26570. Unless the Commission otherwise directs, we will add the issue of whether these
38 provisions are redundant to the Commission’s list of “Minor Clean-up Issues for Possible Future
39 Legislative Attention.” See Memorandum 2008-52.

40 **§ 26570. Exception for sale, delivery, or transfer by licensed nonresident to dealer**

41 26570. Section 26500 does not include any sale, delivery, or transfer of firearms
42 that satisfies all of the following conditions:

1 (a) It is made by a person who resides outside this state and is licensed pursuant
2 to Chapter 44 (commencing with Section 921) of Title 18 of the United States
3 Code and the regulations issued pursuant thereto.

4 (b) It is made to a dealer.

5 (c) It is made in accordance with Chapter 44 (commencing with Section 921) of
6 Title 18 of the United States Code and the regulations issued pursuant thereto.

7 **Comment.** Section 26570 continues former Section 12070(b)(14) without substantive change.

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

10 **Staff Note.** Existing Section 12070(b)(14) appears to be redundant to some extent with
11 existing Section 12070(b)(13). See the Staff Note on proposed Section 26565 above.

12 **§ 26575. Exception for sale, delivery, or transfer of unloaded firearm between wholesalers**

13 26575. Section 26500 does not include the sale, delivery, or transfer of an
14 unloaded firearm by one wholesaler to another wholesaler if that firearm is
15 intended as merchandise in the receiving wholesaler’s business.

16 **Comment.** Section 26575 continues former Section 12070(b)(15) without substantive change.

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

18 **§ 26580. Exception for firearm used solely as prop**

19 26580. Section 26500 does not include the loan of an unloaded firearm or the
20 loan of a firearm loaded with blank cartridges for use solely as a prop for a motion
21 picture, television, or video production or entertainment or theatrical event.

22 **Comment.** Section 26580 continues former Section 12070(b)(16) without substantive change.

23 See Section 16520 (“firearm”).

24 **§ 26585. Exception for delivery of unloaded curio or relic by licensed collector to dealer**

25 26585. Section 26500 does not include the delivery of an unloaded firearm that
26 is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal
27 Regulations, if the delivery satisfies all of the following conditions:

28 (a) It is made by a person licensed as a collector pursuant to Chapter 44
29 (commencing with Section 921) of Title 18 of the United States Code and the
30 regulations issued pursuant thereto.

31 (b) It is made by a person with a current certificate of eligibility issued pursuant
32 to Section 26710.

33 (c) It is made to a dealer.

34 **Comment.** Section 26585 continues former Section 12070(b)(17) without substantive change.

35 See Section 16520 (“firearm”).

1 Article 2. Exceptions Relating to Law Enforcement

2 **§ 26600. Exception for sale, delivery, or transfer to authorized law enforcement**
3 **representative of city, county, city and county, or state or federal government**

4 26600. (a) Section 26500 does not apply to any sale, delivery, or transfer of
5 firearms made to an authorized law enforcement representative of any city,
6 county, city and county, or state, or of the federal government, for exclusive use
7 by that governmental agency if, prior to the sale, delivery, or transfer of these
8 firearms, written authorization from the head of the agency authorizing the
9 transaction is presented to the person from whom the purchase, delivery, or
10 transfer is being made.

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

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

22 **Comment.** Section 26600 continues former Section 12078(a)(2) without substantive change, as
23 that provision applied to former Section 12070 (through its reference to “the preceding provisions
24 of this article”).

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

26 **§ 26605. Exception for loan of firearm to peace officer employee for use in performing**
27 **official duties**

28 26605. Section 26500 does not apply to the loan of a firearm if all of the
29 following conditions are satisfied:

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

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

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

36 **Comment.** Section 26605 continues former Section 12078(a)(3) without substantive change, as
37 that provision applied to former Section 12070 (through its reference to “the preceding provisions
38 of this article”).

39 See Section 16520 (“firearm”).

1 **§ 26610. Exception for sale, delivery, or transfer by law enforcement agency to peace officer**
2 **pursuant to Public Contract Code**

3 26610. (a) Section 26500 does not apply to the sale, delivery, or transfer of a
4 firearm by a law enforcement agency to a peace officer pursuant to Section 10334
5 of the Public Contract Code.

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

15 **Comment.** Section 26610 continues former Section 12078(a)(4) without substantive change, as
16 that provision applied to former Section 12070 (through its reference to “the preceding provisions
17 of this article”).

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

19 **§ 26615. Exception for sale, delivery, or transfer by law enforcement agency to retiring**
20 **peace officer authorized to carry concealed and loaded firearm**

21 26615. (a) Section 26500 does not apply to the sale, delivery, or transfer of a
22 firearm by a law enforcement agency to a retiring peace officer who is authorized
23 to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of
24 Division 5.

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

33 **Comment.** Section 26615 continues former Section 12078(a)(5) without substantive change, as
34 that provision applied to former Section 12070 (through its reference to “the preceding provisions
35 of this article”).

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

37 **CHAPTER 2. ISSUANCE, FORFEITURE, AND CONDITIONS OF LICENSE TO SELL,**
38 **LEASE, OR TRANSFER FIREARMS AT RETAIL**

39 **Staff Note.** This chapter is organized as follows:

- 40 • Article 1, entitled “License to Sell, Lease, or Transfer Firearms at Retail,” contains the
41 material currently in Section 12071(a), (e), (f) & (g).

- 1 • Article 2, entitled “Grounds for Forfeiture of License,” contains the material currently in
2 Section 12071(b), except a definition that would be in the “Definitions” portion of new
3 Part 6. Article 2 also contains the material currently in Section 12071(c)(4)(B), (d) & (h).
4 The remainder of existing Section 12071(c) consists of definitions that would be in the
5 “Definitions” portion of new Part 6. Thus, the entirety of existing Section 12071 would
6 be recodified in Articles 1 and 2, except definitions that by their terms apply to, and are
7 therefore incorporated in, Articles 1 and 2.
- 8 • Article 3, entitled “Exceptions Extending Only to Waiting Period,” contains five
9 exceptions currently stated in Section 12078, which extend to the waiting period
10 described in Section 12071 but not to other aspects of that section.
- 11 • Article 4, entitled “Exceptions Extending Only to Grounds for Forfeiture of License,”
12 contains two exceptions currently stated in Section 12078, which extend to the material in
13 Section 12071(b) but not to other aspects of Section 12071.
- 14 • Article 5, entitled “Exceptions Relating to Law Enforcement,” contains four exceptions
15 currently stated in Section 12078, which relate to law enforcement and extend to the
16 entirety of Section 12071.
- 17 • Article 6, entitled “Other Exceptions,” contains a number of other exceptions currently
18 stated in Section 12078, which extend to the entirety of Section 12071.

19 This approach is intended to be user-friendly, but will also facilitate conforming of cross-
20 references to Section 12071.

21 Article 1. License to Sell, Lease, or Transfer Firearms at Retail

22 § 26700. “Dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, 23 inclusive”

24 26700. As used in this division, and in any other provision listed in Section
25 16580, “dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
26 26915, inclusive” means a person who satisfies all of the following requirements:

- 27 (a) Has a valid federal firearms license.
- 28 (b) Has any regulatory or business license, or licenses, required by local
29 government.
- 30 (c) Has a valid seller’s permit issued by the State Board of Equalization.
- 31 (d) Has a certificate of eligibility issued by the Department of Justice pursuant to
32 Section 26710.
- 33 (e) Has a license issued in the format prescribed by subdivision (c) of Section
34 26705.
- 35 (f) Is among those recorded in the centralized list specified in Section 26715.

36 **Comment.** Section 26700 continues former Section 12071(a)(1) without substantive change.
37 See also Section 16790 (“licensed gun dealer”).

38 § 26705. Issuance of license to sell firearms at retail

39 26705. (a) The duly constituted licensing authority of a city, county, or a city
40 and county shall accept applications for, and may grant licenses permitting,
41 licensees to sell firearms at retail within the city, county, or city and county. The
42 duly constituted licensing authority shall inform applicants who are denied
43 licenses of the reasons for the denial in writing.

1 (b) No license shall be granted to any applicant who fails to provide a copy of
2 the applicant's valid federal firearms license, valid seller's permit issued by the
3 State Board of Equalization, and the certificate of eligibility described in Section
4 26710.

5 (c) A license granted by the duly constituted licensing authority of any city,
6 county, or city and county, shall be valid for not more than one year from the date
7 of issuance and shall be in one of the following forms:

8 (1) In the form prescribed by the Attorney General.

9 (2) A regulatory or business license that states on its face "Valid for Retail Sales
10 of Firearms" and is endorsed by the signature of the issuing authority.

11 (3) A letter from the duly constituted licensing authority having primary
12 jurisdiction for the applicant's intended business location stating that the
13 jurisdiction does not require any form of regulatory or business license or does not
14 otherwise restrict or regulate the sale of firearms.

15 (d) Local licensing authorities may assess fees to recover their full costs of
16 processing applications for licenses.

17 **Comment.** Subdivision (a) of Section 26705 continues former Section 12071(a)(2) without
18 substantive change.

19 Subdivision (b) continues former Section 12071(a)(3) without substantive change.

20 Subdivision (c) continues former Section 12071(a)(6) without substantive change.

21 Subdivision (d) continues former Section 12071(a)(7) without substantive change.

22 For exceptions to this provision, see Articles 5 (commencing with Section 27050) and 6
23 (commencing with Section 27100).

24 See Section 16520 ("firearm").

25 **§ 26710. Certificate of eligibility**

26 26710. (a) A person may request a certificate of eligibility from the Department
27 of Justice and the Department of Justice shall issue a certificate to an applicant if
28 the department's records indicate that the applicant is not a person who is
29 prohibited from possessing firearms.

30 (b) The department shall adopt regulations to administer the certificate of
31 eligibility program and shall recover the full costs of administering the program by
32 imposing fees assessed to applicants who apply for those certificates.

33 **Comment.** Subdivision (a) of Section 26710 continues former Section 12071(a)(4) without
34 substantive change.

35 Subdivision (b) continues former Section 12071(a)(5) without substantive change.

36 For exceptions to this provision, see Articles 5 (commencing with Section 27050) and 6
37 (commencing with Section 27100).

38 See Section 16520 ("firearm").

39 **§ 26715. Centralized list of persons licensed pursuant to Section 26700(a)-(e)**

40 26715. (a) Except as otherwise provided in paragraphs 1 and 3 of subdivision
41 (b), the Department of Justice shall keep a centralized list of all persons licensed
42 pursuant to subdivisions (a) to (e), inclusive, of Section 26700.

1 (b)(1) The department may remove from this list any person who knowingly or
2 with gross negligence violates a provision listed in Section 16575.

3 (2) The department shall remove from the centralized list any person whose
4 federal firearms license has expired or has been revoked.

5 (3) Upon removal of a dealer from this list, notification shall be provided to
6 local law enforcement and licensing authorities in the jurisdiction where the
7 dealer's business is located.

8 (c) Information compiled from the list shall be made available, upon request, for
9 the following purposes only:

10 (1) For law enforcement purposes.

11 (2) When the information is requested by a person licensed pursuant to Chapter
12 44 (commencing with Section 921) of Title 18 of the United States Code for
13 determining the validity of the license for firearm shipments.

14 (3) When information is requested by a person promoting, sponsoring,
15 operating, or otherwise organizing a show or event as defined in Section 478.100
16 of Title 27 of the Code of Federal Regulations, or its successor, who possesses a
17 valid certificate of eligibility issued pursuant to Article 1 (commencing with
18 Section 27200) of Chapter 3, if that information is requested by the person to
19 determine the eligibility of a prospective participant in a gun show or event to
20 conduct transactions as a firearms dealer pursuant to subdivision (b) of Section
21 26805.

22 (d) Information provided pursuant to subdivision (c) shall be limited to
23 information necessary to corroborate an individual's current license status as being
24 one of the following:

25 (1) A person licensed pursuant to subdivisions (a) to (e), inclusive, of Section
26 26700.

27 (2) A person who is licensed pursuant to Chapter 44 (commencing with Section
28 921) of Title 18 of the United States Code, and who is not subject to the
29 requirement of being licensed pursuant to subdivisions (a) to (e), inclusive, of
30 Section 26700.

31 **Comment.** Subdivision (a) of Section 26715 continues the first sentence of former Section
32 12071(e)(1) without substantive change.

33 Subdivision (b)(1) continues the second sentence of former Section 12071(e)(1) without
34 substantive change.

35 Subdivision (b)(2) continues former Section 12071(e)(2) without substantive change.

36 Subdivision (b)(3) continues the third sentence of former Section 12071(e)(1) without
37 substantive change.

38 Subdivision (c) continues former Section 12071(e)(3) without substantive change.

39 Subdivision (d) continues former Section 12071(e)(4) without substantive change.

40 For exceptions to this provision, see Articles 5 (commencing with Section 27050) and 6
41 (commencing with Section 27100).

42 See Section 16520 ("firearm").

43 **Staff Notes.**

44 (1) Existing Section 12071(e)(3)(C) cross-refers to "Section 478.100 of Title 27 of the Code of
45 Federal Regulations, *or its successor.*" (Emphasis added.) The staff does not know why the

1 reference to “its successor” was included. The reference to Section 478.100 still appears to be
2 valid. We do not think the reference to “its successor” is needed. If it were needed here, to
3 address the possibility that Section 478.100 might be recodified in the future, a similar reference
4 would also be needed in a multitude of other places throughout the codes.

5 Because this is a strictly nonsubstantive study, we did not delete the reference to “its
6 successor” in drafting proposed Section 26715(c)(3). That might be worth doing in the future, in a
7 different reform. Unless the Commission otherwise directs, we will add this issue to the
8 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” See
9 Memorandum 2008-52.

10 (2) Existing Section 12071(e) provides:

11 (e)(1) *Except as otherwise provided in this paragraph*, the Department of Justice shall keep
12 a centralized list of all persons licensed pursuant to subparagraphs (A) to (E), inclusive, of
13 paragraph (1) of subdivision (a). The department may remove from this list any person who
14 knowingly or with gross negligence violates this article. Upon removal of a dealer from this
15 list, notification shall be provided to local law enforcement and licensing authorities in the
16 jurisdiction where the dealer’s business is located.

17 (2) The department shall remove from the centralized list any person whose federal
18 firearms license has expired or has been revoked.

19

20 (Emphasis added.) The italicized reference to “this paragraph” encompasses the material in
21 paragraph (e)(1), but not the material in paragraph (e)(2). In recodifying Section 12071(e), we
22 have conformed that reference accordingly. Proposed Section 26715(a) would refer only to the
23 material now in paragraph (e)(1), not the material now in paragraph (e)(2):

24 (a) *Except as otherwise provided in paragraphs 1 and 3 of subdivision (b)*, the Department
25 of Justice shall keep a centralized list of all persons licensed pursuant to subdivisions (a) to
26 (e), inclusive, of Section 26700.

27 (b)(1) The department may remove from this list any person who knowingly or with gross
28 negligence violates a provision listed in Section 16575.

29 (2) The department shall remove from the centralized list any person whose federal
30 firearms license has expired or has been revoked.

31 (3) Upon removal of a dealer from this list, notification shall be provided to local law
32 enforcement and licensing authorities in the jurisdiction where the dealer’s business is
33 located.

34

35 (Emphasis added.)

36 The staff suspects, however, that the actual intent is to refer both to the material now in
37 paragraph (e)(1) and the material now in paragraph (e)(2). If so, proposed Section 26715(a)
38 should be revised to say: “*Except as provided in subdivision (b)*, the Department of Justice shall
39 keep a centralized list of all persons licensed pursuant to subdivisions (a) to (e), inclusive, of
40 Section 16700.”

41 Because this is a strictly nonsubstantive study, we did not draft proposed Section 26715(a) this
42 way. But it might be worth doing in the future, in a different reform. Unless the Commission
43 otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for
44 Possible Future Legislative Attention.” See Memorandum 2008-52.

45 **§ 26720. Inspections by Department of Justice**

46 26720. (a) The Department of Justice may inspect dealers to ensure compliance
47 with the provisions listed in Section 16575.

1 (b) The department may assess an annual fee, not to exceed one hundred fifteen
2 dollars (\$115), to cover the reasonable cost of maintaining the list described in
3 Section 26715, including the cost of inspections.

4 (c) Dealers whose place of business is in a jurisdiction that has adopted an
5 inspection program to ensure compliance with firearms law shall be exempt from
6 that portion of the department's fee that relates to the cost of inspections. The
7 applicant is responsible for providing evidence to the department that the
8 jurisdiction in which the business is located has the inspection program.

9 **Comment.** Section 26720 continues former Section 12071(f) without substantive change.

10 For exceptions to this provision, see Articles 5 (commencing with Section 27050) and 6
11 (commencing with Section 27100).

12 See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to
13 Sections 26700 to 26915, inclusive").

14 **§ 26725. Information to be maintained and made available by Department of Justice**

15 26725. The Department of Justice shall maintain and make available upon
16 request information concerning all of the following:

17 (a) The number of inspections conducted and the amount of fees collected
18 pursuant to Section 26720.

19 (b) A listing of exempted jurisdictions, as defined in Section 26720.

20 (c) The number of dealers removed from the centralized list defined in 26715.

21 (d) The number of dealers found to have violated a provision listed in Section
22 16575 with knowledge or gross negligence.

23 **Comment.** Section 26725 continues former Section 12071(g) without substantive change.

24 For exceptions to this provision, see Articles 5 (commencing with Section 27050) and 6
25 (commencing with Section 27100).

26 See Section 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to
27 26915, inclusive").

28 **Article 2. Grounds for Forfeiture of License**

29 **§ 26800. Forfeiture of license**

30 26800. A license under this chapter is subject to forfeiture for a breach of any of
31 the prohibitions and requirements of this article, except those stated in the
32 following provisions:

33 (a) Subdivision (c) of Section 26890.

34 (b) Subdivision (d) of Section 26890.

35 (c) Subdivision (b) of Section 26900.

36 **Comment.** Section 26800 continues the introductory clause of former Section 12071(b)
37 without substantive change.

38 **Staff Note.** The introductory clause of existing Section 12071(b) states: "A license is subject
39 to forfeiture for a breach of any of the following prohibitions and requirements" The
40 remainder of Section 12071(b) consists of a variety of rules that a firearms dealer must follow to
41 stay licensed. All of those rules would be recodified in this article.

1 The article would also contain three provisions that are not in existing Section 12071(b), but
2 are substantively related to provisions in that section. The three provisions are:

- 3 • Existing Section 12071(c)(4)(B), which would be recodified as new Section 26900(b).
- 4 • Existing Section 12071(d), which would be recodified as new Section 26890(c).
- 5 • Existing Section 12071(h), which would be recodified as new Section 26890(d).

6 Because those provisions are not in Section 12071(b), the provision that would continue the
7 introductory clause of Section 12071(b) should not apply to them. Accordingly, they would be
8 excluded from the scope of proposed Section 26800, as shown above.

9 **§ 26805. Place of conducting business**

10 26805. (a) Except as provided in subdivisions (b) and (c), the business of a
11 licensee shall be conducted only in the buildings designated in the license.

12 (b)(1) A person licensed pursuant to Sections 26700 and 26705 may take
13 possession of firearms and commence preparation of registers for the sale,
14 delivery, or transfer of firearms at any gun show or event, as defined in Section
15 478.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun
16 show or event is not conducted from any motorized or towed vehicle. A person
17 conducting business pursuant to this subdivision shall be entitled to conduct
18 business as authorized herein at any gun show or event in the state, without regard
19 to the jurisdiction within this state that issued the license pursuant to Sections
20 26700 and 26705, provided the person complies with (i) all applicable laws,
21 including, but not limited to, the waiting period specified in subdivision (a) of
22 Section 26815, and (ii) all applicable local laws, regulations, and fees, if any.

23 (2) A person conducting business pursuant to this subdivision shall publicly
24 display the person's license issued pursuant to Sections 26700 and 26705, or a
25 facsimile thereof, at any gun show or event, as specified in this subdivision.

26 (c)(1) A person licensed pursuant to Sections 26700 and 26705 may engage in
27 the sale and transfer of firearms other than pistols, revolvers, or other firearms
28 capable of being concealed upon the person, at events specified in Sections 27655,
29 27900, 27905, and 27955, subject to the prohibitions and restrictions contained in
30 those sections.

31 (2) A person licensed pursuant to Sections 26700 and 26705 may also accept
32 delivery of firearms other than pistols, revolvers, or other firearms capable of
33 being concealed upon the person, outside the building designated in the license,
34 provided the firearm is being donated for the purpose of sale or transfer at an
35 auction or similar event specified in Section 27900.

36 (d) The firearm may be delivered to the purchaser, transferee, or person being
37 loaned the firearm at one of the following places:

38 (1) The building designated in the license.

39 (2) The places specified in subdivision (b) or (c).

40 (3) The place of residence of, the fixed place of business of, or on private
41 property owned or lawfully possessed by, the purchaser, transferee, or person
42 being loaned the firearm.

1 **Comment.** Section 26805 continues former Section 12071(b)(1) without substantive change.
2 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
3 (commencing with Section 27050), and 6 (commencing with Section 27100).

4 For the consequences of violating this section, see Section 26800 (forfeiture of license).
5 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
6 “pistol,” and “revolver”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections
7 26700 to 26915, inclusive”).

8 ☞ **Staff Note.** Existing Section 12071(b)(1)(B) cross-refers to “Section 478.100 of Title 27 of
9 the Code of Federal Regulations, *or its successor* ...” (Emphasis added.) The staff does not know
10 why the reference to “its successor” was included. The reference to Section 478.100 still appears
11 to be valid. We do not think the reference to “its successor” is needed. If it were needed here, to
12 address the possibility that Section 478.100 might be recodified in the future, a similar reference
13 would also be needed in a multitude of other places throughout the codes.

14 Because this is a strictly nonsubstantive study, we did not delete the reference to “its
15 successor” in drafting proposed Section 26805(b)(1). That might be worth doing in the future, in
16 a different reform. Unless the Commission otherwise directs, we will add this issue to the
17 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” See
18 Memorandum 2008-52.

19 **§ 26810. Display of license**

20 26810. A person’s license under this chapter, or a copy thereof certified by the
21 issuing authority, shall be displayed on the premises where it can easily be seen.

22 **Comment.** Section 26810 continues former Section 12071(b)(2) without substantive change.
23 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
24 (commencing with Section 27050), and 6 (commencing with Section 27100).
25 For the consequences of violating this section, see Section 26800 (forfeiture of license).

26 **§ 26815. Delivery of firearm**

27 26815. No firearm shall be delivered:

28 (a) Within 10 days of the application to purchase, or, after notice by the
29 department pursuant to Section 28220, within 10 days of the submission to the
30 department of any correction to the application, or within 10 days of the
31 submission to the department of any fee required pursuant to Section 28220,
32 whichever is later.

33 (b) Unless unloaded and securely wrapped or unloaded and in a locked
34 container.

35 (c) Unless the purchaser, transferee, or person being loaned the firearm presents
36 clear evidence of the person’s identity and age to the dealer.

37 (d) Whenever the dealer is notified by the Department of Justice that the person
38 is in a prohibited class described in [Section 12021 or 12021.1 of this code] or
39 Section 8100 or 8103 of the Welfare and Institutions Code. The dealer shall make
40 available to the person in the prohibited class a prohibited notice and transfer
41 form, provided by the department, stating that the person is prohibited from
42 owning or possessing a firearm, and that the person may obtain from the
43 department the reason for the prohibition.

44 **Comment.** Section 26815 continues former Section 12071(b)(3) without substantive change.

1 For exceptions to this provision, see Articles 3 (commencing with Section 26950), 4
2 (commencing with Section 27000), 5 (commencing with Section 27050), and 6 (commencing
3 with Section 27100).

4 For the consequences of violating this section, see Section 26800 (forfeiture of license).

5 See Sections 16190 (“application to purchase”), 16400 (“clear evidence of the person’s identity
6 and age”), 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
7 Sections 26700 to 26915, inclusive”).

8 **§ 26820. Display of handgun or imitation or placard advertising handgun**

9 26820. No pistol, revolver, or other firearm or imitation thereof capable of being
10 concealed upon the person, or placard advertising the sale or other transfer thereof,
11 shall be displayed in any part of the premises where it can readily be seen from the
12 outside.

13 **Comment.** Section 26820 continues former Section 12071(b)(4) without substantive change.

14 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
15 (commencing with Section 27050), and 6 (commencing with Section 27100).

16 For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

19 **§ 26825. Prompt and proper processing of private party firearms transactions**

20 26825. A licensee shall agree to and shall act properly and promptly in
21 processing firearms transactions pursuant to Chapter 5 (commencing with Section
22 28050).

23 **Comment.** Section 26825 continues former Section 12071(b)(5) without substantive change.

24 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
25 (commencing with Section 27050), and 6 (commencing with Section 27100).

26 For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

29 **§ 26830. Compliance with specified laws**

30 26830. A licensee shall comply with all of the following:

31 (a) Section 27500.

32 (b) Section 27505.

33 (c) Section 27510.

34 (d) Section 27515.

35 (e) Section 27520.

36 (f) Section 27525.

37 (g) Section 27530.

38 (h) Section 27535.

39 (i) Section 27555.

40 (j) Section 28100.

41 (k) Article 2 (commencing with Section 28150) of Chapter 6.

42 (l) Article 3 (commencing with Section 28200) of Chapter 6.

43 (m) [Section 12316(a)].

1 **Comment.** Section 26830 continues former Section 12071(b)(6) without substantive change.
2 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
3 (commencing with Section 27050), and 6 (commencing with Section 27100).
4 For the consequences of violating this section, see Section 26800 (forfeiture of license).
5 See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
6 26915, inclusive”).

7 **§ 26835. Posting of warnings**

8 26835. A licensee shall post conspicuously within the licensed premises the
9 following warnings in block letters not less than one inch in height:

10 (a) “IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES
11 UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18
12 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR
13 DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF
14 A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM
15 IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A
16 LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

17 (b) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM
18 CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY
19 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON
20 UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND
21 CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A
22 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED
23 CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO
24 KEEP IT FROM TEMPORARILY FUNCTIONING.”

25 (c) “IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER
26 YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF
27 AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-
28 PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY
29 BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE
30 THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN
31 A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING
32 DEVICE.”

33 (d) “DISCHARGING FIREARMS IN POORLY VENTILATED AREAS,
34 CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN
35 EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH
36 DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL
37 INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH
38 HANDS THOROUGHLY AFTER EXPOSURE.”

39 (e) “FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE
40 PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING
41 OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL
42 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO

1 THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN
2 ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

3 (f) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE
4 MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE
5 OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY
6 PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO
7 HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL,
8 REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED
9 UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

10 **Comment.** Section 26835 continues former Section 12071(b)(7) without substantive change.

11 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
12 (commencing with Section 27050), and 6 (commencing with Section 27100).

13 For the consequences of violating this section, see Section 26800 (forfeiture of license).

14 See Sections 16190 (“application to purchase”), 16520 (“firearm”), 16530 (“firearm capable of
15 being concealed upon the person,” “pistol,” and “revolver”), 16810 (“licensed premises,”
16 “licensee’s business premises,” and “licensee’s place of business”), 26700 (“dealer,” “licensee,”
17 or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

18 **§ 26840. Presentation of basic firearms safety certificate or handgun safety certificate to**
19 **dealer**

20 26840. (a) Commencing April 1, 1994, and until January 1, 2003, no pistol,
21 revolver, or other firearm capable of being concealed upon the person shall be
22 delivered unless the purchaser, transferee, or person being loaned the firearm
23 presents to the dealer a basic firearms safety certificate.

24 (b) Commencing January 1, 2003, no dealer may deliver a handgun unless the
25 person receiving the handgun presents to the dealer a valid handgun safety
26 certificate. The firearms dealer shall retain a photocopy of the handgun safety
27 certificate as proof of compliance with this requirement.

28 **Comment.** Subdivision (a) of Section 26840 continues former Section 12071(b)(8)(A) without
29 change.

30 Subdivision (b) continues former Section 12071(b)(8)(B) without change.

31 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
32 (commencing with Section 27050), and 6 (commencing with Section 27100).

33 For the consequences of violating this section, see Section 26800 (forfeiture of license).

34 See Sections 16240 (“basic firearms safety certificate”), 16520 (“firearm”), 16530 (“firearm
35 capable of being concealed upon the person,” “pistol,” and “revolver”), 16640 (“handgun”),
36 16670 (“handgun safety certificate”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
37 Sections 26700 to 26915, inclusive”).

38 **Staff Note.** Proposed Section 26840 would continue language that is now in Section
39 12071(b)(8)(A). By its terms, that provision applied only until January 1, 2003. It theoretically
40 could be deleted as obsolete.

41 The staff suspects, however, that the provision remains useful for reference purposes (e.g., in
42 reviewing the conviction of a person who was arrested before January 1, 2003). That is why we
43 retained it in new Part 6.

44 Is the staff correct in thinking that the provision remains useful? We would appreciate input on
45 this point. If we are wrong and the provision is no longer useful, then the possibility of deleting it
46 should be added to the Commission’s list of “Minor Clean-up Issues for Possible Future
47 Legislative Attention.”

1 **§ 26845. No handgun delivery without proof of California residency**

2 26845. (a) Commencing January 1, 2003, no handgun may be delivered unless
3 the purchaser, transferee, or person being loaned the firearm presents
4 documentation indicating that the person is a California resident.

5 (b) Satisfactory documentation shall include a utility bill from within the last
6 three months, a residential lease, a property deed, or military permanent duty
7 station orders indicating assignment within this state, or other evidence of
8 residency as permitted by the Department of Justice.

9 (c) The firearms dealer shall retain a photocopy of the documentation as proof of
10 compliance with this requirement.

11 **Comment.** Section 26845 continues former Section 12071(b)(8)(C) without substantive
12 change.

13 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
14 (commencing with Section 27050), and 6 (commencing with Section 27100).

15 For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

18 **§ 26850. Safe handling demonstration with handgun**

19 26850. (a) Commencing January 1, 2003, except as authorized by the
20 department, no firearms dealer may deliver a handgun unless the recipient
21 performs a safe handling demonstration with that handgun.

22 (b) The safe handling demonstration shall commence with the handgun unloaded
23 and locked with the firearm safety device with which it is required to be delivered,
24 if applicable. While maintaining muzzle awareness, that is, the firearm is pointed
25 in a safe direction, preferably down at the ground, and trigger discipline, that is,
26 the trigger finger is outside of the trigger guard and along side of the handgun
27 frame, at all times, the handgun recipient shall correctly and safely perform the
28 following:

29 (1) If the handgun is a semiautomatic pistol, the steps listed in Section 26853.

30 (2) If the handgun is a double-action revolver, the steps listed in Section 26856.

31 (3) If the handgun is a single-action revolver, the steps listed in Section 26869.

32 (c) The recipient shall receive instruction regarding how to render that handgun
33 safe in the event of a jam.

34 (d) The firearms dealer shall sign and date an affidavit stating that the
35 requirements of subdivisions (a) and (b) have been met. The firearms dealer shall
36 additionally obtain the signature of the handgun purchaser on the same affidavit.
37 The firearms dealer shall retain the original affidavit as proof of compliance with
38 this requirement.

39 (e) The recipient shall perform the safe handling demonstration for a
40 department-certified instructor.

41 (f) No demonstration shall be required if the dealer is returning the handgun to
42 the owner of the handgun.

1 (g) Department-certified instructors who may administer the safe handling
2 demonstration shall meet the requirements set forth in [subdivision (j) of Section
3 12804].

4 (h) The persons who are exempt from the requirements of [subdivision (b) of
5 Section 12801], pursuant to [Section 12807], are also exempt from performing the
6 safe handling demonstration.

7 **Comment.** Subdivisions (a) and (b) of Section 26850, in combination with Sections 26853,
8 26856, and 26859, continue former Section 12071(b)(8)(D) without substantive change.

9 Subdivision (c) continues former Section 12071(b)(8)(E) without substantive change.

10 Subdivision (d) continues former Section 12071(b)(8)(F) without substantive change.

11 Subdivision (e) continues former Section 12071(b)(8)(G) without substantive change.

12 Subdivision (f) continues former Section 12071(b)(8)(H) without substantive change.

13 Subdivision (g) continues former Section 12071(b)(8)(I) without substantive change.

14 Subdivision (h) continues former Section 12071(b)(8)(J) without substantive change.

15 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
16 (commencing with Section 27050), and 6 (commencing with Section 27100).

17 For the consequences of violating this section, see Section 26800 (forfeiture of license).

18 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
19 “pistol,” and “revolver”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed
20 pursuant to Sections 26700 to 26915, inclusive”).

21 **§ 26853. Steps in safe handling demonstration for semiautomatic pistol**

22 26853. To comply with Section 26850, a safe handling demonstration for a
23 semiautomatic pistol shall include all of the following steps:

24 (a) Remove the magazine.

25 (b) Lock the slide back. If the model of firearm does not allow the slide to be
26 locked back, pull the slide back, visually and physically check the chamber to
27 ensure that it is clear.

28 (c) Visually and physically inspect the chamber, to ensure that the handgun is
29 unloaded.

30 (d) Remove the firearm safety device, if applicable. If the firearm safety device
31 prevents any of the previous steps, remove the firearm safety device during the
32 appropriate step.

33 (e) Load one bright orange, red, or other readily identifiable dummy round into
34 the magazine. If no readily identifiable dummy round is available, an empty
35 cartridge casing with an empty primer pocket may be used.

36 (f) Insert the magazine into the magazine well of the firearm.

37 (g) Manipulate the slide release or pull back and release the slide.

38 (h) Remove the magazine.

39 (i) Visually inspect the chamber to reveal that a round can be chambered with
40 the magazine removed.

41 (j) Lock the slide back to eject the bright orange, red, or other readily
42 identifiable dummy round. If the handgun is of a model that does not allow the
43 slide to be locked back, pull the slide back and physically check the chamber to

1 ensure that the chamber is clear. If no readily identifiable dummy round is
2 available, an empty cartridge casing with an empty primer pocket may be used.

3 (k) Apply the safety, if applicable.

4 (l) Apply the firearm safety device, if applicable. This requirement shall not
5 apply to an Olympic competition pistol if no firearm safety device, other than a
6 cable lock that the department has determined would damage the barrel of the
7 pistol, has been approved for the pistol, and the pistol is either listed in [paragraph
8 (2) of subdivision (h) of Section 12132] or is subject to [paragraph (3) of
9 subdivision (h) of Section 12132].

10 **Comment.** In combination with Section 26850(a)-(b), Section 26853 continues former Section
11 12071(b)(8)(D) without substantive change, as it pertained to a semiautomatic pistol.

12 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
13 (commencing with Section 27050), and 6 (commencing with Section 27100).

14 For the consequences of violating this section, see Section 26800 (forfeiture of license).

15 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
16 “pistol,” and “revolver”), 16640 (“handgun”).

17 **§ 26856. Steps in safe handling demonstration for double-action revolver**

18 26856. To comply with Section 26850, a safe handling demonstration for a
19 double-action revolver shall include all of the following steps:

20 (a) Open the cylinder.

21 (b) Visually and physically inspect each chamber, to ensure that the revolver is
22 unloaded.

23 (c) Remove the firearm safety device. If the firearm safety device prevents any
24 of the previous steps, remove the firearm safety device during the appropriate step.

25 (d) While maintaining muzzle awareness and trigger discipline, load one bright
26 orange, red, or other readily identifiable dummy round into a chamber of the
27 cylinder and rotate the cylinder so that the round is in the next-to-fire position. If
28 no readily identifiable dummy round is available, an empty cartridge casing with
29 an empty primer pocket may be used.

30 (e) Close the cylinder.

31 (f) Open the cylinder and eject the round.

32 (g) Visually and physically inspect each chamber to ensure that the revolver is
33 unloaded.

34 (h) Apply the firearm safety device, if applicable. This requirement shall not
35 apply to an Olympic competition pistol if no firearm safety device, other than a
36 cable lock that the department has determined would damage the barrel of the
37 pistol, has been approved for the pistol, and the pistol is either listed in [paragraph
38 (2) of subdivision (h) of Section 12132] or is subject to [paragraph (3) of
39 subdivision (h) of Section 12132].

40 **Comment.** In combination with Section 26850(a)-(b), Section 26856 continues former Section
41 12071(b)(8)(D) without substantive change, as it pertained to a double-action revolver.

42 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
43 (commencing with Section 27050), and 6 (commencing with Section 27100).

44 For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

3 **§ 26859. Steps in safe handling demonstration for single-action revolver**

4 26859. To comply with Section 26850, a safe handling demonstration for a
5 single-action revolver shall include all of the following steps:

6 (a) Open the loading gate.

7 (b) Visually and physically inspect each chamber, to ensure that the revolver is
8 unloaded.

9 (c) Remove the firearm safety device required to be sold with the handgun. If
10 the firearm safety device prevents any of the previous steps, remove the firearm
11 safety device during the appropriate step.

12 (d) Load one bright orange, red, or other readily identifiable dummy round into
13 a chamber of the cylinder, close the loading gate and rotate the cylinder so that the
14 round is in the next-to-fire position. If no readily identifiable dummy round is
15 available, an empty cartridge casing with an empty primer pocket may be used.

16 (e) Open the loading gate and unload the revolver.

17 (f) Visually and physically inspect each chamber to ensure that the revolver is
18 unloaded.

19 (g) Apply the firearm safety device, if applicable. This requirement shall not
20 apply to an Olympic competition pistol if no firearm safety device, other than a
21 cable lock that the department has determined would damage the barrel of the
22 pistol, has been approved for the pistol, and the pistol is either listed in [paragraph
23 (2) of subdivision (h) of Section 12132] or is subject to [paragraph (3) of
24 subdivision (h) of Section 12132].

25 **Comment.** In combination with Section 26850(a)-(b), Section 26859 continues former Section
26 12071(b)(8)(D) without substantive change, as it pertained to a single-action revolver.

27 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
28 (commencing with Section 27050), and 6 (commencing with Section 27100).

29 For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

32 **§ 26865. Providing Department of Justice pamphlet to purchaser, transferee, or lessee of
33 firearm**

34 26865. Commencing July 1, 1992, a licensee shall offer to provide the purchaser
35 or transferee of a firearm, or person being loaned a firearm, with a copy of the
36 pamphlet described in [Section 12080], and may add the cost of the pamphlet, if
37 any, to the sales price of the firearm.

38 **Comment.** Section 26865 continues former Section 12071(b)(9) without substantive change.

39 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
40 (commencing with Section 27050), and 6 (commencing with Section 27100).

41 For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

1 **§ 26870. No collusion**

2 26870. A licensee shall not commit an act of collusion as defined in Section
3 27550.

4 **Comment.** Section 26870 continues former Section 12071(b)(10) without substantive change.
5 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
6 (commencing with Section 27050), and 6 (commencing with Section 27100).
7 For the consequences of violating this section, see Section 26800 (forfeiture of license).
8 See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
9 26915, inclusive”).

10 **§ 26875. Posting of charges and fees**

11 26875. A licensee shall post conspicuously within the licensed premises a
12 detailed list of each of the following:

13 (a) All charges required by governmental agencies for processing firearm
14 transfers required by [Section 12806], Chapter 5 (commencing with Section
15 28050), and Article 3 (commencing with Section 28200) of Chapter 6.

16 (b) All fees that the licensee charges pursuant to [Section 12806] and Chapter 5
17 (commencing with Section 28050).

18 **Comment.** Section 26875 continues former Section 12071(b)(11) without substantive change.
19 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
20 (commencing with Section 27050), and 6 (commencing with Section 27100).
21 For the consequences of violating this section, see Section 26800 (forfeiture of license).
22 See Sections 16520 (“firearm”), 16810 (“licensed premises,” “licensee’s business premises,”
23 and “licensee’s place of business”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
24 Sections 26700 to 26915, inclusive”).

25 **§ 26880. Misrepresentation regarding amount of fees charged by governmental agency**

26 26880. A licensee shall not misstate the amount of fees charged by a
27 governmental agency pursuant to [Section 12806], Chapter 5 (commencing with
28 Section 28050), and Article 3 (commencing with Section 28200) of Chapter 6.

29 **Comment.** Section 26880 continues former Section 12071(b)(12) without substantive change.
30 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
31 (commencing with Section 27050), and 6 (commencing with Section 27100).
32 For the consequences of violating this section, see Section 26800 (forfeiture of license).
33 See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
34 26915, inclusive”).

35 **§ 26885. Location of inventory and reporting of loss or theft of firearm**

36 26885. (a) Except as provided in subdivisions (b) and (c) of Section 26805, all
37 firearms that are in the inventory of a licensee shall be kept within the licensed
38 location.

39 (b) Within 48 hours of discovery, a licensee shall report the loss or theft of any
40 of the following items to the appropriate law enforcement agency in the city,
41 county, or city and county where the licensee’s business premises are located:

42 (1) Any firearm that is merchandise of the licensee.

1 (2) Any firearm that the licensee takes possession of pursuant to Chapter 5
2 (commencing with Section 28050).

3 (3) Any firearm kept at the licensee’s place of business.

4 **Comment.** Section 26885 continues former Section 12071(b)(13) without substantive change.

5 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
6 (commencing with Section 27050), and 6 (commencing with Section 27100).

7 For the consequences of violating this section, see Section 26800 (forfeiture of license).

8 See Sections 16520 (“firearm”), 16810 (“licensed premises,” “licensee’s business premises,”
9 and “licensee’s place of business”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
10 Sections 26700 to 26915, inclusive”).

11 **§ 26890. Storage and securing of inventory firearms**

12 26890. (a) Except as provided in subdivisions (b) and (c) of Section 26805, any
13 time when the licensee is not open for business, all inventory firearms shall be
14 stored in the licensed location. All firearms shall be secured using one of the
15 following methods as to each particular firearm:

16 (1) Store the firearm in a secure facility that is a part of, or that constitutes, the
17 licensee’s business premises.

18 (2) Secure the firearm with a hardened steel rod or cable of at least one-eighth
19 inch in diameter through the trigger guard of the firearm. The steel rod or cable
20 shall be secured with a hardened steel lock that has a shackle. The lock and
21 shackle shall be protected or shielded from the use of a boltcutter and the rod or
22 cable shall be anchored in a manner that prevents the removal of the firearm from
23 the premises.

24 (3) Store the firearm in a locked fireproof safe or vault in the licensee’s business
25 premises.

26 (b) The licensing authority in an unincorporated area of a county or within a city
27 may impose security requirements that are more strict or are at a higher standard
28 than those specified in subdivision (a).

29 (c) Upon written request from a licensee, the licensing authority may grant an
30 exemption from compliance with the requirements of subdivision (a) if the
31 licensee is unable to comply with those requirements because of local ordinances,
32 covenants, lease conditions, or similar circumstances not under the control of the
33 licensee.

34 (d) Subdivision (a) or (b) shall not apply to a licensee organized as a nonprofit
35 public benefit or mutual benefit corporation pursuant to Part 2 (commencing with
36 Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the
37 Corporations Code, if both of the following conditions are satisfied:

38 (1) The nonprofit public benefit or mutual benefit corporation obtained the
39 dealer’s license solely and exclusively to assist that corporation or local chapters
40 of that corporation in conducting auctions or similar events at which firearms are
41 auctioned off to fund the activities of that corporation or the local chapters of the
42 corporation.

1 (2) The firearms are not pistols, revolvers, or other firearms capable of being
2 concealed upon the person.

3 **Comment.** Subdivision (a) of Section 26890 continues former Section 12071(b)(14) without
4 substantive change.

5 Subdivision (b) continues former Section 12071(b)(15) without substantive change.

6 Subdivision (c) continues former Section 12071(d) without substantive change.

7 Subdivision (d) continues former Section 12071(h) without substantive change.

8 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
9 (commencing with Section 27050), and 6 (commencing with Section 27100).

10 For the consequences of violating this section, see Section 26800 (forfeiture of license).

11 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
12 “pistol,” and “revolver”). 16810 (“licensed premises,” “licensee’s business premises,” and
13 “licensee’s place of business”), 17110 (“secure facility” for firearm storage by dealer), 26700
14 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

15 **Staff Notes.**

16 (1) The first sentence of existing Section 12071(b)(13) says: “Except as provided in
17 subparagraphs (B) and (C) of paragraph (1) of subdivision (b), all firearms that are in the
18 inventory of the licensee shall be kept within the licensed location.” Similarly, the first sentence
19 of existing Section 12071(b)(14) says: “Except as provided in subparagraphs (B) and (C) of
20 paragraph (1) of subdivision (b), any time when the licensee is not open for business, all
21 inventory firearms shall be stored in the licensed location.”

22 Initially, the staff thought that these sentences were redundant, such that the rule stated in
23 Section 12071(b)(14) (applicable only when the licensee is not open for business) is subsumed in
24 the rule stated in Section 12071(b)(13) (applicable without any timing restriction). We wondered
25 if the first sentence of Section 12071(b)(14) could be deleted as unnecessary.

26 On further study, however, we concluded that the sentence is not unnecessary but could
27 perhaps be reworded to make the intent more clear. While the first sentence of Section
28 12071(b)(13) requires firearms to be “kept” in the licensed location, the first sentence of Section
29 12071(b)(14) requires them to be “stored” in the licensed location “any time when the licensee is
30 not open for business.” The remainder of Section 12071(b)(14) says that all firearms “shall be
31 secured” by using one of three different methods.

32 It seems likely that Section 12071(b)(14) is meant to require a licensee to “store” all of its
33 firearms when it is not open for business, by securing each firearm in the licensed premises using
34 one of the three allowable methods.

35 If that is the intent, however, it could perhaps be better-expressed. For example, proposed
36 Section 26890 (which would continue Section 12071(b)(14)) could be worded as follows:

37 26890. (a) Except as provided in subdivisions (b) and (c) of Section 26805, any time when
38 the licensee is not open for business, all inventory firearms shall be stored in the licensed
39 location. ~~All firearms shall be secured, by securing them~~ using one of the following methods
40 as to each particular firearm:

41 (1) Store the firearm in a secure facility

42 Because this is a strictly nonsubstantive study, we did not draft proposed Section 26890 this
43 way. But it might be worth doing in the future, in a different reform. Unless the Commission
44 otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for
45 Possible Future Legislative Attention.” See Memorandum 2008-52.

46 (2) Existing Section 12071(b)(20)(G)(ii) defines “secured” for purposes of “this section” as
47 follows:

48 (ii) “Secured” means a firearm that is made inoperable in one or more of the following
49 ways:

1 (I) The firearm is inoperable because it is secured by a firearms safety device listed on the
2 department's roster of approved firearms safety devices pursuant to subdivision (d) of Section
3 12088 of this chapter.

4 (II) The firearm is stored in a locked gun safe or long-gun safe which meets the standards
5 for department-approved gun safes set forth in Section 12088.2.

6 (III) The firearm is stored in a distinct locked room or area in the building that is used to
7 store firearms that can only be unlocked by a key, a combination, or similar means.

8 (IV) The firearm is secured with a hardened steel rod or cable that is at least one-eighth of
9 an inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be
10 secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected
11 or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner
12 that prevents the removal of the firearm from the premises.

13 The term "secured" is used in three places in Section 12071 (aside from the above definition):
14 paragraph (b)(14), subparagraph (b)(20)(E), and paragraph (c)(2).

15 In one of those three places, the above definition makes no sense. The definition concerns ways
16 of rendering a firearm inoperable — i.e., "secured." But paragraph (c)(2) defines "secure facility"
17 and says that in such a facility, "[h]eating, ventilating, air-conditioning, and service openings are
18 *secured* with steel bars, metal grating, or an alarm system." (Emphasis added.) In this context, the
19 term "secured" obviously has nothing to do with rendering a firearm inoperable.

20 In another of the three places where the term "secured" is used, it seems clear that the above
21 definition is meant to apply. Subparagraph (b)(20)(E) provides:

22 (E) The licensee shall prohibit any agent who the licensee knows or reasonably should
23 know is within a class of persons prohibited from possessing firearms pursuant to Section
24 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code,
25 from coming into contact with *any firearm that is not secured* and from accessing any key,
26 combination, code, or other means to open any of the locking devices described in clause (ii)
27 of subparagraph (G) of this paragraph.

28 (Emphasis added.) This provision is almost adjacent to the definition, and the definition makes
29 perfect sense in the context of the provision.

30 In the third place where the term "secured" is used, the situation is more ambiguous. Existing
31 Section 12071(b)(14) provides:

32 (14) Except as provided in subparagraphs (B) and (C) of paragraph (1) of subdivision (b),
33 any time when the licensee is not open for business, all inventory firearms shall be stored in
34 the licensed location. All firearms shall be *secured* using one of the following methods as to
35 each particular firearm:

36 (A) Store the firearm in a secure facility that is a part of, or that constitutes, the licensee's
37 business premises.

38 (B) Secure the firearm with a hardened steel rod or cable of at least one-eighth inch in
39 diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with
40 a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded
41 from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents
42 the removal of the firearm from the premises.

43 (C) Store the firearm in a locked fireproof safe or vault in the licensee's business premises.

44 (Emphasis added.) Here, there does not seem to be a need for an independent definition of
45 "secured," because the provision itself illustrates the three acceptable methods of securing a
46 firearm. Those methods to some extent overlap with the methods in Section 12071(b)(20)(G)(ii)'s
47 definition of "secured," but also differ significantly. The staff suspects that the definition in
48 Section 12071(b)(20)(G)(ii) is not meant to apply.

49 Because this is a strictly nonsubstantive study, however, we recommend that the Commission
50 perpetuate the existing ambiguity. The Commission previously decided that the definition of
51 "secured" should be placed in close proximity to the substantive material in which the term is

1 used. See Memorandum 2008-23, p. 11; Minutes (June 2008), p. 6. To perpetuate the existing
2 ambiguity while complying with that instruction, we have taken the following steps:

- 3 • Proposed Section 26890(a) (shown above) would continue the substance of Section
4 12071(b)(14).
- 5 • Proposed Section 26915 (shown below) would continue the substance of Section
6 12071(b)(20)(E).
- 7 • Proposed Section 26915 would also continue the definition of “secured” now found in
8 Section 12071(b)(20)(G)(ii).
- 9 • The definition of “secured” in proposed Section 26915 would apply for purposes of “this
10 article,” not just for purposes of “this section.”

11 As under existing law, the definition of “secured” would be in close proximity to the substance of
12 Section 12071(b)(20)(E), where it seems likely that the definition is meant to apply. The
13 definition of “secured” would also be distant from the substance of Section 12071(b)(14), yet
14 drafted so that it would apply to that substance if taken literally. Again, this would mirror the
15 situation in existing law.

16 At some point in the future, it might be appropriate to eliminate the ambiguity, perhaps by
17 restricting the definition of “secured” to the substance of Section 12071(b)(20)(E). Unless the
18 Commission otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-
19 up Issues for Possible Future Legislative Attention.” See Memorandum 2008-52.

20 (3) Existing Section 12071(h) says that “*Paragraph (14) or (15)* of subdivision (b) shall not
21 apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation”
22 (Emphasis added.) The staff suspects that the actual intent would be better-expressed by replacing
23 the italicized “or” with “and,” as follows: “Paragraphs (14) ~~or~~ and (15) of subdivision (b) shall
24 not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation”
25 (Emphasis added.)

26 Because this is a strictly nonsubstantive study, we have not taken this approach in drafting
27 proposed Section 26890(d). That might be worth doing in the future, in a separate reform. Unless
28 the Commission otherwise directs, we will add this issue to the Commission’s list of “Minor
29 Clean-up Issues for Possible Future Legislative Attention.” See Memorandum 2008-52.

30 § 26895. Providing copy of license to Department of Justice

31 26895. Commencing January 1, 1994, a licensee shall, upon the issuance or
32 renewal of a license, submit a copy of it to the Department of Justice.

33 **Comment.** Section 26895 continues former Section 12071(b)(16) without substantive change.

34 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
35 (commencing with Section 27050), and 6 (commencing with Section 27100).

36 For the consequences of violating this section, see Section 26800 (forfeiture of license).

37 See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
38 26915, inclusive”).

39 § 26900. Maintenance and inspection of firearm transaction record

40 26900. (a) A licensee shall maintain and make available for inspection during
41 business hours to any peace officer, authorized local law enforcement employee,
42 or Department of Justice employee designated by the Attorney General, upon the
43 presentation of proper identification, a firearm transaction record, as defined in
44 Section 16550.

45 (b) A licensee shall be in compliance with the provisions of subdivision (a) if the
46 licensee maintains and makes available for inspection during business hours to any

1 peace officer, authorized local law enforcement employee, or Department of
2 Justice employee designated by the Attorney General, upon the presentation of
3 proper identification, the bound book containing the same information referred to
4 in Section 478.124a and subdivision (e) of Section 478.125 of Title 27 of the Code
5 of Federal Regulations and the records referred to in subdivision (a) of Section
6 478.124 of Title 27 of the Code of Federal Regulations.

7 **Comment.** Subdivision (a) of Section 26900 continues former Section 12071(b)(17) without
8 substantive change.

9 Subdivision (b) continues former Section 12071(c)(4)(B) without substantive change.

10 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
11 (commencing with Section 27050), and 6 (commencing with Section 27100).

12 For the consequences of violating this section, see Section 26800 (forfeiture of license).

13 See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
14 26915, inclusive”).

15 § 26905. Reporting of handgun acquisitions

16 26905. (a) On the date of receipt, a licensee shall report to the Department of
17 Justice, in a format prescribed by the department, the acquisition by the licensee of
18 the ownership of a pistol, revolver, or other firearm capable of being concealed
19 upon the person.

20 (b) The provisions of this section shall not apply to any of the following
21 transactions:

22 (1) A transaction subject to the provisions of Sections 26960 and 27660.

23 (2) The dealer acquired the firearm from a wholesaler.

24 (3) The dealer is also licensed as a secondhand dealer pursuant to Article 4
25 (commencing with Section 21625) of Chapter 9 of Division 8 of the Business and
26 Professions Code.

27 (4) The dealer acquired the firearm from a person who is licensed as a
28 manufacturer or importer to engage in those activities pursuant to Chapter 44
29 (commencing with Section 921) of Title 18 of the United States Code and any
30 regulations issued pursuant thereto.

31 (5) The dealer acquired the firearm from a person who resides outside this state
32 who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18
33 of the United States Code and any regulations issued pursuant thereto.

34 **Comment.** Section 26905 continues former Section 12071(b)(18) without substantive change.

35 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
36 (commencing with Section 27050), and 6 (commencing with Section 27100).

37 For the consequences of violating this section, see Section 26800 (forfeiture of license).

38 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
39 “pistol,” and “revolver”), 17340 (“wholesaler”), 26700 (“dealer,” “licensee,” or “person licensed
40 pursuant to Sections 26700 to 26915, inclusive”).

41 § 26910. Reporting of information on firearm that is not timely delivered

42 26910. A licensee shall forward, in a format prescribed by the Department of
43 Justice, information as required by the department on any firearm that is not

1 delivered within the time period set forth in Section 478.102(c) of Title 27 of the
2 Code of Federal Regulations.

3 **Comment.** Section 26910 continues former Section 12071(b)(19) without substantive change.

4 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
5 (commencing with Section 27050), and 6 (commencing with Section 27100).

6 For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

9 **§ 26915. Agent who handles, sells, or delivers firearms**

10 26915. (a) A firearms dealer may require any agent who handles, sells, or
11 delivers firearms to obtain and provide to the dealer a certificate of eligibility from
12 the Department of Justice pursuant to Section 26710. On the application for the
13 certificate, the agent or employee shall provide the name and California firearms
14 dealer number of the firearms dealer with whom the person is employed.

15 (b) The department shall notify the firearms dealer in the event that the agent or
16 employee who has a certificate of eligibility is or becomes prohibited from
17 possessing firearms.

18 (c) If the local jurisdiction requires a background check of the agents or
19 employees of a firearms dealer, the agent or employee shall obtain a certificate of
20 eligibility pursuant to subdivision (a).

21 (d)(1) Nothing in this section shall be construed to preclude a local jurisdiction
22 from conducting an additional background check pursuant to Section 11105. The
23 local jurisdiction may not charge a fee for the additional criminal history check.

24 (2) Nothing in this section shall be construed to preclude a local jurisdiction
25 from prohibiting employment based on criminal history that does not appear as
26 part of obtaining a certificate of eligibility.

27 (e) The licensee shall prohibit any agent who the licensee knows or reasonably
28 should know is within a class of persons prohibited from possessing firearms
29 pursuant to [Section 12021 or 12021.1 of this code], or Section 8100 or 8103 of
30 the Welfare and Institutions Code, from coming into contact with any firearm that
31 is not secured and from accessing any key, combination, code, or other means to
32 open any of the locking devices described in subdivision (g).

33 (f) Nothing in this section shall be construed as preventing a local government
34 from enacting an ordinance imposing additional conditions on licensees with
35 regard to agents.

36 (g) For purposes of this article, “secured” means a firearm that is made
37 inoperable in one or more of the following ways:

38 (1) The firearm is inoperable because it is secured by a firearm safety device
39 listed on the department’s roster of approved firearm safety devices pursuant to
40 subdivision (d) of Section 23655.

41 (2) The firearm is stored in a locked gun safe or long-gun safe that meets the
42 standards for department-approved gun safes set forth in Section 23650.

1 (3) The firearm is stored in a distinct locked room or area in the building that is
2 used to store firearms, which can only be unlocked by a key, a combination, or
3 similar means.

4 (4) The firearm is secured with a hardened steel rod or cable that is at least one-
5 eighth of an inch in diameter through the trigger guard of the firearm. The steel
6 rod or cable shall be secured with a hardened steel lock that has a shackle. The
7 lock and shackle shall be protected or shielded from the use of a boltcutter and the
8 rod or cable shall be anchored in a manner that prevents the removal of the firearm
9 from the premises.

10 **Comment.** Subdivisions (a) through (f) of Section 26915 continue former Section
11 12071(b)(20)(A)-(F) without substantive change.

12 Subdivision (g) continues former Section 12071(b)(20)(G)(ii) without substantive change.

13 For exceptions to this provision, see Articles 4 (commencing with Section 27000), 5
14 (commencing with Section 27050), and 6 (commencing with Section 27100).

15 For the consequences of violating this section, see Section 26800 (forfeiture of license).

16 See Sections 16130 (“agent”), 16520 (“firearm”), 16610 (“gun safe”), 16870 (“long-gun safe”),
17 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

18 **Staff Note.** The definition of “secured,” which would be continued in proposed Section
19 26915(g), is discussed in the Staff Note on proposed Section 26890.

20 Article 3. Exceptions Extending Only to Waiting Period

21 § 26950. Waiting period exception for sale, delivery, or transfer to full-time paid peace 22 officer authorized to carry firearms in performance of duties

23 26950. (a) The waiting period described in Section 26815 does not apply to the
24 sale, delivery, or transfer of firearms made to any person who satisfies both of the
25 following requirements:

26 (1) The person is properly identified as a full-time paid peace officer, as defined
27 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

28 (2) The officer’s employer has authorized the officer to carry firearms while in
29 the performance of duties.

30 (b)(1) Proper identification is defined as verifiable written certification from the
31 head of the agency by which the purchaser or transferee is employed, identifying
32 the purchaser or transferee as a peace officer who is authorized to carry firearms
33 while in the performance of duties, and authorizing the purchase or transfer.

34 (2) The certification shall be delivered to the dealer at the time of purchase or
35 transfer and the purchaser or transferee shall identify himself or herself as the
36 person authorized in the certification.

37 (3) The dealer shall keep the certification with the record of sale.

38 (4) On the date that the sale, delivery, or transfer is made, the dealer delivering
39 the firearm shall transmit to the Department of Justice an electronic or telephonic
40 report of the transaction as is indicated in Section 28160 or 28165.

41 **Comment.** Section 26950 continues former Section 12078(a)(1) without substantive change, as
42 that provision applied to the waiting period in former Section 12071.

43 For other exceptions relating to law enforcement, see Sections 27050-27065.

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

3 **§ 26955. Waiting period exception for dealer who delivers firearm other than handgun at**
4 **auction or similar event conducted by nonprofit mutual or public benefit corporation**

5 26955. (a) The waiting period described in Section 26815 does not apply to a
6 dealer who delivers a firearm, other than a handgun, at an auction or similar event
7 described in Section 27900, as authorized by subdivision (c) of Section 26805.

8 (b) Within two business days of completion of the application to purchase, the
9 dealer shall forward by prepaid mail to the Department of Justice a report of the
10 application as is indicated in Section 28165.

11 (c) If the electronic or telephonic transfer of applicant information is used,
12 within two business days of completion of the application to purchase, the dealer
13 delivering the firearm shall transmit to the Department of Justice an electronic or
14 telephonic report of the application as is indicated in Section 28165.

15 **Comment.** Section 26955 continues former Section 12078(g)(3) without substantive change,
16 as that provision applied to the waiting period in former Section 12071.

17 See Sections 16190 (“application to purchase”), 16520 (“firearm”), 16640 (“handgun”), 26700
18 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

19 **§ 26960. Waiting period exception for sale, delivery, or transfer of handgun, not intended as**
20 **merchandise, by dealer to self or another dealer**

21 26960. (a) The waiting period described in Section 26815 does not apply to the
22 sale, delivery, or transfer of a handgun by a dealer in either of the following
23 situations:

24 (1) The dealer is delivering the firearm to another dealer, the firearm is not
25 intended as merchandise in the receiving dealer’s business, and the requirements
26 of subdivisions (b) and (c) are satisfied.

27 (2) The dealer is delivering the firearm to himself or herself, the firearm is not
28 intended as merchandise in the dealer’s business, and the requirements of
29 subdivision (c) are satisfied.

30 (b) If the dealer is receiving the firearm from another dealer, the dealer receiving
31 the firearm shall present proof to the dealer delivering the firearm that the
32 receiving dealer is licensed pursuant to Articles 1 (commencing with Section
33 26700) and 2 (commencing with Section 26800). This shall be done by complying
34 with Section 27555.

35 (c)(1) Regardless of whether the dealer is selling, delivering, or transferring the
36 firearm to another dealer or to himself or herself, on the date that the application to
37 purchase is completed, the dealer delivering the firearm shall forward by prepaid
38 mail to the Department of Justice a report of the application and the type of
39 information concerning the purchaser or transferee as is indicated in Section
40 28160.

41 (2) Where electronic or telephonic transfer of applicant information is used, on
42 the date that the application to purchase is completed, the dealer delivering the

1 firearm shall transmit an electronic or telephonic report of the application and the
2 type of information concerning the purchaser or transferee as is indicated in
3 Section 28160.

4 **Comment.** Section 26960 continues former Section 12078(n) without substantive change, as
5 that provision applied to the waiting period in former Section 12071.

6 See Sections 16190 (“application to purchase”), 16520 (“firearm”), 16640 (“handgun”), 26700
7 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

8 **§ 26965. Waiting period exception for sale, delivery, or transfer to holder of special weapons**
9 **permit**

10 26965. (a) The waiting period described in Section 26815 does not apply to the
11 sale, delivery, or transfer of a firearm to the holder of a special weapons permit
12 issued by the Department of Justice pursuant to [Section 12095, 12230, or 12250],
13 or Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title
14 2.

15 (b) On the date that the application to purchase is completed, the dealer
16 delivering the firearm shall transmit to the Department of Justice an electronic or
17 telephonic report of the application as is indicated in Section 28160 or 28165.

18 **Comment.** Section 26965 continues former Section 12078(r) without substantive change, as
19 that provision applied to the waiting period in former Section 12071.

20 See Sections 16190 (“application to purchase”), 16520 (“firearm”), 26700 (“dealer,”
21 “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

22 **§ 26970. Waiting period exception for sale, delivery, loan, or transfer of curio or relic by**
23 **dealer to licensed collector**

24 26970. (a) The waiting period described in Section 26815 does not apply to the
25 sale, delivery, loan, or transfer of a firearm if all of the following conditions are
26 satisfied:

27 (1) The firearm is a curio or relic, as defined in Section 478.11 of Title 27 of the
28 Code of Federal Regulations, or its successor.

29 (2) The sale, delivery, loan, or transfer is made by a dealer.

30 (3) The sale, delivery, loan, or transfer is made to a person who is licensed as a
31 collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
32 United States Code and the regulations issued pursuant thereto.

33 (4) The licensed collector has a current certificate of eligibility issued by the
34 Department of Justice pursuant to Section 26710.

35 (b) On the date that the sale, delivery, or transfer is made, the dealer delivering
36 the firearm shall transmit to the Department of Justice an electronic or telephonic
37 report of the transaction as is indicated in Section 28160 or 28165.

38 **Comment.** Section 26970 continues former Section 12078(t)(1) without substantive change, as
39 that provision applied to the waiting period in former Section 12071.

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

1 **☞ Staff Notes.**

2 (1) Existing Section 12078(t)(1) cross-refers to “Section 478.11 of Title 27 of the Code of
3 Federal Regulations, *or its successor*” (Emphasis added.) The staff does not know why the
4 reference to “its successor” was included. The reference to Section 478.11 still appears to be
5 valid. We do not think the reference to “its successor” is needed. If it were needed here, to
6 address the possibility that Section 478.11 might be recodified in the future, a similar reference
7 would also be needed in a multitude of other places throughout the codes.

8 Because this is a strictly nonsubstantive study, we did not delete the reference to “its
9 successor” in drafting proposed Section 26970(a)(1). That might be worth doing in the future, in a
10 different reform. 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 2008-52.

13 (2) The first sentence of existing Section 12078(t) refers to “the *sale, delivery, loan, or transfer*
14 of a firearm that is a curio or relic” (Emphasis added.) In contrast, the second sentence states
15 that “[o]n the date that the *delivery, sale, or transfer* is made, the dealer delivering the firearm
16 shall” (Emphasis added.)

17 The staff does not know why the first sentence refers to a “loan” while the second sentence
18 does not. We suspect this may be an inadvertent error. Unless the Commission otherwise directs,
19 we will add this issue to the Commission’s list of “Minor Clean-up Issues for Possible Future
20 Legislative Attention.” See Memorandum 2008-52.

21 **Article 4. Exceptions Extending Only to Grounds for Forfeiture of License**

22 **☞ Staff Note.** Existing Section 12078(s)(3) says that “Subdivision (b) of Section 12071 ... shall
23 not apply to the loan of” Existing Section 12078(s)(4) includes the same language.

24 These provisions would be recodified in proposed Sections 27000 and 27005, shown below. In
25 each new provision, the cross-reference to “Subdivision (b) of Section 12071” has been replaced
26 with a reference to “Article 2 (commencing with Section 26800).”

27 That article would include the entirety of existing Section 12071(b). It would also include three
28 provisions that are not in existing Section 12071(b), but are substantively related to provisions in
29 that section. The three provisions are:

- 30 • Existing Section 12071(c)(4)(B), which would be recodified as new Section 26900(b).
31 This provision clarifies that a licensee is in compliance with the requirements of Section
32 12071(b)(17) (proposed Section 26900(a)) if the licensee follows certain steps.
- 33 • Existing Section 12071(d), which would be recodified as new Section 26890(c). This
34 provision says that a licensing authority may grant an exemption from the requirements
35 of Section 12071(b)(14) (proposed Section 26890(a)) in certain circumstances.
- 36 • Existing Section 12071(h), which would be recodified as new Section 26890(d). This
37 provision says that Section 12071(b)(14) or (15) “shall not apply to a licensee organized
38 as a nonprofit public benefit or mutual benefit corporation ...”

39 The staff does not think any substantive change would be effected referring to the entirety of
40 Article 2 in proposed Sections 27000 and 27005, instead of only the provisions that would
41 continue existing Section 12071(b). We encourage others to consider this point and share their
42 views.

43 If necessary, proposed Sections 27000 and 27005 could be revised to refer only to the
44 provisions that would continue existing Section 12071(b). That would be more cumbersome and
45 less user-friendly than the current approach, but it would not be difficult to do.

1 **§ 27000. License forfeiture exception for loan of unloaded firearm, for use solely as prop, by**
2 **dealer to person with entertainment firearms permit**

3 27000. (a) Article 2 (commencing with Section 26800) does not apply to the
4 loan of a firearm if all of the following conditions are satisfied:

5 (1) The firearm is unloaded.

6 (2) The loan is made by a dealer.

7 (3) The loan is made to a person who possesses a valid entertainment firearms
8 permit issued pursuant to [Section 12081].

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

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

13 **Comment.** Section 27000 continues former Section 12078(s)(3) without substantive change, as
14 that provision applied to former Section 12071(b).

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

17 **Staff Note.** Existing Section 12078(s)(3) refers to “a dealer *as defined in Section 12071*”
18 In proposed Section 27000, we have (1) replaced that reference with “a dealer,” and (2) included
19 a reference to the definition of “dealer” in the Comment, which also states that “Section 27000
20 continues former Section 12078(s)(3) without substantive change”

21 We chose this approach because it would further the Legislature’s directive to “[a]void
22 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope of
23 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
24 weight to the Commission’s comments, we think this would be sufficient to preserve the
25 substance of Section 12078(s)(3). See 2007-2008 Annual Report, 37 Cal. L. Revision Comm’n
26 Reports 1, 17-23 (2007).

27 **§ 27005. License forfeiture exception for short-term loan of unloaded firearm by dealer to**
28 **consultant-evaluator**

29 27005. (a) Article 2 (commencing with Section 26800) does not apply to the
30 loan of an unloaded firearm to a consultant-evaluator by a person licensed
31 pursuant to Sections 26700 to 26915, inclusive, if the loan does not exceed 45
32 days from the date of delivery.

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

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

38 (2) A photocopy of the consultant-evaluator’s valid, current certificate of
39 eligibility.

40 (3) A letter from the person licensed as an importer, manufacturer, or dealer
41 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
42 States Code, with whom the consultant-evaluator has a bona fide business
43 relationship. The letter shall detail the bona fide business purposes for which the

1 firearm is being loaned and confirm that the consultant-evaluator is being loaned
2 the firearm as part of a bona fide business relationship.

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

5 **Comment.** Section 27005 continues former Section 12078(s)(4) without substantive change, as
6 that provision applied to former Section 12071(b).

7 See Sections 16410 (“consultant-evaluator”), 16520 (“firearm”), 26700 (“dealer,” “licensee,”
8 or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

9 **Article 5. Exceptions Relating to Law Enforcement**

10 **§ 27050. Exception for sale, delivery, or transfer to authorized law enforcement**
11 **representative of city, county, city and county, or state or federal government**

12 27050. (a) Articles 1 (commencing with Section 26700) and 2 (commencing
13 with Section 26800) do not apply to any sale, delivery, or transfer of firearms
14 made to an authorized law enforcement representative of any city, county, city and
15 county, or state, or of the federal government, for exclusive use by that
16 governmental agency if, prior to the sale, delivery, or transfer of these firearms,
17 written authorization from the head of the agency authorizing the transaction is
18 presented to the person from whom the purchase, delivery, or transfer is being
19 made.

20 (b) Proper written authorization is defined as verifiable written certification from
21 the head of the agency by which the purchaser or transferee is employed,
22 identifying the employee as an individual authorized to conduct the transaction,
23 and authorizing the transaction for the exclusive use of the agency by which that
24 person is employed.

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

31 **Comment.** Section 27050 continues former Section 12078(a)(2) without substantive change, as
32 that provision applied to former Section 12071 (through its reference to “the preceding provisions
33 of this article”).

34 For other exceptions relating to law enforcement, see Sections 26950, 27055-27065.

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

36 **§ 27055. Exception for loan of firearm to peace officer employee for use in performing**
37 **official duties**

38 27055. Articles 1 (commencing with Section 26700) and 2 (commencing with
39 Section 26800) do not apply to the loan of a firearm if all of the following
40 conditions are satisfied:

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

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

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

7 **Comment.** Section 27055 continues former Section 12078(a)(3) without substantive change, as
8 that provision applied to former Section 12071 (through its reference to "the preceding provisions
9 of this article").

10 For other exceptions relating to law enforcement, see Sections 26950, 27050, 27060-27065.

11 See Section 16520 ("firearm").

12 **§ 27060. Exception for sale, delivery, or transfer by law enforcement agency to peace officer**
13 **pursuant to Public Contract Code**

14 27060. (a) Articles 1 (commencing with Section 26700) and 2 (commencing
15 with Section 26800) do not apply to the sale, delivery, or transfer of a firearm by a
16 law enforcement agency to a peace officer pursuant to Section 10334 of the Public
17 Contract Code.

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

27 **Comment.** Section 27060 continues former Section 12078(a)(4) without substantive change, as
28 that provision applied to former Section 12071 (through its reference to "the preceding provisions
29 of this article").

30 For other exceptions relating to law enforcement, see Sections 26950, 27050-27055, 27065.

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

32 **§ 27065. Exception for sale, delivery, or transfer by law enforcement agency to retiring**
33 **peace officer authorized to carry concealed and loaded firearm**

34 27065. (a) Articles 1 (commencing with Section 26700) and 2 (commencing
35 with Section 26800) do not apply to the sale, delivery, or transfer of a firearm by a
36 law enforcement agency to a retiring peace officer who is authorized to carry a
37 firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

38 (b) Within 10 days of the date that a handgun is sold, delivered, or transferred to
39 that retiring peace officer, the name of the officer and the make, model, serial
40 number, and other identifying characteristics of the firearm being sold, delivered,
41 or transferred shall be entered into the Automated Firearms System (AFS) via the
42 California Law Enforcement Telecommunications System (CLETS) by the law
43 enforcement or state agency that sold, delivered, or transferred the firearm. Any

1 agency without access to AFS shall arrange with the sheriff of the county in which
2 the agency is located to input this information via this system.

3 **Comment.** Section 27065 continues former Section 12078(a)(5) without substantive change, as
4 that provision applied to former Section 12071 (through its reference to “the preceding provisions
5 of this article”).

6 For other exceptions relating to law enforcement, see Sections 26950, 27050-27060.

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

8 Article 6. Other Exceptions

9 § 27100. Exception for sales, deliveries, or transfers of firearms between or to licensed 10 importers and manufacturers

11 27100. Articles 1 (commencing with Section 26700) and 2 (commencing with
12 Section 26800) do not apply to sales, deliveries, or transfers of firearms between
13 or to importers and manufacturers of firearms licensed to engage in that business
14 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
15 States Code and the regulations issued pursuant thereto.

16 **Comment.** Section 27100 continues former Section 12078(b)(1) without substantive change,
17 as that provision applied to former Section 12071.

18 See Section 16520 (“firearm”).

19 § 27105. Exception for service or repair by gunsmith

20 27105. Articles 1 (commencing with Section 26700) and 2 (commencing with
21 Section 26800) do not apply to the delivery of a firearm to a gunsmith for service
22 or repair, or to the return of the firearm to its owner by the gunsmith.

23 **Comment.** Section 27105 continues former Section 12078(e) without substantive change, as
24 that provision applied to former Section 12071.

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

26 § 27110. Exception for sale, delivery, or transfer of unloaded firearms, other than 27 handguns, by dealer to another dealer

28 27110. Articles 1 (commencing with Section 26700) and 2 (commencing with
29 Section 26800) do not apply to the sale, delivery, or transfer of firearms if all of
30 the following conditions are satisfied:

31 (a) The firearms are unloaded.

32 (b) The firearms are not handguns.

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

35 **Comment.** Section 27110 continues former Section 12078(k)(1) without substantive change,
36 as that provision applied to former Section 12071.

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

1 **§ 27115. Exception for sale, delivery, or transfer of unloaded firearms by dealer to licensed**
2 **nonresident**

3 27115. Articles 1 (commencing with Section 26700) and 2 (commencing with
4 Section 26800) do not apply to the sale, delivery, or transfer of unloaded firearms
5 by a dealer to a person who resides outside this state and is licensed pursuant to
6 Chapter 44 (commencing with Section 921) of Title 18 of the United States Code
7 and the regulations issued pursuant thereto.

8 **Comment.** Section 27115 continues former Section 12078(k)(2) without substantive change,
9 as that provision applied to former Section 12071.

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

12 **§ 27120. Exception for return of unloaded firearms to wholesaler to treat as merchandise**

13 27120. Articles 1 (commencing with Section 26700) and 2 (commencing with
14 Section 26800) do not apply to the sale, delivery, or transfer of unloaded firearms
15 to a wholesaler if the firearms are being returned to the wholesaler and are
16 intended as merchandise in the wholesaler’s business.

17 **Comment.** Section 27120 continues former Section 12078(k)(3) without substantive change,
18 as that provision applied to former Section 12071.

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

21 **§ 27125. Exception for sale, delivery, or transfer of unloaded firearms by dealer to another**
22 **dealer to treat as merchandise**

23 27125. Articles 1 (commencing with Section 26700) and 2 (commencing with
24 Section 26800) do not apply to the sale, delivery, or transfer of firearms if all of
25 the following conditions are satisfied:

26 (a) The firearms are unloaded.

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

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

30 **Comment.** Section 27125 continues former Section 12078(k)(4) without substantive change,
31 as that provision applied to former Section 12071.

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

34 **§ 27130. Exception for sale, delivery, or transfer of unloaded firearm, other than handgun,**
35 **by dealer to self**

36 27130. Articles 1 (commencing with Section 26700) and 2 (commencing with
37 Section 26800) do not apply to the sale, delivery, or transfer of an unloaded
38 firearm, other than a handgun, by a dealer to himself or herself.

39 **Comment.** Section 27130 continues former Section 12078(k)(5) without substantive change,
40 as that provision applied to former Section 12071.

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

1 **§ 27135. Exception for loan of unloaded firearm under specified circumstances by dealer to**
2 **person at target facility or at premises of target shooting club or organization**

3 27135. (a) Articles 1 (commencing with Section 26700) and 2 (commencing
4 with Section 26800) do not apply to the loan of an unloaded firearm if all of the
5 following conditions are satisfied:

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

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

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

11 (b) Articles 1 (commencing with Section 26700) and 2 (commencing with
12 Section 26800) do not apply to the loan of an unloaded firearm if all of the
13 following conditions are satisfied:

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

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

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

20 **Comment.** Section 27135 continues former Section 12078(k)(6) without substantive change,
21 as that provision applied to former Section 12071.

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

24 **§ 27140. Exception for sale, delivery, or transfer of firearms regulated pursuant to specified**
25 **statutes, if sale, delivery, or transfer complies with applicable statutory provisions**

26 27140. Articles 1 (commencing with Section 26700) and 2 (commencing with
27 Section 26800) do not apply to the sale, delivery, or transfer of firearms regulated
28 pursuant to any of the following statutes, if the sale, delivery, or transfer is
29 conducted in accordance with the applicable provisions of the statute:

30 (a) Section 24410, relating to cane guns, and the exemptions in Chapter 1
31 (commencing with Section 17700) of Title 2, as they relate to cane guns.

32 (b) Section 24510, relating to firearms that are not immediately recognizable as
33 firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of
34 Title 2, as they relate to firearms that are not immediately recognizable as
35 firearms.

36 (c) Sections _____ to _____, inclusive, relating to short-barreled rifles and
37 short-barreled shotguns, and the exemptions in Chapter 1 (commencing with
38 Section 17700) of Title 2, as they relate to short-barreled rifles and short-barreled
39 shotguns.

40 (d) Section _____, relating to unconventional pistols, and the exemptions in
41 Chapter 1 (commencing with Section 17700) of Title 2, as they relate to
42 unconventional pistols.

1 (e) Sections 24610 and 24680, relating to undetectable firearms, and the
2 exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they
3 relate to undetectable firearms.

4 (f) Section 24710, relating to wallet guns, and the exemptions in Chapter 1
5 (commencing with Section 17700) of Title 2, as they relate to wallet guns.

6 (g) Section _____, relating to zip guns, and the exemptions in Chapter 1
7 (commencing with Section 17700) of Title 2, as they relate to zip guns.

8 (h) [Sections 12200 to 12251, inclusive], relating to machineguns.

9 (i) [Sections 12275 to 12290, inclusive], relating to assault weapons.

10 **Comment.** Section 27140 continues former Section 12078(o) without substantive change, as
11 that provision applied to former Section 12071.

12 See Sections 16330 (“cane gun”), 16520 (“firearm”), 16880 (“machinegun”), 17170 (“short-
13 barreled rifle”), 17180 (“short-barreled shotgun”), 17270 (“unconventional pistol”), 17280
14 (“undetectable firearm”), 17330 (“wallet gun”), 17360 (“zip gun”) _____ (“assault weapon”),
15 _____ (further clarification of “assault weapon”), _____ (exemptions from definition of “assault
16 weapon”).

17 **Staff Notes.**

18 We encourage comment on the following points:

19 (1) Existing Section 12078(o) provides:

20 (o) Section 12071 ... shall not apply to the delivery, sale, or transfer of firearms *regulated*
21 *pursuant to Section 12020*, Chapter 2 (commencing with Section 12200), or Chapter 2.3
22 (commencing with Section 12275), if the delivery, sale, or transfer is conducted *in*
23 *accordance with the applicable provisions of Section 12020*, Chapter 2 (commencing with
24 Section 12200), or Chapter 2.3 (commencing with Section 12275).

25 (Emphasis added.) In two places, the provision cross-refers to Section 12020, an extremely long
26 section that pertains to many types of firearms, as well as certain other types of weapons,
27 ammunition, and weapon-related equipment.

28 In preparing new Part 6, the Commission has been dividing up the substance of Section 12020
29 according to the type of weapon or equipment covered. Some of the exemptions stated in Section
30 12020 have been placed in proposed Chapter 1 (commencing with Section 17700) of Title 2,
31 because it is not clear which weapons and equipment they are meant to cover. See Memorandum
32 2007-19, pp. 6-8.

33 For each type of firearm regulated by Section 12020, proposed Section 27140 would (1) list the
34 new provisions that would continue the portions of Section 12020 expressly relating to that type
35 of firearm, and (2) refer to the exemptions in proposed Chapter 1 (commencing with Section
36 17700) of Title 2, as they relate to that type of firearm. That approach seemed more logical and
37 user-friendly than listing every provision that would continue any aspect of Section 12020, even
38 those that do not regulate firearms.

39 (2) Existing Section 12078(o) cites Section 12020, Chapter 2 (commencing with Section
40 12200), and Chapter 2.3 (commencing with Section 12275), without indicating what types of
41 firearms are regulated by those statutes. In contrast, proposed Section 27140 would name the
42 types of firearms to which it pertains, instead of just citing the relevant code sections. This is
43 intended to make the provision user-friendly, without affecting its substance.

44 CHAPTER 3. GUN SHOW OR EVENT

45 **Staff Note.** This chapter is organized as follows:

- 1 • Article 1, entitled “Gun Show or Event,” contains the material currently in Section
2 12071.1, except a definition that would be in the “Definitions” portion of new Part 6.
- 3 • Article 2, entitled “Gun Show Enforcement and Security Act of 2000,” contains the
4 material currently in Section 12071.4
- 5 • Article 3, entitled “Exceptions Relating to Law Enforcement,” contains four exceptions
6 currently stated in Section 12078, which relate to law enforcement and extend to the
7 entirety of Sections 12071.1 and 12071.4.

8 This approach is intended to be user-friendly, but will also facilitate conforming of cross-
9 references to Sections 12071.1 and 12071.4.

10 Article 1. Gun Show or Event

11 **§ 27200. Certificate of eligibility for organizing gun show or event**

12 27200. (a) No person shall produce, promote, sponsor, operate, or otherwise
13 organize a gun show or event, as specified in subdivision (b) of Section 26805,
14 unless that person possesses a valid certificate of eligibility from the Department
15 of Justice.

16 (b) Unless the department’s records indicate that the applicant is a person
17 prohibited from possessing firearms, a certificate of eligibility shall be issued by
18 the Department of Justice to an applicant provided the applicant does all of the
19 following:

20 (1) Certifies that the applicant is familiar with the provisions of this article and
21 Article 2 (commencing with Section 27300).

22 (2) Ensures that liability insurance is in effect for the duration of an event or
23 show in an amount of not less than one million dollars (\$1,000,000).

24 (3) Provides an annual list of the gun shows or events that the applicant plans to
25 promote, produce, sponsor, operate, or otherwise organize during the year for
26 which the certificate of eligibility is issued, including the date, time, and location
27 of the gun shows or events.

28 (c) If during that year the information required by paragraph (3) of subdivision
29 (b) changes, or additional gun shows or events will be promoted, produced,
30 sponsored, operated, or otherwise organized by the applicant, the producer shall
31 notify the Department of Justice no later than 30 days prior to the gun show or
32 event.

33 (d) The Department of Justice shall adopt regulations to administer the
34 certificate of eligibility program under this section.

35 (e) The Department of Justice shall recover the full costs of administering the
36 certificate of eligibility program by fees assessed applicants who apply for
37 certificates. A licensed gun show producer shall be assessed an annual fee of
38 eighty-five dollars (\$85) by the department.

39 (f) It is the intent of the Legislature that the certificate of eligibility program
40 established pursuant to this section be incorporated into the certificate of eligibility
41 program established pursuant to Section 26710 to the maximum extent practicable.

1 **Comment.** Subdivision (a) of Section 27200 continues the first sentence of former Section
2 12071.1(a) without substantive change.

3 Subdivision (b) continues the second sentence of former Section 12071.1(a) without
4 substantive change.

5 Subdivision (c) continues former Section 12071.1(b) without substantive change.

6 Subdivisions (d) and (e) continue former Section 12071.1(d) without substantive change.

7 Subdivision (f) continues former Section 12071.1(q) without substantive change.

8 For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
9 Article 3 (commencing with Section 27400).

10 For the consequences of violating this article, see Section 27245 (punishment).

11 See Sections 16520 (“firearm”), 16800 (“licensed gun show producer”).

12 **Staff Note.** The “certificate of eligibility” referred to in proposed Section 27200 differs from
13 the “certificate of eligibility” referred to in proposed Section 26710. It might be helpful to rename
14 these certificates to prevent confusion. For instance, the former could be referred to as a “gun
15 show certificate of eligibility” and the latter could be referred to as a “dealer’s certificate of
16 eligibility.”

17 Because this is a strictly nonsubstantive study, the Commission should not rename the
18 certificates in the legislation it proposes. That might be worth doing in the future, in a different
19 reform. Unless the Commission otherwise directs, we will add this issue to the Commission’s list
20 of “Minor Clean-up Issues for Possible Future Legislative Attention.” See Memorandum 2008-
21 52.

22 **§ 27205. List of participants in gun show or event**

23 27205. (a) Before commencement of a gun show or event, the producer thereof
24 shall, upon written request from a law enforcement agency with jurisdiction over
25 the facility, make available to that agency, within 48 hours or a later time specified
26 by the agency, a complete and accurate list of all persons, entities, and
27 organizations that have leased or rented, or are known to the producer to intend to
28 lease or rent, any table, display space, or area at the gun show or event for the
29 purpose of selling, leasing, or transferring firearms.

30 (b) The producer shall thereafter, upon written request, for every day the gun
31 show or event operates, within 24 hours or a later time specified by the requesting
32 law enforcement agency, make available to that agency an accurate, complete, and
33 current list of the persons, entities, and organizations that have leased or rented, or
34 are known to the producer to intend to lease or rent, any table, display space, or
35 area at the gun show or event for the purpose of selling, leasing, or transferring
36 firearms.

37 (c) Subdivisions (a) and (b) apply to any person, entity, or organization,
38 regardless of whether that person, entity, or organization participates in the entire
39 gun show or event, or only a portion thereof.

40 (d) The information that may be requested by the law enforcement agency with
41 jurisdiction over the facility, and that shall be provided by the producer upon
42 request, may include, but is not limited to, the following information relative to a
43 vendor who offers for sale firearms manufactured after December 31, 1898:

44 (1) The vendor’s complete name.

45 (2) A driver’s license or identification card number.

1 **Comment.** Subdivision (a) of Section 27205 continues the first paragraph of former Section
2 12071.1(f) without substantive change.

3 Subdivision (b) continues the second paragraph of former Section 12071.1(f) without
4 substantive change.

5 Subdivision (c) continues the third paragraph of former Section 12071.1(f) without substantive
6 change.

7 Subdivision (d) continues former Section 12071.1(g) without substantive change.

8 For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
9 Article 3 (commencing with Section 27400).

10 For the consequences of violating this article, see Section 27245 (punishment).

11 See Section 16520 (“firearm”).

12 ☞ **Staff Note.** Proposed Section 27205(d) refers to “a vendor who offers for sale firearms
13 manufactured after December 31, 1898.” (Emphasis added.) The reference to “1898” is not a
14 mistake. See existing Section 12071.1(g).

15 **§ 27210. Annual event and security plan and schedule**

16 27210. (a) The producer and facility manager of a gun show or event shall
17 prepare an annual event and security plan and schedule that shall include, at a
18 minimum, the following information for each show or event:

19 (1) The type of show or event including, but not limited to, antique or general
20 firearms.

21 (2) The estimated number of vendors offering firearms for sale or display.

22 (3) The estimated number of attendees.

23 (4) The number of entrances and exits at the gun show or event site.

24 (5) The location, dates, and times of the show or event.

25 (6) The contact person and telephone number for both the producer and the
26 facility.

27 (7) The number of sworn peace officers employed by the producer or the
28 facilities manager who will be present at the show or event.

29 (8) The number of nonsworn security personnel employed by the producer or the
30 facility’s manager who will be present at the show or event.

31 (b) The annual event and security plan shall be submitted by either the producer
32 or the facility’s manager to the Department of Justice and the law enforcement
33 agency with jurisdiction over the facility.

34 (c) If significant changes have been made since the annual plan was submitted,
35 the producer shall, not later than 15 days before commencement of the gun show
36 or event, submit to the department, the law enforcement agency with jurisdiction
37 over the facility site, and the facility’s manager, a revised event and security plan,
38 including a revised list of vendors that the producer knows, or reasonably should
39 know, will be renting tables, space, or otherwise participating in the gun show or
40 event.

41 (d) The event and security plan shall be approved by the facility’s manager
42 before the event or show, after consultation with the law enforcement agency with
43 jurisdiction over the facility.

1 (e) No gun show or event shall commence unless the requirements of
2 subdivisions (b), (c), and (d) are met.

3 **Comment.** Subdivision (a) of Section 27210 continues former Section 12071.1(h) without
4 substantive change.

5 Subdivision (b) continues the first sentence of former Section 12071.1(i) without substantive
6 change.

7 Subdivision (c) continues the second sentence of former Section 12071.1(i) without substantive
8 change.

9 Subdivision (d) continues the third sentence of former Section 12071.1(i) without substantive
10 change.

11 Subdivision (e) continues the fourth sentence of former Section 12071.1(i) without substantive
12 change.

13 For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
14 Article 3 (commencing with Section 27400).

15 For the consequences of violating this article, see Section 27245 (punishment).

16 See Section 16520 (“firearm”).

17 **Staff Note.** In one place, existing Section 12071.1 refers to the “facility manager.” Elsewhere,
18 the section refers to the “facilities manager” and the “facility’s manager.”

19 The staff has not attempted to standardize this terminology in drafting proposed Section 27210.
20 That might be worth doing in the future, in a different reform. Unless the Commission otherwise
21 directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for Possible
22 Future Legislative Attention.” See Memorandum 2008-52.

23 **§ 27215. Producer’s duty to inform vendor of legal requirements**

24 27215. The producer of a gun show or event shall be responsible for informing
25 prospective gun show vendors of the requirements of this article and of Article 2
26 (commencing with Section 27300) that apply to vendors.

27 **Comment.** Section 27215 continues former Section 12071.1(j) without substantive change.

28 For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
29 Article 3 (commencing with Section 27400).

30 For the consequences of violating this article, see Section 27245 (punishment).

31 **§ 27220. Participation of licensed firearms dealer in gun show or event**

32 27220. (a) Within seven calendar days of the commencement of a gun show or
33 event, but not later than noon on Friday for a show or event held on a weekend,
34 the producer shall submit a list of all prospective vendors and designated firearms
35 transfer agents who are licensed firearms dealers to the Department of Justice for
36 the purpose of determining whether these prospective vendors and designated
37 firearms transfer agents possess valid licenses and are thus eligible to participate
38 as licensed dealers at the show or event.

39 (b) The department shall examine its records and if it determines that a dealer’s
40 license is not valid, it shall notify the show or event producer of that fact before
41 the show or event commences.

42 **Comment.** Subdivision (a) of Section 27220 continues the first sentence of former Section
43 12071.1(k) without substantive change.

44 Subdivision (b) continues the second sentence of former Section 12071.1(k) without
45 substantive change.

1 For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
2 Article 3 (commencing with Section 27400).

3 For the consequences of violating this article, see Section 27245 (punishment).

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

6 **§ 27225. Cooperation of licensed firearms dealer**

7 27225. If a licensed firearms dealer fails to cooperate with a producer of a gun
8 show or event, or fails to comply with the applicable requirements of this article or
9 Article 2 (commencing with Section 27300), that person shall not be allowed to
10 participate in that show or event.

11 **Comment.** Section 27225 continues former Section 12071.1(l) without substantive change.

12 For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
13 Article 3 (commencing with Section 27400).

14 For the consequences of violating this article, see Section 27245 (punishment).

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

17 **§ 27230. Producer’s failure to comply with Section 27215 or 27220**

18 27230. If a producer fails to comply with Section 27215 or 27220, the gun show
19 or event shall not commence until those requirements are met.

20 **Comment.** Section 27230 continues former Section 12071.1(m) without substantive change.

21 For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
22 Article 3 (commencing with Section 27400).

23 For the consequences of violating this article, see Section 27245 (punishment).

24 **§ 27235. Written contract between producer and vendor**

25 27235. The producer of a gun show or event shall have a written contract with
26 each gun show vendor selling firearms at the show or event.

27 **Comment.** Section 27235 continues former Section 12071.1(n) without substantive change.

28 For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
29 Article 3 (commencing with Section 27400).

30 For the consequences of violating this article, see Section 27245 (punishment).

31 See Section 16520 (“firearm”).

32 **§ 27240. Posting of signs**

33 27240. (a) The producer of a gun show or event shall require that signs be
34 posted in a readily visible location at each public entrance to the show containing,
35 but not limited to, the following notices:

36 (1) This gun show follows all federal, state, and local firearms and weapons
37 laws, without exception.

38 (2) Any firearm carried onto the premises by any member of the public will be
39 checked, cleared of any ammunition, and secured in a manner that prevents it from
40 being operated, and an identification tag or sticker will be attached to the firearm
41 before the person is allowed admittance to the show.

1 (3) No member of the public under the age of 18 years shall be admitted to the
2 show unless accompanied by a parent, grandparent, or legal guardian.

3 (4) All firearms transfers between private parties at the show shall be conducted
4 through a licensed dealer in accordance with applicable state and federal laws.

5 (5) Persons possessing firearms at this facility must have in their immediate
6 possession government-issued photo identification, and display it upon request to
7 any security officer or any peace officer, as defined in Section 830.

8 (b) The show producer shall post, in a readily visible location at each entrance to
9 the parking lot at the show, signage that states: “The transfer of firearms on the
10 parking lot of this facility is a crime.”

11 **Comment.** Subdivision (a) of Section 27240 continues former Section 12071.1(o) without
12 substantive change.

13 Subdivision (b) continues former Section 12071.1(p) without substantive change.

14 For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
15 Article 3 (commencing with Section 27400).

16 For the consequences of violating this article, see Section 27245 (punishment).

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

19 **§ 27245. Punishment**

20 27245. (a) A willful failure by a gun show producer to comply with any of the
21 requirements of this article, except for the posting of required signs, shall be a
22 misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000),
23 and shall render the producer ineligible for a gun show producer license for one
24 year from the date of the conviction.

25 (b) A willful failure of a gun show producer to post signs as required by this
26 article shall be a misdemeanor punishable by a fine not to exceed one thousand
27 dollars (\$1,000) for the first offense and not to exceed two thousand dollars
28 (\$2,000) for the second or subsequent offense, and with respect to the second or
29 subsequent offense, shall render the producer ineligible for a gun show producer
30 license for one year from the date of the conviction.

31 (c) Multiple violations charged pursuant to subdivision (a) arising from more
32 than one gun show or event shall be grounds for suspension of a producer’s
33 certificate of eligibility pending adjudication of the violations.

34 **Comment.** Subdivision (a) of Section 27245 continues former Section 12071.1(e)(1) without
35 substantive change.

36 Subdivision (b) continues former Section 12071.1(e)(2) without substantive change.

37 Subdivision (c) continues former Section 12071.1(e)(3) without substantive change.

38 A violation of the predecessor of this article (former Section 12071.1) counts as a prior offense
39 in determining the appropriate punishment under this section. See Section 16015 (determining
40 existence of prior conviction).

41 For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
42 Article 3 (commencing with Section 27400).

43 **Staff Note.** Paragraphs (1) and (2) of existing Section 12071.1(e) refer to “a gun show
44 producer license.” Paragraph (3) of existing Section 12071.1(e) refers to “a producer’s certificate
45 of eligibility.”

1 As best the staff can tell, the intent of all three paragraphs is to refer to the “certificate of
2 eligibility” that is described in existing Section 12071.1(a)-(b), (d) & (q), which would be
3 continued without substantive change in proposed Section 27200. If that is the intent, then it
4 might be helpful to standardize the terminology for referring to that certificate, instead of using
5 different terms in different places.

6 Because this is a strictly nonsubstantive study, we did not take that approach in drafting
7 proposed Section 27245. Instead, that provision would simply track the usage of “gun show
8 producer license” and “producer’s certificate of eligibility” in existing Section 12071.1(e).

9 Standardizing the terminology might be worth doing in the future, in a different reform. Unless
10 the Commission otherwise directs, we will add this issue to the Commission’s list of “Minor
11 Clean-up Issues for Possible Future Legislative Attention.” See Memorandum 2008-52.

12 Article 2. Gun Show Enforcement and Security Act of 2000

13 § 27300. Title of act

14 27300. This article shall be known, and may be cited as, the Gun Show
15 Enforcement and Security Act of 2000.

16 **Comment.** Section 27300 continues former Section 12071.4(a) without substantive change.

17 § 27305. Vendor certification to producer

18 27305. All gun show or event vendors shall certify in writing to the producer
19 that they:

20 (a) Will not display, possess, or offer for sale any firearms, knives, or weapons
21 for which possession or sale is prohibited.

22 (b) Acknowledge that they are responsible for knowing and complying with all
23 applicable federal, state, and local laws dealing with the possession and transfer of
24 firearms.

25 (c) Will not engage in activities that incite or encourage hate crimes.

26 (d) Will process all transfers of firearms through licensed firearms dealers as
27 required by state law.

28 (e) Will verify that all firearms in their possession at the show or event will be
29 unloaded, and that the firearms will be secured in a manner that prevents them
30 from being operated except for brief periods when the mechanical condition of a
31 firearm is being demonstrated to a prospective buyer.

32 (f) Have complied with the requirements of Section 27320.

33 (g) Will not display or possess black powder, or offer it for sale.

34 **Comment.** Section 27305 continues former Section 12071.4(b) without substantive change.

35 For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see
36 Article 3 (commencing with Section 27400).

37 For the consequences of violating this article, see Section 27350 (punishment).

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

40 § 27310. Compliance with federal and state laws

41 27310. All firearms transfers at a gun show or event shall be in accordance with
42 applicable state and federal laws.

1 **Comment.** Section 27310 continues former Section 12071.4(c) without substantive change.
2 For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see
3 Article 3 (commencing with Section 27400).
4 For the consequences of violating this article, see Section 27350 (punishment).
5 See Section 16520 (“firearm”).

6 **§ 27315. Display of ammunition**

7 27315. Except for purposes of showing ammunition to a prospective buyer,
8 ammunition at a gun show or event may be displayed only in closed original
9 factory boxes or other closed containers.

10 **Comment.** Section 27315 continues former Section 12071.4(d) without substantive change.
11 For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see
12 Article 3 (commencing with Section 27400).
13 For the consequences of violating this article, see Section 27350 (punishment).

14 **§ 27320. Information to be provided by vendor**

15 27320. (a) Before commencement of a gun show or event, each vendor who will
16 offer for sale firearms manufactured after December 31, 1898, shall provide to the
17 producer all of the following information relative to the vendor, the vendor’s
18 employees, and other persons, compensated or not, who will be working or
19 otherwise providing services to the public at the vendor’s display space:

- 20 (1) The person’s complete name.
21 (2) The person’s driver’s license or state-issued identification card number.
22 (3) The person’s date of birth.

23 (b) The producer shall keep the information at the onsite headquarters of the
24 show or event for the duration of the show or event, and at the producer’s regular
25 place of business for two weeks after the conclusion of the show or event. The
26 producer shall make the information available upon request to any sworn peace
27 officer for purposes of the officer’s official law enforcement duties.

28 **Comment.** Section 27320 continues former Section 12071.4(e) without substantive change.
29 For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see
30 Article 3 (commencing with Section 27400).
31 For the consequences of violating this article, see Section 27350 (punishment).
32 See Section 16520 (“firearm”).

33 ☞ **Staff Note.** Proposed Section 27320(a) refers to “each vendor who will offer for sale firearms
34 manufactured after December 31, 1898” (Emphasis added.) The reference to “1898” is not a
35 mistake. See existing Section 12071.4(e).

36 **§ 27325. Nametag requirement**

37 27325. At any gun show or event, each vendor and each employee of a vendor
38 shall wear a name tag indicating first and last name.

39 **Comment.** Section 27325 continues former Section 12071.4(f) without substantive change.
40 For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see
41 Article 3 (commencing with Section 27400).
42 For the consequences of violating this article, see Section 27350 (punishment).

1 **§ 27330. Simultaneous possession of firearm and ammunition designed for that firearm**

2 27330. No person at a gun show or event, other than security personnel or sworn
3 peace officers, shall possess at the same time both a firearm and ammunition that
4 is designed to be fired in the firearm. Vendors having those items at the show for
5 sale or exhibition are exempt from this prohibition.

6 **Comment.** Section 27330 continues former Section 12071.4(g) without substantive change.

7 For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see
8 Article 3 (commencing with Section 27400).

9 For the consequences of violating this article, see Section 27350 (punishment).

10 See Section 16520 (“firearm”).

11 **§ 27335. Attendance by person under 18**

12 27335. No member of the public who is under the age of 18 years shall be
13 admitted to, or be permitted to remain at, a gun show or event unless accompanied
14 by a parent or legal guardian. Any member of the public who is under the age of
15 18 shall be accompanied by that person’s parent, grandparent, or legal guardian
16 while at the show or event.

17 **Comment.** Section 27335 continues former Section 12071.4(h) without substantive change.

18 For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see
19 Article 3 (commencing with Section 27400).

20 For the consequences of violating this article, see Section 27350 (punishment).

21 **Staff Note.** The second sentence of proposed Section 27335 refers to the grandparent of a
22 person under age 18, but the first sentence does not. This mirrors existing law, but it does not
23 make sense to the staff. See also proposed Section 27240(a)(3), which would continue the
24 substance of Section 12071.1(o)(3), including its reference to grandparent.

25 It would be inappropriate to attempt to resolve the inconsistency in this nonsubstantive study.
26 But that might be worth doing in the future, in a different reform. Unless the Commission
27 otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for
28 Possible Future Legislative Attention.” See Memorandum 2008-52.

29 **§ 27340. Firearm brought to gun show by member of public**

30 27340. (a) Persons other than show or event security personnel, sworn peace
31 officers, or vendors, who bring firearms onto the gun show or event premises shall
32 sign in ink the tag or sticker that is attached to the firearm prior to being allowed
33 admittance to the show or event, as provided for in subdivision (b).

34 (b) All firearms carried onto the premises of a gun show or event by members of
35 the public shall be checked, cleared of any ammunition, secured in a manner that
36 prevents them from being operated, and an identification tag or sticker shall be
37 attached to the firearm, prior to the person being allowed admittance to the show.
38 The identification tag or sticker shall state that all firearms transfers between
39 private parties at the show or event shall be conducted through a licensed dealer in
40 accordance with applicable state and federal laws. The person possessing the
41 firearm shall complete the following information on the tag before it is attached to
42 the firearm:

43 (1) The gun owner’s signature.

1 (2) The gun owner’s printed name.

2 (3) The identification number from the gun owner’s government-issued photo
3 identification.

4 **Comment.** Subdivision (a) of Section 27340 continues former Section 12071.4(i) without
5 substantive change.

6 Subdivision (b) continues former Section 12071.4(j) without substantive change.

7 See Section 16520 (“firearm”).

8 For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see
9 Article 3 (commencing with Section 27400).

10 For the consequences of violating this article, see Section 27350 (punishment).

11 **Staff Note.** Except for renumbering and conforming a cross-reference, proposed Section
12 27340 is identical to existing Section 12071.4(i)-(j). In the staff’s opinion, the wording of the
13 provision could be improved, perhaps as follows:

14 27340. (a) If a person carries a firearm onto the premises of a gun show or event, and that
15 person is not a sworn peace officer, vendor, or security officer for the show or event, the
16 firearm shall be checked, cleared of any ammunition, and secured in a manner that prevents it
17 from being operated, and an identification tag or sticker shall be attached to the firearm,
18 before the person is admitted to the show.

19 (b) The identification tag or sticker shall state that all firearms transfers between private
20 parties at the show or event shall be conducted through a licensed dealer in accordance with
21 applicable state and federal laws.

22 (c) The person possessing the firearm shall complete the following information on the tag
23 or sticker before it is attached to the firearm:

24 (1) The gun owner’s signature, in ink.

25 (2) The gun owner’s printed name.

26 (3) The identification number from the gun owner’s government-issued photo
27 identification.

28 Because this is a strictly nonsubstantive study and the Commission is striving to minimize any
29 concern that the proposed legislation would have a substantive impact, we did not draft proposed
30 Section 27340 this way. That might be worth doing in the future, in a different reform. Unless the
31 Commission otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-
32 up Issues for Possible Future Legislative Attention.” See Memorandum 2008-52.

33 **§ 27345. Government-issued photo identification**

34 27345. Any person who possesses a firearm at a gun show or event shall have
35 government-issued photo identification in immediate possession, and shall display
36 it upon request to any security officer or peace officer.

37 **Comment.** Section 27345 continues former Section 12071.4(k) without substantive change.

38 For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see
39 Article 3 (commencing with Section 27400).

40 For the consequences of violating this article, see Section 27350 (punishment).

41 See Section 16520 (“firearm”).

42 **§ 27350. Punishment**

43 27350. (a) Unless otherwise specified, a first violation of this article is an
44 infraction.

45 (b) Any second or subsequent violation of this article is a misdemeanor.

1 (c) Any person who commits an act the person knows to be a violation of this
2 article is guilty of a misdemeanor for a first offense.

3 **Comment.** Section 27350 continues former Section 12071.4(l) without substantive change.

4 A violation of the predecessor of this article (former Section 12071.4(k)) counts as a prior
5 offense in determining the appropriate punishment under this section. See Section 16015
6 (determining existence of prior conviction).

7 For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see
8 Article 3 (commencing with Section 27400).

9 Article 3. Exceptions Relating to Law Enforcement

10  **Staff Note.** Existing Section 12078 is an enormous provision consisting of exceptions to
11 various other provisions. Four of those exceptions (paragraphs (a)(2)-(5)) apply to “the preceding
12 provisions of this article” — i.e., Sections 12070-12077.5. Each of the four exceptions relates to
13 law enforcement.

14 The Commission has previously decided to divide up the material in Section 12078 such that
15 each exception is stated close to the substantive material it modifies. See Minutes (April 2007), p.
16 9. If an exception applies to more than one substantive provision, it will be repeated close to each
17 such provision.

18 For example, the exceptions now found in paragraphs (a)(2)-(5) are stated in proposed Sections
19 26600-26615, which are located close to the provisions that would continue the substance of
20 Section 12070 (proposed Sections 26500-26585). Those same exceptions are also stated in
21 proposed Sections 27050-27065, which are located close to the provisions that would continue
22 the substance of Section 12071 (proposed Sections 26700-26915).

23 Similarly, the exceptions now found in paragraphs (a)(2)-(5) need to be stated close to the
24 provisions that would continue the substance of Section 12071.1 (proposed Sections 27200-
25 27245), and close to the provisions that would continue the substance of Section 12071.4
26 (proposed Sections 27300-27350). That would be done in proposed Sections 27400-27415,
27 shown below.

28 To assist readers, the Comments to the provisions that would continue Sections 12071.1 and
29 12071.4 would refer to the exceptions stated in proposed Sections 27400-27415.

30 In some instances, however, it seems clear that those exceptions are irrelevant to a particular
31 provision. In other instances, it is difficult to determine whether the exceptions are potentially
32 relevant.

33 For example, proposed Section 27335 prohibits a minor from attending a gun show or event
34 alone:

35 27335. No member of the public who is under the age of 18 years shall be admitted to, or
36 be permitted to remain at, a gun show or event unless accompanied by a parent or legal
37 guardian. Any member of the public who is under the age of 18 shall be accompanied by that
38 person’s parent, grandparent, or legal guardian while at the show or event.

39 That rule bears no relation to the exceptions in proposed Sections 27400-27415, which pertain to
40 firearm transfers to law enforcement officials.

41 Thus, it would be inappropriate for the Comment to say: “For exceptions to *this provision*, see
42 Article 3 (commencing with Section 27400).” (Emphasis added.)

43 Instead, the Comment would be more vague. It would just say: “For exceptions to *provisions in*
44 *this article and Article 1 (commencing with Section 27200)*, see Article 3 (commencing with
45 Section 27400).” (Emphasis added.)

46 This vague language would help alert readers to the exceptions, without indicating that any
47 particular provision is subject to the exceptions. We used the same language in the Comments to
48 the other provisions that would continue Sections 12071.1 and 12071.4.

49 The staff invites suggestions on whether there is a better way to handle this matter.

1 **§ 27400. Exception for sale, delivery, or transfer to authorized law enforcement**
2 **representative of city, county, city and county, or state or federal government**

3 27400. (a) Articles 1 (commencing with Section 27200) and 2 (commencing
4 with Section 27300) do not apply to any sale, delivery, or transfer of firearms
5 made to an authorized law enforcement representative of any city, county, city and
6 county, or state, or of the federal government, for exclusive use by that
7 governmental agency if, prior to the sale, delivery, or transfer of these firearms,
8 written authorization from the head of the agency authorizing the transaction is
9 presented to the person from whom the purchase, delivery, or transfer is being
10 made.

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

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

22 **Comment.** Section 27400 continues former Section 12078(a)(2) without substantive change, as
23 that provision applied to former Sections 12071.1 and 12071.4 (through its reference to “the
24 preceding provisions of this article”).

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

26 **§ 27405. Exception for loan of firearm to peace officer employee for use in performing**
27 **official duties**

28 27405. Articles 1 (commencing with Section 27200) and 2 (commencing with
29 Section 27300) do not apply to the loan of a firearm if all of the following
30 conditions are satisfied:

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

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

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

37 **Comment.** Section 27405 continues former Section 12078(a)(3) without substantive change, as
38 that provision applied to former Sections 12071.1 and 12071.4 (through its reference to “the
39 preceding provisions of this article”).

40 See Section 16520 (“firearm”).

1 **§ 27410. Exception for sale, delivery, or transfer by law enforcement agency to peace officer**
2 **pursuant to Public Contract Code**

3 27410. (a) Articles 1 (commencing with Section 27200) and 2 (commencing
4 with Section 27300) do not apply to the sale, delivery, or transfer of a firearm by a
5 law enforcement agency to a peace officer pursuant to Section 10334 of the Public
6 Contract Code.

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

16 **Comment.** Section 27410 continues former Section 12078(a)(4) without substantive change, as
17 that provision applied to former Sections 12071.1 and 12071.4 (through its reference to “the
18 preceding provisions of this article”).

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

20 **§ 27415. Exception for sale, delivery, or transfer by law enforcement agency to retiring**
21 **peace officer authorized to carry concealed and loaded firearm**

22 27415. (a) Articles 1 (commencing with Section 27200) and 2 (commencing
23 with Section 27300) do not apply to the sale, delivery, or transfer of a firearm by a
24 law enforcement agency to a retiring peace officer who is authorized to carry a
25 firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

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

34 **Comment.** Section 27415 continues former Section 12078(a)(5) without substantive change, as
35 that provision applied to former Sections 12071.1 and 12071.4 (through its reference to “the
36 preceding provisions of this article”).

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

38 **CHAPTER 4. CRIMES RELATING TO SALE, LEASE, OR TRANSFER OF FIREARMS**

39 **Staff Note.** This chapter is organized as follows:

- 40 • Article 1, entitled “Crimes Relating to Sale, Lease, or Transfer of Firearms,” contains the
41 material currently in Section 12072. Article 1 also contains five exceptions currently

1 stated in Section 12078, which are incorporated by reference into Section 12072. These
2 are subdivisions (p)(1)-(5) of Section 12078, as they pertain to Section 12072(a)(3).

- 3 • Article 2, entitled “Exceptions Relating to Law Enforcement,” contains four exceptions
4 currently stated in Section 12078, which relate to law enforcement and extend to the
5 entirety of Section 12072.
- 6 • Article 3, entitled “Exceptions Extending Only to Waiting Period,” contains five
7 exceptions currently stated in Section 12078, which extend to the waiting period
8 described in Section 12072 but not to other aspects of that section.
- 9 • Article 4, entitled “Exceptions to Restrictions on Delivery of a Firearm,” contains a
10 number of exceptions stated in Section 12078 that extend to Section 12072(c), which
11 imposes restrictions on delivery of a firearm.
- 12 • Article 5, entitled “Exceptions to the Requirement of Obtaining a Verification Number,”
13 contains five exceptions stated in Section 12078 that extend to Section 12072(f)(1),
14 which requires the transferor to obtain a verification number for a firearm transfer.
- 15 • Article 6, entitled “Exceptions to the Requirement of Using a Dealer for a Private Party
16 Firearms Transaction,” contains numerous exceptions stated in Section 12078 that extend
17 to Section 12072(d), which requires use of a licensed dealer for a private party firearms
18 transaction.
- 19 • Article 7, entitled “Report to Department of Justice,” contains the material currently in
20 Section 12078(l).

21 This approach is intended to be user-friendly, but will also facilitate conforming of cross-
22 references to Sections 12072 and 12082.

23 Article 1. Crimes Relating to Sale, Lease, or Transfer of Firearms

24 § 27500. Providing firearm to person in prohibited class

25 27500. (a) No person, corporation, or firm shall knowingly supply, deliver, sell,
26 or give possession or control of a firearm to any person within any of the classes
27 prohibited by [Section 12021 or 12021.1].

28 (b) No person, corporation, or dealer shall sell, supply, deliver, or give
29 possession or control of a firearm to anyone whom the person, corporation, or
30 dealer has cause to believe is within any of the classes prohibited by [Section
31 12021 or 12021.1 of this code] or Section 8100 or 8103 of the Welfare and
32 Institutions Code.

33 **Comment.** Subdivision (a) of Section 27500 continues former Section 12072(a)(1) without
34 substantive change.

35 Subdivision (b) continues former Section 12072(a)(2) without substantive change.

36 For exceptions to this provision, see Article 2 (commencing with Section 27600).

37 For the consequences of violating this section, see Section 27590 (punishment for violation of
38 article).

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

41 § 27505. Person, corporation, or firm that sells, loans, or transfers firearm to minor or 42 handgun to person under age 21

43 27505. (a) No person, corporation, or firm shall sell, loan, or transfer a firearm
44 to a minor, nor sell a handgun to an individual under 21 years of age.

1 (b) Subdivision (a) shall not apply to or affect the following circumstances:

2 (1) The sale of a handgun, if the handgun is an antique firearm and the sale is to
3 a person at least 18 years of age.

4 (2) The transfer or loan of a firearm, other than a handgun, to a minor by the
5 minor's parent or legal guardian.

6 (3) The transfer or loan of a firearm, other than a handgun, to a minor by a
7 grandparent who is not the legal guardian of the minor, if the transfer is done with
8 the express permission of the minor's parent or legal guardian.

9 (4) The loan of a firearm, other than a handgun, to a minor, with the express
10 permission of the minor's parent or legal guardian, if the loan does not exceed 30
11 days in duration and is for a lawful purpose.

12 (5) The loan of a handgun to a minor by the minor's parent or legal guardian, if
13 both of the following requirements are satisfied:

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

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

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

26 (A) The minor is accompanied by the minor's parent or legal guardian when the
27 loan is made, or the minor has the written consent of the minor's parent or legal
28 guardian, which is presented at the time of the loan, or earlier.

29 (B) The minor is being loaned the firearm for the purpose of engaging in a
30 lawful, recreational sport, including, but not limited to, competitive shooting, or
31 agricultural, ranching, or hunting activity, or a motion picture, television, or video
32 production, or entertainment or theatrical event, the nature of which involves the
33 use of a firearm.

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

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

40 **Comment.** Subdivision (a) of Section 27505 continues former Section 12072(a)(3)(A) without
41 substantive change.

42 Subdivision (b) continues without substantive change former Section 12072(a)(3)(B) and
43 former Section 12078(p), as it pertained to former Section 12072(a)(3). See Section 16170
44 ("antique firearm").

1 For exceptions to this provision, see Article 2 (commencing with Section 27600).
2 For the consequences of violating this section, see Section 27590 (punishment for violation of
3 article).

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

5 **☞ Staff Notes.**

6 (1) Existing Section 12072(a)(3) provides:

7 (3)(A) No person, corporation, or firm shall sell, loan, or transfer a firearm to a minor, nor
8 sell a handgun to an individual under 21 years of age.

9 (B) Subparagraph (A) shall not apply to or affect those circumstances set forth in
10 subdivision (p) of Section 12078.

11 Somewhat similarly, existing Section 12072(b) provides:

12 (b) No person licensed under Section 12071 shall supply, sell, deliver, or give possession
13 or control of a pistol, revolver, or firearm capable of being concealed upon the person to any
14 person under the age of 21 years or any other firearm to a person under the age of 18 years.

15 The staff does not understand the interrelationship between these sections and whether the
16 distinctions between them make sense. We would much appreciate input from knowledgeable
17 persons on this matter.

18 If there is a need for better coordination or substantive revision of these sections, the
19 Commission should not attempt such reform in this nonsubstantive study. Instead, the
20 Commission could add the issue to its list of “Minor Clean-up Issues for Possible Future
21 Legislative Attention.”

22 Consistent with that hands-off approach,

- 23 • Proposed Section 27505 would continue the substance of existing Section 12072(a)(3).
24 To make the new provision user-friendly, it would include the exceptions that are now
25 stated in Section 12078(p), instead of incorporating those exceptions by reference.
- 26 • Proposed Section 27510 would continue the substance of existing Section 12072(b).

27 We have placed the two new provisions next to each other, so that readers are readily alerted to
28 all of the age restrictions that apply to firearm transfers.

29 (2) Existing Section 12078(p)(6)(B) refers to “an antique firearm *as defined in* paragraph (16)
30 of subsection (a) of Section 921 of Title 18 of the United States Code.” In proposed Section
31 27505(b)(1), we have (1) replaced that reference with “an antique firearm,” and (2) included a
32 reference to the definition of “antique firearm” in the Comment, which also states that Section
33 27505(b) “continues without substantive change ... former Section 12078(p), as it pertained to
34 former Section 12072(a)(3).”

35 We chose this approach because it would further the Legislature’s directive to “[a]void
36 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope of
37 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
38 weight to the Commission’s comments, we think this would be sufficient to preserve the
39 substance of Section 12078(p)(6)(B). See 2007-2008 Annual Report, 37 Cal. L. Revision
40 Comm’n Reports 1, 17-23 (2007).

41 **§ 27510. Dealer that supplies, delivers, or gives possession or control of firearm to minor or**
42 **handgun to person under age 21**

43 27510. No person licensed under Sections 26700 to 26915, inclusive, shall
44 supply, sell, deliver, or give possession or control of a pistol, revolver, or firearm
45 capable of being concealed upon the person to any person under the age of 21
46 years, or any other firearm to a person under the age of 18 years.

1 **Comment.** Section 27510 continues former Section 12072(b) without substantive change.
2 For exceptions to this provision, see Article 2 (commencing with Section 27600).
3 For the consequences of violating this section, see Section 27590 (punishment for violation of
4 article).

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

7 ☞ **Staff Note.** For discussion of this provision, see Staff Note #1 on proposed Section 27505.

8 **§ 27515. Providing firearm to sham recipient**

9 27515. No person, corporation, or dealer shall sell, loan, or transfer a firearm to
10 anyone whom the person, corporation, or dealer has cause to believe is not the
11 actual purchaser or transferee of the firearm, or to anyone who is not the one
12 actually being loaned the firearm, if the person, corporation, or dealer has either of
13 the following:

14 (a) Knowledge that the firearm is to be subsequently loaned, sold, or transferred
15 to avoid the provisions of Section 27540 or 27545.

16 (b) Knowledge that the firearm is to be subsequently loaned, sold, or transferred
17 to avoid the requirements of any exemption to the provisions of Section 27540 or
18 27545.

19 **Comment.** Section 27515 continues former Section 12072(a)(4) without substantive change.

20 For exceptions to this provision, see Article 2 (commencing with Section 27600).

21 For the consequences of violating this section, see Section 27590 (punishment for violation of
22 article).

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

25 **§ 27520. Acquiring firearm with intent to violate certain restrictions**

26 27520. No person, corporation, or dealer shall acquire a firearm for the purpose
27 of selling, transferring, or loaning the firearm, if the person, corporation, or dealer
28 has either of the following:

29 (a) In the case of a dealer, intent to violate Section 27510 or 27540.

30 (b) In any other case, intent to avoid either of the following:

31 (1) The provisions of Section 27545.

32 (2) The requirements of any exemption to the provisions of Section 27545.

33 **Comment.** Section 27520 continues former Section 12072(a)(5) without substantive change.

34 For exceptions to this provision, see Article 2 (commencing with Section 27600).

35 For the consequences of violating this section, see Section 27590 (punishment for violation of
36 article).

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

39 **§ 27525. Compliance with reporting requirements**

40 27525. (a) A dealer shall comply with Section 26905.

41 (b) A dealer shall comply with Section 26910.

42 **Comment.** Subdivision (a) of Section 27525 continues former Section 12072(a)(6), relating to
43 reporting of handgun acquisitions. without substantive change.

1 Subdivision (b) continues former Section 12072(a)(7), relating to reporting of information on a
2 firearm that is not timely delivered, without substantive change.

3 For exceptions to this provision, see Article 2 (commencing with Section 27600).

4 For the consequences of violating this section, see Section 27590 (punishment for violation of
5 article).

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

8 **§ 27530. Transfer of handgun that lacks identifying information**

9 27530. No person shall sell or otherwise transfer ownership in a pistol, revolver,
10 or other firearm capable of being concealed upon the person unless the firearm
11 bears either:

12 (a) The name of the manufacturer, the manufacturer’s make or model, and a
13 manufacturer’s serial number assigned to that firearm.

14 (b) The identification number or mark assigned to the firearm by the Department
15 of Justice pursuant to Section 23910.

16 **Comment.** Section 27530 continues former Section 12072(a)(8) without substantive change.

17 For exceptions to this provision, see Article 2 (commencing with Section 27600).

18 For the consequences of violating this section, see Section 27590 (punishment for violation of
19 article).

20 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
21 “pistol,” and “revolver”), 16640 (“handgun”).

22 **§ 27535. Purchasing more than one firearm in 30-day period**

23 27535. (a) No person shall make an application to purchase more than one
24 pistol, revolver, or other firearm capable of being concealed upon the person
25 within any 30-day period.

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

27 (1) Any law enforcement agency.

28 (2) Any agency duly authorized to perform law enforcement duties.

29 (3) Any state or local correctional facility.

30 (4) Any private security company licensed to do business in California.

31 (5) Any person who is properly identified as a full-time paid peace officer, as
32 defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and
33 who is authorized to, and does carry a firearm during the course and scope of
34 employment as a peace officer.

35 (6) Any motion picture, television, or video production company or
36 entertainment or theatrical company whose production by its nature involves the
37 use of a firearm.

38 (7) Any person who may, pursuant to Article 2 (commencing with Section
39 27600), 3 (commencing with Section 27650), or 4 (commencing with Section
40 27700), claim an exemption from the waiting period set forth in Section 27540.

41 (8) Any transaction conducted through a licensed firearms dealer pursuant to
42 Chapter 5 (commencing with Section 28050).

1 (9) Any person who is licensed as a collector pursuant to Chapter 44
2 (commencing with Section 921) of Title 18 of the United States Code and the
3 regulations issued pursuant thereto, and has a current certificate of eligibility
4 issued by the Department of Justice pursuant to Article 1 (commencing with
5 Section 26700) of Chapter 2.

6 (10) The exchange of a pistol, revolver, or other firearm capable of being
7 concealed upon the person where the dealer purchased that firearm from the
8 person seeking the exchange within the 30-day period immediately preceding the
9 date of exchange or replacement.

10 (11) The replacement of a pistol, revolver, or other firearm capable of being
11 concealed upon the person when the person's pistol, revolver, or other firearm
12 capable of being concealed upon the person was lost or stolen, and the person
13 reported that firearm lost or stolen prior to the completion of the application to
14 purchase to any local law enforcement agency of the city, county, or city and
15 county in which the person resides.

16 (12) The return of any pistol, revolver, or other firearm capable of being
17 concealed upon the person to its owner.

18 **Comment.** Section 27535 continues former Section 12072(a)(9) without substantive change.

19 For exceptions to this provision, see Article 2 (commencing with Section 27600).

20 For the consequences of violating this section, see Section 27590 (punishment for violation of
21 article).

22 See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person,"
23 "pistol," and "revolver"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections
24 26700 to 26915, inclusive").

25 **§ 27540. Restrictions on delivery of firearm**

26 27540. No dealer, whether or not acting pursuant to Chapter 5 (commencing
27 with Section 28050), shall deliver a firearm to a person, as follows:

28 (a) Within 10 days of the application to purchase, or, after notice by the
29 department pursuant to Section 28220, within 10 days of the submission to the
30 department of any correction to the application, or within 10 days of the
31 submission to the department of any fee required pursuant to Section 28225,
32 whichever is later.

33 (b) Unless unloaded and securely wrapped or unloaded and in a locked
34 container.

35 (c) Unless the purchaser, transferee, or person being loaned the firearm presents
36 clear evidence of the person's identity and age to the dealer.

37 (d) Whenever the dealer is notified by the Department of Justice that the person
38 is in a prohibited class described in [Section 12021 or 12021.1 of this code] or
39 Section 8100 or 8103 of the Welfare and Institutions Code.

40 (e)(1) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver,
41 or other firearm capable of being concealed upon the person shall be delivered
42 unless the purchaser, transferee, or person being loaned the firearm presents to the
43 dealer a basic firearms safety certificate.

1 (2) Commencing January 1, 2003, no handgun shall be delivered unless the
2 purchaser, transferee, or person being loaned the handgun presents a handgun
3 safety certificate to the dealer.

4 (f) No pistol, revolver, or other firearm capable of being concealed upon the
5 person shall be delivered whenever the dealer is notified by the Department of
6 Justice that within the preceding 30-day period the purchaser has made another
7 application to purchase a pistol, revolver, or other firearm capable of being
8 concealed upon the person and that the previous application to purchase involved
9 none of the entities specified in subdivision (b) of Section 27535.

10 **Comment.** Section 27540 continues former Section 12072(c) without substantive change.

11 For exceptions to this provision, see Articles 2 (commencing with Section 27600), 3
12 (commencing with Section 27650), and 4 (commencing with Section 27700).

13 For the consequences of violating this section, see Section 27590 (punishment for violation of
14 article).

15 See Sections 16190 (“application to purchase”), 16240 (“basic firearms safety certificate”),
16 16400 (“clear evidence of the person’s identity and age”), 16520 (“firearm”), 16530 (“firearm
17 capable of being concealed upon the person,” “pistol,” and “revolver”), 16670 (“handgun safety
18 certificate”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
19 26915, inclusive”).

20 **Staff Notes.**

21 (1) Proposed Section 27540(e)(1) would continue language that is now in Section
22 12072(c)(5)(A). By its terms, that provision applied only until January 1, 2003. It theoretically
23 could be deleted as obsolete.

24 The staff suspects, however, that the provision remains useful for reference purposes (e.g., in
25 reviewing the conviction of a person who was arrested before January 1, 2003). That is why we
26 retained it in new Part 6.

27 Is the staff correct in thinking that the provision remains useful? We would appreciate input on
28 this point. If we are wrong and the provision is no longer useful, then the possibility of deleting it
29 should be added to the Commission’s list of “Minor Clean-up Issues for Possible Future
30 Legislative Attention.”

31 (2) Existing Section 12072(c)(3) refers to “clear evidence of *his or her* identity and age, *as*
32 *defined in* Section 12071” (Emphasis added.)

33 The Commission generally tries to avoid using awkward phrases like “his or her.” Throughout
34 new Part 6, we have replaced the phrase “clear evidence of *his or her* identity and age” with the
35 phrase “clear evidence of *the person’s* identity and age.”

36 In drafting proposed Section 27540(c), we have also omitted the phrase “*as defined in* Section
37 12071....” Instead, the Comment would (1) cite the definition of “clear evidence of the person’s
38 identity and age,” and (2) state that Section 27540 “continues former Section 12072(c) without
39 substantive change.”

40 We chose this approach because it would further the Legislature’s directive to “[a]void
41 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope of
42 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
43 weight to the Commission’s comments, we think this would be sufficient to preserve the
44 substance of Section 12072(c)(3). See 2007-2008 Annual Report, 37 Cal. L. Revision Comm’n
45 Reports 1, 17-23 (2007).

46 **§ 27545. Use of dealer for private party firearms transaction**

47 27545. Where neither party to the transaction holds a dealer’s license issued
48 pursuant to Sections 26700 to 26915, inclusive, the parties to the transaction shall

1 complete the sale, loan, or transfer of that firearm through a licensed firearms
2 dealer pursuant to Chapter 5 (commencing with Section 28050).

3 **Comment.** Section 27545 continues former Section 12072(d) without substantive change.

4 For exceptions to this provision, see Articles 2 (commencing with Section 27600) and 6
5 (commencing with Section 27850). See also Section 28000 (circumstances that may be reported
6 to Department of Justice in prescribed format).

7 For the consequences of violating this section, see Section 27590 (punishment for violation of
8 article).

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

11 **§ 27550. No collusion**

12 27550. (a) No person may commit an act of collusion relating to [Article 8
13 (commencing with Section 12800) of Chapter 6].

14 (b) For purposes of this section and Section 26870, collusion may be proven by
15 any one of the following factors:

16 (1) Answering a test applicant’s questions during an objective test relating to
17 firearms safety.

18 (2) Knowingly grading the examination falsely.

19 (3) Providing an advance copy of the test to an applicant.

20 (4) Taking or allowing another person to take the basic firearms safety course
21 for one who is the applicant for a basic firearms safety certificate or a handgun
22 safety certificate.

23 (5) Allowing another to take the objective test for the applicant, purchaser, or
24 transferee.

25 (6) Using or allowing another to use one’s identification, proof of residency, or
26 thumbprint.

27 (7) Allowing others to give unauthorized assistance during the examination.

28 (8) Reference to unauthorized materials during the examination and cheating by
29 the applicant.

30 (9) Providing originals or photocopies of the objective test, or any version
31 thereof, to any person other than as authorized by the department.

32 **Comment.** Section 27550 continues former Section 12072(e) without substantive change.

33 For exceptions to this provision, see Article 2 (commencing with Section 27600).

34 For the consequences of violating this section, see Section 27590 (punishment for violation of
35 article).

36 See Sections 16240 (“basic firearms safety certificate”), 16520 (“firearm”), 16670 (“handgun
37 safety certificate”).

38 **§ 27555. Obtaining verification number**

39 27555. (a)(1) Commencing July 1, 2008, a person who is licensed pursuant to
40 Chapter 44 (commencing with Section 921) of Title 18 of the United States Code
41 may not sell, deliver, or transfer a firearm to a person in California who is licensed
42 pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United
43 States Code unless, prior to delivery, the person intending to sell, deliver, or

1 transfer the firearm obtains a verification number via the Internet for the intended
2 sale, delivery, or transfer, from the Department of Justice.

3 (2) If Internet service is unavailable to either the department or the licensee due
4 to a technical or other malfunction, or a federal firearms licensee who is located
5 outside of California does not possess a computer or have Internet access, alternate
6 means of communication, including facsimile or telephone, shall be made
7 available for a licensee to obtain a verification number in order to comply with this
8 section.

9 (b) For every identification number request received pursuant to this section, the
10 department shall determine whether the intended recipient is on the centralized list
11 of firearms dealers pursuant to Section 26715, or the centralized list of exempted
12 federal firearms licensees pursuant to Section 28450, or the centralized list of
13 firearms manufacturers pursuant to [Section 12086(f)].

14 (c)(1) If the department finds that the intended recipient is on one of these lists,
15 the department shall issue to the inquiring party, a unique identification number
16 for the intended sale, delivery, or transfer.

17 (2) In addition to the unique verification number, the department may provide to
18 the inquiring party information necessary for determining the eligibility of the
19 intended recipient to receive the firearm.

20 (3) The person intending to sell, deliver, or transfer the firearm shall provide the
21 unique verification number to the recipient along with the firearm upon delivery,
22 in a manner to be determined by the department.

23 (d) If the department finds that the intended recipient is not on one of these lists,
24 the department shall notify the inquiring party that the intended recipient is
25 ineligible to receive the firearm.

26 (e) The department shall prescribe the manner in which the verification numbers
27 may be requested via the Internet, or by alternate means of communication, such
28 as by facsimile or telephone, including all required enrollment information and
29 procedures.

30 (f) This section does not apply to the sale, delivery, or transfer of an assault
31 weapon, a machinegun, a short-barreled rifle, or a short-barreled shotgun.

32 **Comment.** Section 27555 continues former Section 12072(f)(1) without substantive change.

33 For exceptions to this provision, see Articles 2 (commencing with Section 27600) and 5
34 (commencing with Section 27800).

35 For the consequences of violating this section, see Section 27590 (punishment for violation of
36 article).

37 See Sections 16520 (“firearm”), 16880 (“machinegun”), 17170 (“short-barreled rifle”), 17180
38 (“short-barreled shotgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections
39 26700 to 26915, inclusive”), _____ (“assault weapon”), _____ (further clarification of “assault
40 weapon”), _____ (exemptions from definition of “assault weapon”).

41 **☛ Staff Notes.**

42 (1) Existing Section 12072(f)(1)(B) says: “For every identification number request received
43 pursuant to this section, the department shall determine whether the intended recipient is on the
44 centralized list of firearms dealers *pursuant to this section*”(Emphasis added.)

1 The italicized cross-reference to “this section” appears to be incorrect. Existing Section 12072
2 does not provide for a centralized list of firearms dealers. That is done in existing Section
3 12071(e). The staff suspects that the Legislature intended to refer to “the centralized list of
4 firearms dealers *pursuant to Section 12071*,” instead of “the centralized list of firearms dealers
5 *pursuant to this section*.”

6 The staff has corrected the cross-reference in drafting proposed Section 27555. This approach
7 seems more reasonable than perpetuating an obviously incorrect reference. Although this is a
8 strictly nonsubstantive study, some degree of commonsense is appropriate in interpreting existing
9 law. We would exercise such commonsense here and note the situation in the preliminary part of
10 the Commission’s report.

11 (2) The last sentence of existing Section 12072(f)(1)(A) says: “This subdivision shall not apply
12 to the delivery, sale, or transfer of a short-barreled rifle, or short-barreled shotgun, *as defined in*
13 *Section 12020*, or to a machinegun *as defined in Section 12200*, or to an assault weapon *as*
14 *defined in Sections 12276, 12276.1, and 12276.5*.” (Emphasis added.)

15 In drafting proposed Section 27555(f), we have omitted the phrases “as defined in Section
16 12020,” “as defined in Section 12200,” and “as defined in Sections 12276, 12276.1, and
17 12276.5.” Instead, the Comment would (1) cite the definitions of assault weapon, machinegun,
18 short-barreled rifle, and short-barreled shotgun, and (2) state that Section 27555 “continues
19 former Section 12072(f)(1) without substantive change.”

20 We chose this approach because it would further the Legislature’s directive to “[a]void
21 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope of
22 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
23 weight to the Commission’s comments, we think this would be sufficient to preserve the
24 substance of Section 12072(f)(1). See 2007-2008 Annual Report, 37 Cal. L. Revision Comm’n
25 Reports 1, 17-23 (2007).

26 **§ 27560. Restrictions on personal handgun importer**

27 27560. (a) On or after January 1, 1998, within 60 days of bringing a pistol,
28 revolver, or other firearm capable of being concealed upon the person into this
29 state, a personal handgun importer shall do one of the following:

30 (1) Forward by prepaid mail or deliver in person to the Department of Justice, a
31 report prescribed by the department including information concerning that
32 individual and a description of the firearm in question.

33 (2) Sell or transfer the firearm in accordance with the provisions of Section
34 27545 or in accordance with the provisions of an exemption from Section 27545.

35 (3) Sell or transfer the firearm to a dealer licensed pursuant to Sections 26700 to
36 26915, inclusive.

37 (4) Sell or transfer the firearm to a sheriff or police department.

38 (b) If all of the following requirements are satisfied, the personal handgun
39 importer shall have complied with the provisions of this section:

40 (1) The personal handgun importer sells or transfers the pistol, revolver, or other
41 firearm capable of being concealed upon the person pursuant to Section 27545.

42 (2) The sale or transfer cannot be completed by the dealer to the purchaser or
43 transferee.

44 (3) The firearm can be returned to the personal handgun importer,

45 (c)(1) The provisions of this section are cumulative and shall not be construed as
46 restricting the application of any other law.

1 (2) However, an act or omission punishable in different ways by this article and
2 different provisions of the Penal Code shall not be punished under more than one
3 provision.

4 (d) On and after January 1, 1998, the department shall conduct a public
5 education and notification program regarding this section to ensure a high degree
6 of publicity of the provisions of this section.

7 (e) As part of the public education and notification program described in this
8 section, the department shall do all of the following:

9 (1) Work in conjunction with the Department of Motor Vehicles to ensure that
10 any person who is subject to this section is advised of the provisions of this
11 section, and provided with blank copies of the report described in paragraph (1) of
12 subdivision (a), at the time when that person applies for a California driver's
13 license or registers a motor vehicle in accordance with the Vehicle Code.

14 (2) Make the reports referred to in paragraph (1) of subdivision (a) available to
15 dealers licensed pursuant to Sections 26700 to 26915, inclusive.

16 (3) Make the reports referred to in paragraph (1) of subdivision (a) available to
17 law enforcement agencies.

18 (4) Make persons subject to the provisions of this section aware that (i) the
19 report referred to in paragraph (1) of subdivision (a) may be completed at either a
20 law enforcement agency or the licensed premises of a dealer licensed pursuant to
21 Sections 26700 to 26915, inclusive, (ii) it is advisable to do so for the sake of
22 accuracy and completeness of the report, (iii) before transporting a pistol, revolver,
23 or other firearm capable of being concealed upon the person to a law enforcement
24 agency to comply with subdivision (a), the person should give notice to the law
25 enforcement agency that the person is doing so, and (iv) in any event, the pistol,
26 revolver, or other firearm capable of being concealed upon the person should be
27 transported unloaded and in a locked container.

28 (f) Any costs incurred by the department to implement this section shall be
29 absorbed by the department within its existing budget and the fees in the Dealers'
30 Record of Sale Special Account allocated for implementation of subdivisions (d)
31 and (e) of this section pursuant to Section 28235.

32 **Comment.** Section 27560 continues former Section 12072(f)(2) without substantive change.

33 For guidance in applying this section, see Section 27570 (rules for applying Sections 27560
34 and 27565).

35 For exceptions to this provision, see Article 2 (commencing with Section 27600).

36 For the consequences of violating this section, see Section 27590 (punishment for violation of
37 article).

38 See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person,"
39 "pistol," and "revolver"), 17000 ("personal handgun importer"), 26700 ("dealer," "licensee," or
40 "person licensed pursuant to Sections 26700 to 26915, inclusive").

41  **Staff Note.** Existing Section 12072(f)(2)(C) says:

42 (C) The provisions of *this paragraph* are cumulative and shall not be construed as
43 restricting the application of any other law.

44 However, an act or omission punishable in different ways by *this section* and different
45 provisions of the Penal Code shall not be punished under more than one provision.

1 (Emphasis added.) It is unclear to the staff whether the second sentence is meant to refer only to
2 an act or omission relating to paragraph (f)(2), or to any act or omission punishable by Section
3 12072.

4 We perpetuated this ambiguity in drafting proposed Section 27560(c). We replaced the
5 italicized cross-reference to “this paragraph” with a cross-reference to “this section,” because the
6 substance of existing Section 12072(f)(2) would be continued in proposed Section 27560.
7 Similarly, we replaced the italicized cross-reference to “this section” with a cross-reference to
8 “this article,” because the substance of existing Section 12072 would be continued in the article
9 that contains proposed Section 27560.

10 This hands-off approach is consistent with the nonsubstantive nature of this study. However, it
11 might be worthwhile to eliminate the ambiguity in the future, in a different reform. Unless the
12 Commission otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-
13 up Issues for Possible Future Legislative Attention.” See Memorandum 2008-52.

14 **§ 27565. Handgun that is curio or relic, transported into California by licensed collector**

15 27565. (a) This section applies in the following circumstances:

16 (1) A person is licensed as a collector pursuant to Chapter 44 (commencing with
17 Section 921) of Title 18 of the United States Code and the regulations issued
18 pursuant thereto.

19 (2) The licensed premises of that person are within this state.

20 (3) The licensed collector acquires, outside of this state, a pistol, revolver, or
21 other firearm capable of being concealed upon the person.

22 (4) The licensed collector takes actual possession of that firearm outside of this
23 state pursuant to the provisions of subsection (j) of Section 923 of Title 18 of the
24 United States Code, as amended by Public Law 104-208, and transports the
25 firearm into this state.

26 (5) The firearm is a curio or relic, as defined in Section 478.11 of Title 27 of the
27 Code of Federal Regulations.

28 (b) Within five days of transporting a firearm into this state under the
29 circumstances described in subdivision (a), the licensed collector shall report the
30 acquisition of that firearm to the department in a format prescribed by the
31 department.

32 **Comment.** Section 27565 continues former Section 12072(f)(3) without substantive change.

33 For guidance in applying this section, see Section 27570 (rules for applying Sections 27560
34 and 27565).

35 For exceptions to this provision, see Article 2 (commencing with Section 27600).

36 For the consequences of violating this section, see Section 27590 (punishment for violation of
37 article).

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

40 **§ 27570. Rules for applying Sections 27560 and 27565**

41 27570. (a) It is the intent of the Legislature that a violation of Section 27560 or
42 27565 shall not constitute a “continuing offense” and the statute of limitations for
43 commencing a prosecution for a violation of Section 27560 or 27565 commences
44 on the date that the applicable grace period specified in Section 27560 or 27565
45 expires.

1 (b) Sections 27560 and 27565 shall not apply to a person who reports ownership
2 of a pistol, revolver, or other firearm capable of being concealed upon the person
3 after the applicable grace period specified in Section 27560 or 27565 expires if
4 evidence of that violation arises only as the result of the person submitting the
5 report described in Section 27560 or 27565.

6 **Comment.** Section 27570 continues former Section 12072(f)(4) without substantive change.
7 See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
8 “revolver”).

9 **§ 27590. Punishment for violation of article**

10 27590. (a) Except as provided in subdivision (b), (c), or (e), a violation of this
11 article is a misdemeanor.

12 (b) If any of the following circumstances apply, a violation of this article is
13 punishable by imprisonment in the state prison for two, three, or four years.

14 (1) If the violation is of subdivision (a) of Section 27500.

15 (2) If the defendant has a prior conviction of violating the provisions, other than
16 Section 27535, of this article or former Section 12100 of this code or Section 8101
17 of the Welfare and Institutions Code.

18 (3) If the defendant has a prior conviction of violating any offense specified in
19 [subdivision (b) of Section 12021.1] or of a violation of [Section 12220 or 12520],
20 or of former Section 12560, or of any provision listed in Section 16590.

21 (4) If the defendant is in a prohibited class described in [Section 12021 or
22 12021.1 of this code] or Section 8100 or 8103 of the Welfare and Institutions
23 Code.

24 (5) A violation of this article by a person who actively participates in a “criminal
25 street gang” as defined in Section 186.22.

26 (6) A violation of Section 27510 involving the delivery of any firearm to a
27 person who the dealer knows, or should know, is a minor.

28 (c) If any of the following circumstances apply, a violation of this article shall
29 be punished by imprisonment in a county jail not exceeding one year or in the
30 state prison, or by a fine not to exceed one thousand dollars (\$1,000), or by both
31 that fine and imprisonment.

32 (1) A violation of Section 27525, 27520, or subdivision (b) of Section 27500.

33 (2) A violation of Section 27505 involving the sale, loan, or transfer of a pistol,
34 revolver, or other firearm capable of being concealed upon the person, to a minor.

35 (3) A violation of Section 27510 involving the delivery of a pistol, revolver, or
36 other firearm capable of being concealed upon the person.

37 (4) A violation of subdivision (a), (c), (d), (e), or (f) of Section 27540 involving
38 a pistol, revolver, or other firearm capable of being concealed upon the person.

39 (5) A violation of Section 27545 involving a pistol, revolver, or other firearm
40 capable of being concealed upon the person.

41 (6) A violation of Section 27550.

1 (d) If both of the following circumstances apply, an additional term of
2 imprisonment in the state prison for one, two, or three years shall be imposed in
3 addition and consecutive to the sentence prescribed.

4 (1) A violation of Section 27510 or subdivision (a) of Section 27500.

5 (2) The firearm transferred in violation of Section 27510 or subdivision (a) of
6 Section 27500 is used in the subsequent commission of a felony for which a
7 conviction is obtained and the prescribed sentence is imposed.

8 (e)(1) A first violation of Section 27535 is an infraction punishable by a fine of
9 fifty dollars (\$50).

10 (2) A second violation of Section 27535 is an infraction punishable by a fine of
11 one hundred dollars (\$100).

12 (3) A third or subsequent violation of Section 27535 is a misdemeanor.

13 (4) For purposes of this subdivision each application to purchase a pistol,
14 revolver, or other firearm capable of being concealed upon the person in violation
15 of Section 27535 shall be deemed a separate offense.

16 **Comment.** Section 27590 continues former Section 12072(g) without substantive change.

17 For guidance in applying paragraphs (b)(1), (b)(2), (e)(2), and (e)(3), see Section 16015
18 (determining existence of prior conviction).

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

21 **Staff Note.** For discussion of whether the substance of existing Section 12072(g)(4) should be
22 continued here (as proposed Section 27590(d)) or in the title on “Sentence Enhancements,” see
23 Memorandum 2008-53, pp. 4-5.

24 Article 2. Exceptions Relating to Law Enforcement

25 **Staff Note.** Existing Section 12078(a)(2) says that “the preceding provisions of this article do
26 not apply to” Existing Section 12078(a)(3), (a)(4), and (a)(5) include the same language.
27 Through the reference to “the preceding provisions of this article,” each of these provisions
28 implicitly cross-refers to existing Section 12072, as well as certain other provisions now in
29 Article 4 of Chapter 1 of Title 2 of Part 4.

30 To the extent that they pertain to existing Section 12072, these provisions would be recodified
31 as proposed Sections 27600, 27605, 27610, and 27615, shown below. In each new provision, the
32 implicit cross-reference to Section 12072 has been replaced with a reference to “Article 1
33 (commencing with Section 27500).”

34 That article would include the entirety of existing Section 12072. It would also include five
35 exceptions currently stated in Section 12078, which are incorporated by reference into Section
36 12072. These are subdivisions (p)(1)-(5) of Section 12078, as they pertain to Section 12072(a)(3).
37 They would be continued in proposed Section 27505(b), which would also continue Section
38 12072(a)(3)(B).

39 The staff does not think any substantive change would be effected referring to the entirety of
40 Article 1 in proposed Sections 27600, 27605, 27610, and 27615, instead of only the provisions
41 that would continue existing Section 12072. We encourage others to consider this point and share
42 their views.

43 If necessary, proposed Sections 27600, 27605, 27610, and 27615 could be revised to refer only
44 to the provisions that would continue existing Section 12072. That would be more cumbersome
45 and less user-friendly than the current approach, but it would not be difficult to do.

1 **§ 27600. Exception for sale, delivery, or transfer to authorized law enforcement**
2 **representative of city, county, city and county, or state or federal government**

3 27600. (a) Article 1 (commencing with Section 27500) does not apply to any
4 sale, delivery, or transfer of firearms made to an authorized law enforcement
5 representative of any city, county, city and county, or state, or of the federal
6 government, for exclusive use by that governmental agency if, prior to the sale,
7 delivery, or transfer of these firearms, written authorization from the head of the
8 agency authorizing the transaction is presented to the person from whom the
9 purchase, delivery, or transfer is being made.

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

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

21 **Comment.** Section 27600 continues former Section 12078(a)(2) without substantive change, as
22 that provision applied to former Section 12072 (through its reference to “the preceding provisions
23 of this article”).

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

25 **§ 27605. Exception for loan of firearm to peace officer employee for use in performing**
26 **official duties**

27 27605. Article 1 (commencing with Section 27500) does not apply to the loan of
28 a firearm if all of the following conditions are satisfied:

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

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

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

35 **Comment.** Section 27605 continues former Section 12078(a)(3) without substantive change, as
36 that provision applied to former Section 12072 (through its reference to “the preceding provisions
37 of this article”).

38 See Section 16520 (“firearm”).

1 **§ 27610. Exception for sale, delivery, or transfer by law enforcement agency to peace officer**
2 **pursuant to Public Contract Code**

3 27610. (a) Article 1 (commencing with Section 27500) does not apply to the
4 sale, delivery, or transfer of a firearm by a law enforcement agency to a peace
5 officer pursuant to Section 10334 of the Public Contract Code.

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

15 **Comment.** Section 27610 continues former Section 12078(a)(4) without substantive change, as
16 that provision applied to former Section 12072 (through its reference to “the preceding provisions
17 of this article”).

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

19 **§ 27615. Exception for sale, delivery, or transfer by law enforcement agency to retiring**
20 **peace officer authorized to carry concealed and loaded firearm**

21 27615. (a) Article 1 (commencing with Section 27500) does not apply to the
22 sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring
23 peace officer who is authorized to carry a firearm pursuant to Chapter 5
24 (commencing with Section 26300) of Division 5.

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

33 **Comment.** Section 27615 continues former Section 12078(a)(5) without substantive change, as
34 that provision applied to former Section 12072 (through its reference to “the preceding provisions
35 of this article”).

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

Article 3. Exceptions Extending Only to Waiting Period

§ 27650. Waiting period exception for sale, delivery, or transfer to full-time paid peace officer authorized to carry firearms in performance of duties

27650. (a) The waiting period described in Section 27540 does not apply to the sale, delivery, or transfer of firearms made to any person who satisfies both of the following requirements:

(1) The person is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) The officer's employer has authorized the officer to carry firearms while in the performance of duties.

(b)(1) Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of duties, and authorizing the purchase or transfer.

(2) The certification shall be delivered to the dealer at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification.

(3) The dealer shall keep the certification with the record of sale.

(4) On the date that the sale, delivery, or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in Section 28160 or 28165.

Comment. Section 27650 continues former Section 12078(a)(1) without substantive change, as that provision applied to the waiting period in former Section 12072.

For other exceptions relating to law enforcement, see Sections 27600-27615.

See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

§ 27655. Waiting period exception for dealer who delivers firearm other than handgun at auction or similar event conducted by nonprofit mutual or public benefit corporation

27655. (a) The waiting period described in Section 27540 does not apply to a dealer who delivers a firearm, other than a handgun, at an auction or similar event described in Section 27900, as authorized by subdivision (c) of Section 26805.

(b) Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the application as is indicated in Section 28165.

(c) If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the application as is indicated in Section 28165.

Comment. Section 27655 continues former Section 12078(g)(3) without substantive change, as that provision applied to the waiting period in former Section 12072.

See Sections 16190 ("application to purchase"), 16520 ("firearm"), 16640 ("handgun"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

1 **§ 27660. Waiting period exception for sale, delivery, or transfer of handgun, not intended as**
2 **merchandise, by dealer to self or another dealer**

3 27660. (a) The waiting period described in Section 27540 does not apply to the
4 sale, delivery, or transfer of a handgun by a dealer in either of the following
5 situations:

6 (1) The dealer is delivering the firearm to another dealer, the firearm is not
7 intended as merchandise in the receiving dealer's business, and the requirements
8 of subdivisions (b) and (c) are satisfied.

9 (2) The dealer is delivering the firearm to himself or herself, the firearm is not
10 intended as merchandise in the dealer's business, and the requirements of
11 subdivision (c) are satisfied.

12 (b) If the dealer is receiving the firearm from another dealer, the dealer receiving
13 the firearm shall present proof to the dealer delivering the firearm that the
14 receiving dealer is licensed pursuant to Articles 1 (commencing with Section
15 26700) and 2 (commencing with Section 26800). This shall be done by complying
16 with Section 27555.

17 (c)(1) Regardless of whether the dealer is selling, delivering, or transferring the
18 firearm to another dealer or to himself or herself, on the date that the application to
19 purchase is completed, the dealer delivering the firearm shall forward by prepaid
20 mail to the Department of Justice a report of the application and the type of
21 information concerning the purchaser or transferee as is indicated in Section
22 28160.

23 (2) Where electronic or telephonic transfer of applicant information is used, on
24 the date that the application to purchase is completed, the dealer delivering the
25 firearm shall transmit an electronic or telephonic report of the application and the
26 type of information concerning the purchaser or transferee as is indicated in
27 Section 28160.

28 **Comment.** Section 27660 continues former Section 12078(n) without substantive change, as
29 that provision applied to the waiting period in former Section 12072.

30 See Sections 16190 ("application to purchase"), 16520 ("firearm"), 16640 ("handgun"), 26700
31 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

32 **§ 27665. Waiting period exception for sale, delivery, or transfer to holder of special weapons**
33 **permit**

34 27665. (a) The waiting period described in Section 27540 does not apply to the
35 sale, delivery, or transfer of a firearm to the holder of a special weapons permit
36 issued by the Department of Justice pursuant to [Section 12095, 12230, or 12250],
37 or Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title
38 2.

39 (b) On the date that the application to purchase is completed, the dealer
40 delivering the firearm shall transmit to the Department of Justice an electronic or
41 telephonic report of the application as is indicated in Section 28160 or 28165.

42 **Comment.** Section 27665 continues former Section 12078(r) without substantive change, as
43 that provision applied to the waiting period in former Section 12072.

1 See Sections 16190 (“application to purchase”), 16520 (“firearm”), 26700 (“dealer,”
2 “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

3 **§ 27670. Waiting period exception for sale, delivery, loan, or transfer of curio or relic by**
4 **dealer to licensed collector**

5 27670. (a) The waiting period described in Section 27540 does not apply to the
6 sale, delivery, loan, or transfer of a firearm if all of the following conditions are
7 satisfied:

8 (1) The firearm is a curio or relic, as defined in Section 478.11 of Title 27 of the
9 Code of Federal Regulations, or its successor.

10 (2) The sale, delivery, loan, or transfer is made by a dealer.

11 (3) The sale, delivery, loan, or transfer is made to a person who is licensed as a
12 collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
13 United States Code and the regulations issued pursuant thereto.

14 (4) The licensed collector has a current certificate of eligibility issued by the
15 Department of Justice pursuant to Section 26710.

16 (b) On the date that the sale, delivery, or transfer is made, the dealer delivering
17 the firearm shall transmit to the Department of Justice an electronic or telephonic
18 report of the transaction as is indicated in Section 28160 or 28165.

19 **Comment.** Section 27670 continues former Section 12078(t)(1) without substantive change, as
20 that provision applied to the waiting period in former Section 12072.

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

23 **☞ Staff Notes.**

24 (1) Existing Section 12078(t)(1) cross-refers to “Section 478.11 of Title 27 of the Code of
25 Federal Regulations, *or its successor*” (Emphasis added.) The staff does not know why the
26 reference to “its successor” was included. The reference to Section 478.11 still appears to be
27 valid. We do not think the reference to “its successor” is needed. If it were needed here, to
28 address the possibility that Section 478.11 might be recodified in the future, a similar reference
29 would also be needed in a multitude of other places throughout the codes.

30 Because this is a strictly nonsubstantive study, we did not delete the reference to “its
31 successor” in drafting proposed Section 27670(a)(1). That might be worth doing in the future, in a
32 different reform. Unless the Commission otherwise directs, we will add this issue to the
33 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” See
34 Memorandum 2008-52.

35 (2) The first sentence of existing Section 12078(t) refers to “the *sale, delivery, loan, or transfer*
36 of a firearm that is a curio or relic” (Emphasis added.) In contrast, the second sentence states
37 that “[o]n the date that the *delivery, sale, or transfer* is made, the dealer delivering the firearm
38 shall” (Emphasis added.)

39 The staff does not know why the first sentence refers to a “loan” while the second sentence
40 does not. We suspect this may be an inadvertent error. Unless the Commission otherwise directs,
41 we will add this issue to the Commission’s list of “Minor Clean-up Issues for Possible Future
42 Legislative Attention.” See Memorandum 2008-52.

1 Article 4. Exceptions to Restrictions on Delivery of a Firearm

2 **§ 27700. Exception for sales, deliveries, or transfers of firearms between or to licensed**
3 **importers and manufacturers**

4 27700. Section 27540 does not apply to sales, deliveries, or transfers of firearms
5 between or to importers and manufacturers of firearms licensed to engage in that
6 business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
7 United States Code and the regulations issued pursuant thereto.

8 **Comment.** Section 27700 continues former Section 12078(b)(1) without substantive change,
9 as that provision applied to former Section 12072(c).

10 See Section 16520 (“firearm”).

11 **§ 27705. Exception for service or repair by gunsmith**

12 27705. Section 27540 does not apply to the delivery of a firearm to a gunsmith
13 for service or repair, or to the return of the firearm to its owner by the gunsmith.

14 **Comment.** Section 27705 continues former Section 12078(e) without substantive change, as
15 that provision applied to former Section 12072(c).

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

17 **§ 27710. Exception for sale, delivery, or transfer of unloaded firearms, other than**
18 **handguns, by dealer to another dealer**

19 27710. Section 27540 does not apply to the sale, delivery, or transfer of firearms
20 if all of the following conditions are satisfied:

21 (a) The firearms are unloaded.

22 (b) The firearms are not handguns.

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

25 **Comment.** Section 27710 continues former Section 12078(k)(1) without substantive change,
26 as that provision applied to former Section 12072(c).

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

29 **§ 27715. Exception for sale, delivery, or transfer of unloaded firearms by dealer to licensed**
30 **nonresident**

31 27715. Section 27540 does not apply to the sale, delivery, or transfer of
32 unloaded firearms by a dealer to a person who resides outside this state and is
33 licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
34 United States Code and the regulations issued pursuant thereto.

35 **Comment.** Section 27715 continues former Section 12078(k)(2) without substantive change,
36 as that provision applied to former Section 12072(c).

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

1 **§ 27720. Exception for return of unloaded firearms to wholesaler to treat as merchandise**

2 27720. Section 27540 does not apply to the sale, delivery, or transfer of
3 unloaded firearms to a wholesaler if the firearms are being returned to the
4 wholesaler and are intended as merchandise in the wholesaler's business.

5 **Comment.** Section 27720 continues former Section 12078(k)(3) without substantive change,
6 as that provision applied to former Section 12072(c).

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

9 **§ 27725. Exception for sale, delivery, or transfer of unloaded firearms by dealer to another
10 dealer to treat as merchandise**

11 27725. Section 27540 does not apply to the sale, delivery, or transfer of firearms
12 if all of the following conditions are satisfied:

13 (a) The firearms are unloaded.

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

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

17 **Comment.** Section 27725 continues former Section 12078(k)(4) without substantive change,
18 as that provision applied to former Section 12072(c).

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

21 **§ 27730. Exception for sale, delivery, or transfer of unloaded firearm, other than handgun,
22 by dealer to self**

23 27730. Section 27540 does not apply to the sale, delivery, or transfer of an
24 unloaded firearm, other than a handgun, by a dealer to himself or herself.

25 **Comment.** Section 27730 continues former Section 12078(k)(5) without substantive change,
26 as that provision applied to former Section 12072(c).

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

29 **§ 27735. Exception for loan of unloaded firearm under specified circumstances by dealer to
30 person at target facility or at premises of target shooting club or organization**

31 27735. (a) Section 27540 does not apply to the loan of an unloaded firearm if all
32 of the following conditions are satisfied:

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

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

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

38 (b) Section 27540 does not apply to the loan of an unloaded firearm if all of the
39 following conditions are satisfied:

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

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

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

4 **Comment.** Section 27735 continues former Section 12078(k)(6) without substantive change,
5 as that provision applied to former Section 12072(c).

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

8 **§ 27740. Exception for sale, delivery, or transfer of firearms regulated pursuant to specified**
9 **statutes, if sale, delivery, or transfer complies with applicable statutory provisions**

10 27740. Section 27540 does not apply to the sale, delivery, or transfer of firearms
11 regulated pursuant to any of the following statutes, if the sale, delivery, or transfer
12 is conducted in accordance with the applicable provisions of the statute:

13 (a) Section 24410, relating to cane guns, and the exemptions in Chapter 1
14 (commencing with Section 17700) of Title 2, as they relate to cane guns.

15 (b) Section 24510, relating to firearms that are not immediately recognizable as
16 firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of
17 Title 2, as they relate to firearms that are not immediately recognizable as
18 firearms.

19 (c) Sections _____ to _____, inclusive, relating to short-barreled rifles and
20 short-barreled shotguns, and the exemptions in Chapter 1 (commencing with
21 Section 17700) of Title 2, as they relate to short-barreled rifles and short-barreled
22 shotguns.

23 (d) Section _____, relating to unconventional pistols, and the exemptions in
24 Chapter 1 (commencing with Section 17700) of Title 2, as they relate to
25 unconventional pistols.

26 (e) Sections 24610 and 24680, relating to undetectable firearms, and the
27 exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they
28 relate to undetectable firearms.

29 (f) Section 24710, relating to wallet guns, and the exemptions in Chapter 1
30 (commencing with Section 17700) of Title 2, as they relate to wallet guns.

31 (g) Section _____, relating to zip guns, and the exemptions in Chapter 1
32 (commencing with Section 17700) of Title 2, as they relate to zip guns.

33 (h) [Sections 12200 to 12251, inclusive], relating to machineguns.

34 (i) [Sections 12275 to 12290, inclusive], relating to assault weapons.

35 **Comment.** Section 27740 continues former Section 12078(o) without substantive change, as
36 that provision applied to former Section 12072(c).

37 See Sections 16330 (“cane gun”), 16520 (“firearm”), 16880 (“machinegun”), 17170 (“short-
38 barreled rifle”), 17180 (“short-barreled shotgun”), 17270 (“unconventional pistol”), 17280
39 (“undetectable firearm”), 17330 (“wallet gun”), 17360 (“zip gun”) _____ (“assault weapon”),
40 _____ (further clarification of “assault weapon”), _____ (exemptions from definition of “assault
41 weapon”).

42 **Staff Note.** For discussion of this provision, see the Staff Notes on proposed Section 27140,
43 which would continue Section 12078(o) as that provision applies to Section 12071.

1 § 27745. Exception for loan of unloaded firearm, for use solely as prop, by dealer to person
2 with entertainment firearms permit

3 27745. (a) Section 27540 does not apply to the loan of a firearm if all of the
4 following conditions are satisfied:

5 (1) The firearm is unloaded.

6 (2) The loan is made by a dealer.

7 (3) The loan is made to a person who possesses a valid entertainment firearms
8 permit issued pursuant to [Section 12081].

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

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

13 **Comment.** Section 27745 continues former Section 12078(s)(3) without substantive change, as
14 that provision applied to former Section 12072(c).

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

17 **Staff Note.** For discussion of this provision, see the Staff Note on proposed Section 27000,
18 which would continue Section 12078(s)(3) as that provision applies to Section 12071(b).

19 § 27750. Exception for short-term loan of unloaded firearm by dealer to consultant-
20 evaluator

21 27750. (a) Section 27540 does not apply to the loan of an unloaded firearm to a
22 consultant-evaluator by a person licensed pursuant to Sections 26700 to 26915,
23 inclusive, if the loan does not exceed 45 days from the date of delivery.

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

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

29 (2) A photocopy of the consultant-evaluator’s valid, current certificate of
30 eligibility.

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

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

39 **Comment.** Section 27750 continues former Section 12078(s)(4) without substantive change, as
40 that provision applied to former Section 12072(c).

41 See Sections 16410 (“consultant-evaluator”), 16520 (“firearm”), 26700 (“dealer,” “licensee,”
42 or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

Article 5. Exceptions to the Requirement of Obtaining a
Verification Number

§ 27800. Exception for sale, delivery, or transfer of firearms regulated pursuant to specified statutes, if sale, delivery, or transfer complies with applicable statutory provisions

27800. Section 27555 does not apply to the sale, delivery, or transfer of firearms regulated pursuant to any of the following statutes, if the sale, delivery, or transfer is conducted in accordance with the applicable provisions of the statute:

(a) Section 24410, relating to cane guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to cane guns.

(b) Section 24510, relating to firearms that are not immediately recognizable as firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to firearms that are not immediately recognizable as firearms.

(c) Sections _____ to _____, inclusive, relating to short-barreled rifles and short-barreled shotguns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to short-barreled rifles and short-barreled shotguns.

(d) Section _____, relating to unconventional pistols, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to unconventional pistols.

(e) Sections 24610 and 24680, relating to undetectable firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to undetectable firearms.

(f) Section 24710, relating to wallet guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to wallet guns.

(g) Section _____, relating to zip guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to zip guns.

(h) [Sections 12200 to 12251, inclusive], relating to machineguns.

(i) [Sections 12275 to 12290, inclusive], relating to assault weapons.

Comment. Section 27800 continues former Section 12078(o) without substantive change, as that provision applied to former Section 12072(f)(1).

See Sections 16330 (“cane gun”), 16520 (“firearm”), 16880 (“machinegun”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”), 17270 (“unconventional pistol”), 17280 (“undetectable firearm”), 17330 (“wallet gun”), 17360 (“zip gun”) _____ (“assault weapon”), _____ (further clarification of “assault weapon”), _____ (exemptions from definition of “assault weapon”).

Staff Note. For discussion of this provision, see the Staff Notes on proposed Section 27140, which would continue Section 12078(o) as that provision applies to Section 12071.

§ 27805. Exception for loan of unloaded firearm, for use solely as prop, by dealer to person with entertainment firearms permit

27805. (a) Section 27555 does not apply to the loan of a firearm if all of the following conditions are satisfied:

- 1 (1) The firearm is unloaded.
- 2 (2) The loan is made by a dealer.
- 3 (3) The loan is made to a person who possesses a valid entertainment firearms
- 4 permit issued pursuant to [Section 12081].
- 5 (4) The firearm is loaned solely for use as a prop in a motion picture, television,
- 6 video, theatrical, or other entertainment production or event.
- 7 (b) The dealer shall retain a photocopy of the entertainment firearms permit as
- 8 proof of compliance with this requirement.

9 **Comment.** Section 27805 continues former Section 12078(s)(3) without substantive change, as
10 that provision applied to former Section 12072(f)(1).

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

13 **Staff Note.** For discussion of this provision, see the Staff Note on proposed Section 27000,
14 which would continue Section 12078(s)(3) as that provision applies to Section 12071(b).

15 **§ 27810. Exception for loan of unloaded firearm, for use solely as prop, by federal firearms**
16 **licensee to person with entertainment firearms permit**

17 27810. (a) Section 27555 does not apply to the loan of a firearm if all of the
18 following requirements are satisfied:

- 19 (1) The firearm is unloaded.
- 20 (2) The loan is made by a person who is not a dealer but is a federal firearms
- 21 licensee pursuant to Chapter 44 of Title 18 of the United States Code.
- 22 (3) The loan is made to a person who possesses a valid entertainment firearms
- 23 permit issued pursuant to [Section 12081].
- 24 (4) The firearm is loaned for use solely as a prop in a motion picture, television,
- 25 video, theatrical, or other entertainment production or event.
- 26 (b) The person loaning the firearm pursuant to this section shall retain a
- 27 photocopy of the entertainment firearms permit as proof of compliance with this
- 28 requirement.

29 **Comment.** Section 27810 continues former Section 12078(s)(2) without substantive change, as
30 that provision applied to former Section 12072(f)(1).

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

33 **Staff Note.** Existing Section 12078(s)(2) refers to “a dealer *as defined in Section 12071*”
34 In proposed Section 27805, we have (1) replaced that reference with “a dealer,” and (2) included
35 a reference to the definition of “dealer” in the Comment, which also states that “Section 27805
36 continues former Section 12078(s)(2) without substantive change”

37 We chose this approach because it would further the Legislature’s directive to “[a]void
38 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope of
39 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
40 weight to the Commission’s comments, we think this would be sufficient to preserve the
41 substance of Section 12078(s)(2). See 2007-2008 Annual Report, 37 Cal. L. Revision Comm’n
42 Reports 1, 17-23 (2007).

1 § 27815. Exception for short-term loan of unloaded firearm by dealer to consultant-
2 evaluator

3 27815. (a) Section 27555 does not apply to the loan of an unloaded firearm to a
4 consultant-evaluator by a person licensed pursuant to Sections 26700 to 26915,
5 inclusive, if the loan does not exceed 45 days from the date of delivery.

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

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

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

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

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

21 **Comment.** Section 27815 continues former Section 12078(s)(4) without substantive change, as
22 that provision applied to former Section 12072(f)(1).

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

25 § 27820. Exception for infrequent sale, loan, or transfer of curio or relic manufactured at
26 least 50 years ago, which is not handgun

27 27820. If all of the following requirements are satisfied, Section 27555 does not
28 apply to the sale, loan, or transfer of a firearm:

29 (a) The sale, loan, or transfer is infrequent, as defined in Section 16730.

30 (b) The firearm is not a handgun.

31 (c) The firearm is a curio or relic manufactured at least 50 years prior to the
32 current date but is not a replica, as defined in Section 478.11 of Title 27 of the
33 Code of Federal Regulations, or its successor.

34 **Comment.** Section 27820 continues former Section 12078(t)(2) without substantive change, as
35 that provision applied to former Section 12072(f)(1).

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

37  **Staff Notes.**

38 (1) Proposed Section 27820 would cross-refer to the definition of "infrequent" in proposed
39 Section 16730. For discussion of this point, see the Staff Note on proposed Section 16730.

40 (2) Existing Section 12078(t)(2) cross-refers to "Section 478.11 of Title 27 of the Code of
41 Federal Regulations, or its successor." (Emphasis added.) The staff does not know why the
42 reference to "its successor" was included. The reference to Section 478.11 still appears to be
43 valid. We do not think the reference to "its successor" is needed. If it were needed here, to

1 address the possibility that Section 478.11 might be recodified in the future, a similar reference
2 would also be needed in a multitude of other places throughout the codes.

3 Because this is a strictly nonsubstantive study, we did not delete the reference to “its
4 successor” in drafting proposed Section 27820. That might be worth doing in the future, in a
5 different reform. Unless the Commission otherwise directs, we will add this issue to the
6 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” See
7 Memorandum 2008-52.

8 Article 6. Exceptions to the Requirement of Using a Dealer for a
9 Private Party Firearms Transaction

10 **§ 27850. Exception for sale, delivery, or transfer to governmental entity as part of program**
11 **in which entity is acquiring weapons from private individuals**

12 27850. (a) Section 27545 does not apply to a sale, delivery, or transfer of
13 firearms if both of the following requirements are satisfied:

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

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

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

22 **Comment.** Section 27850 continues former Section 12078(a)(6) without substantive change, as
23 that provision applied to former Section 12072(d).

24 See Section 16520 (“firearm”).

25 **§ 27855. Exception for sale, delivery, loan, or transfer by law enforcement representative to**
26 **nonprofit historical society, museum, or institutional collection**

27 27855. Section 27545 does not apply to the sale, delivery, loan, or transfer of a
28 firearm made by an authorized law enforcement representative of a city, county,
29 city and county, or state, or of the federal government, to any public or private
30 nonprofit historical society, museum, or institutional collection, or the purchase or
31 receipt of that firearm by that public or private nonprofit historical society,
32 museum, or institutional collection, if all of the following conditions are met:

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

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

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

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

37 (2) Sections 18000 and 18005.

38 (3) [Section 12030].

39 (4) [Section 12032].

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

1 (e) Prior to delivery, the entity receiving the firearm submits a written statement
2 to the law enforcement representative stating that the firearm will not be restored
3 to operating condition, and will either remain with that entity, or if subsequently
4 disposed of, will be transferred in accordance with the applicable provisions listed
5 in Section 16575 and, if applicable, with [Section 12801].

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

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

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

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

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

16 **Comment.** Section 27855 continues former Section 12078(a)(7) without substantive change, as
17 that provision applied to former Section 12072(d).

18 See Section 16520 (“firearm”).

19 **§ 27860. Exception for sale, delivery, loan, or transfer by person other than law**
20 **enforcement representative to nonprofit historical society, museum, or institutional**
21 **collection**

22 27860. Section 27545 does not apply to the sale, delivery, loan, or transfer of a
23 firearm made by any person other than a representative of an authorized law
24 enforcement agency to any public or private nonprofit historical society, museum,
25 or institutional collection, if all of the following conditions are met:

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

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

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

30 (d) Prior to delivery, the entity receiving the firearm submits a written statement
31 to the person selling, loaning, or transferring the firearm stating that the firearm
32 will not be restored to operating condition, and will either remain with that entity,
33 or if subsequently disposed of, will be transferred in accordance with the
34 applicable provisions listed in Section 16575 and, if applicable, with [Section
35 12801].

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

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

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

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

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

6 (e) The report forms that are to be completed pursuant to this section shall be
7 provided by the Department of Justice.

8 **Comment.** Section 27860 continues former Section 12078(a)(8) without substantive change, as
9 that provision applied to former Section 12072(d).

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

11 **Staff Note.** Existing Section 12078(a)(8) refers to “the sale, loan, delivery, or transfer of a
12 firearm made by any person other than a representative of an authorized law enforcement agency
13” The staff thinks this language is probably a mistake. Instead of referring to “an authorized
14 law enforcement agency,” the provision probably should refer to “an authorized law enforcement
15 representative.”

16 We were thus tempted to phrase the first sentence of proposed Section 27860(a) as follows:

17 Section 27545 does not apply to the sale, delivery, loan, or transfer of a firearm made by a
18 *person other than an authorized law enforcement representative* to any public or private
19 nonprofit historical society, museum, or institutional collection, if

20 Because this is a strictly nonsubstantive study, we did not draft proposed Section 27860 this
21 way. But that might be worth doing in the future, in a different reform. Unless the Commission
22 otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-up Issues for
23 Possible Future Legislative Attention.” See Memorandum 2008-52.

24 **§ 27865. Exception for sales, deliveries, or transfers of firearms between or to licensed**
25 **importers and manufacturers**

26 27865. Section 27545 does not apply to sales, deliveries, or transfers of firearms
27 between or to importers and manufacturers of firearms licensed to engage in that
28 business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
29 United States Code and the regulations issued pursuant thereto.

30 **Comment.** Section 27865 continues former Section 12078(b)(1) without substantive change,
31 as that provision applied to former Section 12072(d).

32 See Section 16520 (“firearm”).

33 **§ 27870. Exception for infrequent transfer of firearm, other than handgun, between**
34 **members of same immediate family**

35 27870. Section 27545 does not apply to the transfer of a firearm, other than a
36 handgun, by gift, bequest, intestate succession, or other means from one individual
37 to another, if both of the following requirements are satisfied:

38 (a) The transfer is infrequent, as defined in Section 16730.

39 (b) The transfer is between members of the same immediate family.

40 **Comment.** Section 27870 continues former Section 12078(c)(1) without substantive change.

41 See Sections 16520 (“firearm”), 16640 (“handgun”), 16720 (“immediate family member”).

1 **§ 27875. Exception for infrequent transfer of handgun between members of same**
2 **immediate family**

3 27875. Section 27545 does not apply to the transfer of a handgun by gift,
4 bequest, intestate succession, or other means from one individual to another, if all
5 of the following requirements are met:

6 (a) The transfer is infrequent, as defined in Section 16730.

7 (b) The transfer is between members of the same immediate family.

8 (c) Within 30 days of taking possession of the firearm, the person to whom it is
9 transferred shall forward by prepaid mail, or deliver in person to the Department
10 of Justice, a report that includes information concerning the individual taking
11 possession of the firearm, how title was obtained and from whom, and a
12 description of the firearm in question. The report forms that individuals complete
13 pursuant to this section shall be provided to them by the Department of Justice.

14 (d) The person taking title to the firearm shall first obtain a handgun safety
15 certificate.

16 (e) The person receiving the firearm is 18 years of age or older.

17 **Comment.** Section 27875 continues former Section 12078(c)(2) without substantive change.

18 See Sections 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”),
19 16720 (“immediate family member”).

20 **§ 27880. Exception for infrequent loan of firearm between persons who are personally**
21 **known to each other**

22 27880. Section 27545 does not apply to the loan of a firearm between persons
23 who are personally known to each other, if all of the following requirements are
24 satisfied:

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

26 (b) The loan is for any lawful purpose.

27 (c) The loan does not exceed 30 days in duration.

28 (d) Commencing January 1, 2003, if the firearm is a handgun, the individual
29 being loaned the handgun shall have a valid handgun safety certificate.

30 **Comment.** Section 27880 continues former Section 12078(d)(1) without substantive change.

31 See Sections 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”).

32 **§ 27885. Exception for loan of firearm if lender is constantly in presence of recipient, loan is**
33 **for 3 days or less, and other requirements are met**

34 27885. Section 27545 does not apply to the loan of a firearm if all of the
35 following conditions exist:

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

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

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

40 (d) The individual receiving the firearm is not prohibited from owning or
41 possessing a firearm pursuant to [Section 12021 or 12021.1 of this code], or
42 Section 8100 or 8103 of the Welfare and Institutions Code.

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

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

3 **Comment.** Section 27885 continues former Section 12078(d)(2) without substantive change,
4 as that provision applied to former Section 12072(d).

5 See Section 16520 (“firearm”).

6 **§ 27890. Exception for service or repair by gunsmith**

7 27890. Section 27545 does not apply to the delivery of a firearm to a gunsmith
8 for service or repair, or to the return of the firearm to its owner by the gunsmith.

9 **Comment.** Section 27890 continues former Section 12078(e) without substantive change, as
10 that provision applied to former Section 12072(d).

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

12 **§ 27895. Exception for sale, delivery, or transfer by resident to licensed nonresident**

13 27895. Section 27545 does not apply to the sale, delivery, or transfer of firearms
14 if all of the following requirements are satisfied:

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

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

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

22 **Comment.** Section 27895 continues former Section 12078(f) without substantive change, as
23 that provision applied to former Section 12072(d).

24 See Section 16520 (“firearm”).

25 **§ 27900. Exception for infrequent sale or transfer of firearm, other than handgun, at**
26 **auction or similar event conducted by nonprofit mutual or public benefit corporation**

27 27900. Section 27545 does not apply to the infrequent sale or transfer, as
28 defined in Section 16730, of a firearm other than a handgun at an auction or
29 similar event conducted by a nonprofit mutual or public benefit corporation
30 organized pursuant to the Corporations Code.

31 **Comment.** Section 27900 continues the first paragraph of former Section 12078(g)(1) without
32 substantive change.

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

34 **§ 27905. Exception for donation of firearm, other than handgun, for auction or similar**
35 **event conducted by nonprofit mutual or public benefit corporation**

36 27905. Section 27545 does not apply to the transfer of a firearm if all of the
37 following requirements are satisfied:

38 (a) The firearm is not a handgun.

39 (b) The firearm is donated for an auction or similar event described in Section
40 27900.

1 (c) The firearm is delivered to the nonprofit corporation immediately preceding,
2 or contemporaneous with, the auction or similar event.

3 **Comment.** Section 27905 continues former Section 12078(g)(2) without substantive change.
4 See Sections 16520 (“firearm”), 16640 (“handgun”).

5 **§ 27910. Exception for loan of firearm to person 18 or older for target shooting under**
6 **specified circumstances**

7 27910. (a) Section 27545 does not apply to the loan of a firearm to a person 18
8 years of age or older for the purposes of shooting at targets if either of the
9 following conditions is satisfied:

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

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

17 **Comment.** Section 27910 continues former Section 12078(h) without substantive change, as
18 that provision applied to former Section 12072(d).

19 See Section 16520 (“firearm”).

20 **§ 27915. Exception for person who takes title or possession of firearm, other than handgun,**
21 **by operation of law**

22 27915. Section 27545 does not apply to a person who takes title or possession of
23 a firearm by operation of law if both of the following requirements are satisfied:

24 (a) The firearm is not a handgun.

25 (b) The person is not prohibited by [Section 12021 or 12021.1 of this code] or
26 Section 8100 or 8103 of the Welfare and Institutions Code from possessing
27 firearms.

28 **Comment.** Section 27915 continues former Section 12078(i)(1) without substantive change.

29 See Sections 16520 (“firearm”), 16640 (“handgun”), 16990 (“person taking title or possession
30 of a firearm by operation of law”).

31 **§ 27920. Exception for person who takes title or possession of handgun by operation of law**

32 27920. Section 27545 does not apply to a person who takes title or possession of
33 a handgun by operation of law if the person is not prohibited by [Section 12021 or
34 12021.1 of this code] or Section 8100 or 8103 of the Welfare and Institutions
35 Code from possessing firearms and all of the following conditions are met:

36 (a) If the person taking title or possession is neither a levying officer as defined
37 in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure, nor a
38 person who is receiving that firearm pursuant to subdivision (g), (i), or (j) of
39 Section 16990, the person shall, within 30 days of taking possession, forward by
40 prepaid mail or deliver in person to the Department of Justice, a report of
41 information concerning the individual taking possession of the firearm, how title

1 or possession was obtained and from whom, and a description of the firearm in
2 question.

3 (b) If the person taking title or possession is receiving the firearm pursuant to
4 subdivision (g) of Section 16990, the person shall do both of the following:

5 (1) Within 30 days of taking possession, forward by prepaid mail or deliver in
6 person to the department, a report of information concerning the individual taking
7 possession of the firearm, how title or possession was obtained and from whom,
8 and a description of the firearm in question.

9 (2) Prior to taking title or possession of the firearm, the person shall obtain a
10 handgun safety certificate.

11 (c) Where the person receiving title or possession of the handgun is a person
12 described in subdivision (i) of Section 16990, on the date that the person is
13 delivered the firearm, the name and other information concerning the person
14 taking possession of the firearm, how title or possession of the firearm was
15 obtained and from whom, and a description of the firearm by make, model, serial
16 number, and other identifying characteristics, shall be entered into the Automated
17 Firearms System (AFS) via the California Law Enforcement Telecommunications
18 System (CLETS) by the law enforcement or state agency that transferred or
19 delivered the firearm. An agency without access to AFS shall arrange with the
20 sheriff of the county in which the agency is located to input this information via
21 this system.

22 (d) Where the person receiving title or possession of the handgun is a person
23 described in subdivision (g) of Section 16990, on the date that the person is
24 delivered the firearm, the name and other information concerning the person
25 taking possession of the firearm, how title or possession of the firearm was
26 obtained and from whom, and a description of the firearm by make, model, serial
27 number, and other identifying characteristics, shall be entered into the AFS via the
28 CLETS by the law enforcement or state agency that transferred or delivered the
29 firearm. An agency without access to AFS shall arrange with the sheriff of the
30 county in which the agency is located to input this information via this system. In
31 addition, that law enforcement agency shall not deliver that handgun to the person
32 referred to in this subdivision unless, prior to the delivery of the handgun, the
33 person presents proof to the agency that the person is the holder of a handgun
34 safety certificate.

35 (e) The reports that individuals complete pursuant to this section shall be
36 provided to them by the Department of Justice.

37 **Comment.** Section 27920 continues former Section 12078(i)(2) without substantive change.

38 See Sections 16520 (“firearm”), 16640 (“handgun”), 16990 (“person taking title or possession
39 of a firearm by operation of law”).

40 **Staff Notes.**

41 (1) Existing Section 12078(i)(2)(A) refers to “a levying officer as defined in Section 481.140,
42 511.060, or 680.210 of the Code of Civil Procedure” (Emphasis added.) The reference to Code
43 of Civil Procedure Section 680.210 is incorrect. That provision defines “general intangibles,” not

1 “levying officer.” The definition of “levying officer” is in Code of Civil Procedure Section
2 680.260 instead.

3 The staff has corrected the cross-reference in drafting proposed Section 27920. This approach
4 seems more reasonable than perpetuating an obviously incorrect reference. Although this is a
5 strictly nonsubstantive study, some degree of commonsense is appropriate in interpreting existing
6 law. We would exercise such commonsense here and note the situation in the preliminary part of
7 the Commission’s report.

8 (2) Proposed Section 27920(e) would continue the last sentence of existing Section
9 12078(i)(2)(A), which refers to “reports” rather than “report forms.” But “report forms” might be
10 more appropriate in this context. Cf. Proposed Section 27875, which refers to “report forms” and
11 continues language now in Section 12078(c)(2).

12 Because this is a strictly nonsubstantive study, and the Commission is striving to minimize any
13 concern that the proposed legislation would have a substantive impact, we have not attempted
14 such clean-up in drafting this chapter. That might be worth doing in the future, in a different
15 reform. Unless the Commission otherwise directs, we will add this issue to the Commission’s list
16 of “Minor Clean-up Issues for Possible Future Legislative Attention.” See Memorandum 2008-
17 52.

18 **§ 27925. Exception for person who takes possession of firearm by operation of law in**
19 **representative capacity and then transfers firearm to self in individual capacity**

20 27925. (a) Section 27545 does not apply to a person who takes possession of a
21 firearm by operation of law in a representative capacity who subsequently
22 transfers ownership of the firearm to himself or herself in an individual capacity.

23 (b) In the case of a handgun, the individual shall obtain a handgun safety
24 certificate prior to transferring ownership to himself or herself, or taking
25 possession of a handgun in an individual capacity.

26 **Comment.** Section 27925 continues former Section 12078(i)(3) without substantive change.

27 See Sections 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”),
28 16990 (“person taking title or possession of a firearm by operation of law”).

29 **§ 27930. Exception for deliveries, transfers, or returns made pursuant to certain statutes**

30 27930. Section 27545 does not apply to deliveries, transfers, or returns of
31 firearms made pursuant to any of the following:

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

33 (b) Sections 18000 and 18005.

34 (c) [Section 12021.3].

35 (d) [Section 12030].

36 **Comment.** Section 27930 continues former Section 12078(j) without substantive change, as
37 that provision applied to former Section 12072(d).

38 See Section 16520 (“firearm”).

39 **§ 27935. Exception for sale, delivery, or transfer of unloaded firearms to wholesaler by**
40 **another wholesaler or by licensed manufacturer or importer**

41 27935. Section 27545 does not apply to the sale, delivery, or transfer of
42 unloaded firearms to a wholesaler as merchandise in the wholesaler’s business by
43 a manufacturer or importer licensed to engage in that business pursuant to Chapter
44 44 (commencing with Section 921) of Title 18 of the United States Code and the

1 regulations issued pursuant thereto, or by another wholesaler, if the sale, delivery,
2 or transfer is made in accordance with Chapter 44 (commencing with Section 921)
3 of Title 18 of the United States Code.

4 **Comment.** Section 27935 continues former Section 12078(m) without substantive change, as
5 that provision applied to former Section 12072(d).

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

7 **§ 27940. Exception for sale, delivery, or transfer of firearms regulated pursuant to specified**
8 **statutes, if sale, delivery, or transfer complies with applicable statutory provisions**

9 27940. Section 27545 does not apply to the sale, delivery, or transfer of firearms
10 regulated pursuant to any of the following statutes, if the sale, delivery, or transfer
11 is conducted in accordance with the applicable provisions of the statute:

12 (a) Section 24410, relating to cane guns, and the exemptions in Chapter 1
13 (commencing with Section 17700) of Title 2, as they relate to cane guns.

14 (b) Section 24510, relating to firearms that are not immediately recognizable as
15 firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of
16 Title 2, as they relate to firearms that are not immediately recognizable as
17 firearms.

18 (c) Sections _____ to _____, inclusive, relating to short-barreled rifles and
19 short-barreled shotguns, and the exemptions in Chapter 1 (commencing with
20 Section 17700) of Title 2, as they relate to short-barreled rifles and short-barreled
21 shotguns.

22 (d) Section _____, relating to unconventional pistols, and the exemptions in
23 Chapter 1 (commencing with Section 17700) of Title 2, as they relate to
24 unconventional pistols.

25 (e) Sections 24610 and 24680, relating to undetectable firearms, and the
26 exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they
27 relate to undetectable firearms.

28 (f) Section 24710, relating to wallet guns, and the exemptions in Chapter 1
29 (commencing with Section 17700) of Title 2, as they relate to wallet guns.

30 (g) Section _____, relating to zip guns, and the exemptions in Chapter 1
31 (commencing with Section 17700) of Title 2, as they relate to zip guns.

32 (h) [Sections 12200 to 12251, inclusive], relating to machineguns.

33 (i) [Sections 12275 to 12290, inclusive], relating to assault weapons.

34 **Comment.** Section 27940 continues former Section 12078(o) without substantive change, as
35 that provision applied to former Section 12072(d).

36 See Sections 16330 (“cane gun”), 16520 (“firearm”), 16880 (“machinegun”), 17170 (“short-
37 barreled rifle”), 17180 (“short-barreled shotgun”), 17270 (“unconventional pistol”), 17280
38 (“undetectable firearm”), 17330 (“wallet gun”), 17360 (“zip gun”) _____ (“assault weapon”),
39 _____ (further clarification of “assault weapon”), _____ (exemptions from definition of “assault
40 weapon”).

41 **Staff Note.** For discussion of this provision, see the Staff Notes on proposed Section 27140,
42 which would continue Section 12078(o) as that provision applies to Section 12071.

1 § 27945. Exception for certain situations involving minor

2 27945. Section 27545 does not apply to or affect the following circumstances:

3 (a) The transfer or loan of a firearm, other than a handgun, to a minor by the
4 minor's parent or legal guardian.

5 (b) The transfer or loan of a firearm, other than a handgun, to a minor by a
6 grandparent who is not the legal guardian of the minor, if the transfer is done with
7 the express permission of the minor's parent or legal guardian.

8 (c) The loan of a firearm, other than a handgun, to a minor, with the express
9 permission of the minor's parent or legal guardian, if the loan does not exceed 30
10 days in duration and is for a lawful purpose.

11 (d) The loan of a handgun to a minor by the minor's parent or legal guardian, if
12 both of the following requirements are satisfied:

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

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

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

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

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

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

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

39 **Comment.** Subdivision (a) of Section 27945 continues former Section 12078(p)(4) without
40 substantive change, as that provision applied to former Section 12072(d).

41 Subdivision (b) continues former Section 12078(p)(5) without substantive change, as that
42 provision applied to former Section 12072(d).

43 Subdivision (c) continues former Section 12078(p)(1) without substantive change, as that
44 provision applied to former Section 12072(d).

1 Subdivision (d) continues former Section 12078(p)(3) without substantive change, as that
2 provision applied to former Section 12072(d).

3 Subdivision (e) continues former Section 12078(p)(2) without substantive change, as that
4 provision applied to former Section 12072(d).

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

6 **§ 27950. Exception for loan of firearm, other than handgun, to licensed hunter for use in**
7 **hunting season**

8 27950. Section 27545 does not apply to the loan of a firearm, other than a
9 handgun, to a licensed hunter for use by that hunter for a period of time not to
10 exceed the duration of the hunting season for which the firearm is to be used.

11 **Comment.** Section 27950 continues former Section 12078(q) without substantive change.

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

13 **§ 27955. Exception for infrequent loan of unloaded firearm for use solely as prop**

14 27955. Section 27545 does not apply to the loan of a firearm if all of the
15 following requirements are satisfied:

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

17 (b) The firearm is unloaded.

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

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

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

23 **Comment.** Section 27955 continues former Section 12078(s)(1) without substantive change, as
24 that provision applied to former Section 12072(d).

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

27 **Staff Note.** Existing Section 12078(s)(1) refers to “a dealer *as defined in Section 12071*”
28 In proposed Section 27955, we have (1) replaced that reference with “a dealer,” and (2) included
29 a reference to the definition of “dealer” in the Comment, which also states that “Section 27955
30 continues former Section 12078(s)(1) without substantive change”

31 We chose this approach because it would further the Legislature’s directive to “[a]void
32 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope of
33 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
34 weight to the Commission’s comments, we think this would be sufficient to preserve the
35 substance of Section 12078(s)(1). See 2007-2008 Annual Report, 37 Cal. L. Revision Comm’n
36 Reports 1, 17-23 (2007).

37 **§ 27960. Exception loan of unloaded firearm, for use solely as prop, by federal firearms**
38 **licensee to person with entertainment firearms permit**

39 27960. (a) Section 27545 does not apply to the loan of a firearm if all of the
40 following requirements are satisfied:

41 (1) The firearm is unloaded.

42 (2) The loan is made by a person who is not a dealer but is a federal firearms
43 licensee pursuant to Chapter 44 of Title 18 of the United States Code.

1 (3) The loan is made to a person who possesses a valid entertainment firearms
2 permit issued pursuant to [Section 12081].

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

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

8 **Comment.** Section 27960 continues former Section 12078(s)(2) without substantive change, as
9 that provision applied to former Section 12072(d).

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

12  **Staff Note.** For discussion of this provision, see the Staff Note on proposed Section 27805.

13 **§ 27965. Exception for infrequent sale, loan, or transfer of curio or relic manufactured at**
14 **least 50 years ago, which is not handgun**

15 27965. If all of the following requirements are satisfied, Section 27545 does not
16 apply to the sale, loan, or transfer of a firearm:

17 (a) The sale, loan, or transfer is infrequent, as defined in Section 16730.

18 (b) The firearm is not a handgun.

19 (c) The firearm is a curio or relic manufactured at least 50 years prior to the
20 current date but is not a replica, as defined in Section 478.11 of Title 27 of the
21 Code of Federal Regulations, or its successor.

22 **Comment.** Section 27965 continues former Section 12078(t)(2) without substantive change, as
23 that provision applied to former Section 12072(d).

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

25  **Staff Note.** For discussion of this provision, see the Staff Note on proposed Section 27820.

26 **Article 7. Report to Department of Justice**

27 **§ 28000. Circumstances that may be reported to Department of Justice in prescribed format**

28 28000. A person who is exempt from Section 27545 or is otherwise not required
29 by law to report acquisition, ownership, or disposal of a handgun or who moves
30 out of this state with the person’s handgun may report that to the Department of
31 Justice in a format prescribed by the department.

32 **Comment.** Section 28000 continues former Section 12078(l) without substantive change.

33 See Section 16640 (“handgun”).

34 **CHAPTER 5. PROCEDURE FOR A PRIVATE PARTY FIREARMS TRANSACTION**

35  **Staff Note.** This chapter contains the material currently in Section 12082.

1 **§ 28050. Basic procedure**

2 28050. (a) A person shall complete any sale, loan, or transfer of a firearm
3 through a person licensed pursuant to Sections 26700 to 26915, inclusive, in
4 accordance with this chapter in order to comply with Section 27545.

5 (b) The seller or transferor or the person loaning the firearm shall deliver the
6 firearm to the dealer who shall retain possession of that firearm.

7 (c) The dealer shall then deliver the firearm to the purchaser or transferee or the
8 person being loaned the firearm, if it is not prohibited, in accordance with Section
9 27540.

10 (d) If the dealer cannot legally deliver the firearm to the purchaser or transferee
11 or the person being loaned the firearm, the dealer shall forthwith, without waiting
12 for the conclusion of the waiting period described in Sections 26815 and 27540,
13 return the firearm to the transferor or seller or the person loaning the firearm. The
14 dealer shall not return the firearm to the seller or transferor or the person loaning
15 the firearm when to do so would constitute a violation of Section 27500, 27505,
16 27515, 27520, 27525, 27530, or 27535. If the dealer cannot legally return the
17 firearm to the transferor or seller or the person loaning the firearm, then the dealer
18 shall forthwith deliver the firearm to the sheriff of the county or the chief of police
19 or other head of a municipal police department of any city or city and county, who
20 shall then dispose of the firearm in the manner provided by Sections 18005 and
21 [12032].

22 **Comment.** Section 28050 continues the first six sentences of former Section 12082(a) without
23 substantive change.

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

26 **§ 28055. Fees**

27 28055. (a) For a sale, loan, or transfer conducted pursuant to this chapter, the
28 purchaser or transferee or person being loaned the firearm may be required by the
29 dealer to pay a fee not to exceed ten dollars (\$10) per firearm.

30 (b) No other fee may be charged by the dealer for a sale, loan, or transfer of a
31 firearm conducted pursuant to this chapter, except for the applicable fee that the
32 Department of Justice may charge pursuant to Article 3 (commencing with Section
33 28200) of Chapter 6.

34 (c) The fee that the department may charge is the fee that would be applicable
35 pursuant to Article 3 (commencing with Section 28200) of Chapter 6, if the dealer
36 was selling, transferring, or delivering a firearm to a purchaser or transferee or a
37 person being loaned a firearm, without any other parties being involved in the
38 transaction.

39 (d) Nothing in these provisions shall prevent a dealer from charging a smaller
40 fee.

41 **Comment.** Subdivisions (a) and (b) of Section 28055 continue the seventh sentence of former
42 Section 12082(a) without substantive change.

1 Subdivision (c) continues the ninth sentence of former Section 12082(a) without substantive
2 change.

3 Subdivision (d) continues the eighth sentence of former Section 12082(a) without substantive
4 change.

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

7 **§ 28060. Regulations**

8 28060. The Attorney General shall adopt regulations under this chapter to do all
9 of the following:

10 (a) Allow the seller or transferor or the person loaning the firearm, and the
11 purchaser or transferee or the person being loaned the firearm, to complete a sale,
12 loan, or transfer through a dealer, and to allow those persons and the dealer to
13 preserve the confidentiality of those records and to comply with the requirements
14 of this chapter and all of the following:

15 (1) Articles 1 (commencing with Section 26700) and 2 (commencing with
16 Section 26800) of Chapter 2.

17 (2) Article 1 (commencing with Section 27500) of Chapter 4.

18 (3) Article 2 (commencing with Section 28150) of Chapter 6.

19 (4) Article 3 (commencing with Section 28200) of Chapter 6.

20 (b) Where a personal handgun importer is selling or transferring a pistol,
21 revolver, or other firearm capable of being concealed upon the person to comply
22 with paragraph (2) of subdivision (a) of Section 27560, to allow a personal
23 handgun importer’s ownership of the pistol, revolver, or other firearm capable of
24 being concealed upon the person being sold or transferred to be recorded in a
25 manner that if the firearm is returned to that personal handgun importer because
26 the sale or transfer cannot be completed, the Department of Justice will have
27 sufficient information about that personal handgun importer so that a record of the
28 importer’s ownership can be maintained in the registry provided by subdivision (c)
29 of Section 11106.

30 (c) Ensure that the register or record of electronic transfer shall state all of the
31 following:

32 (1) The name and address of the seller or transferor of the firearm or the person
33 loaning the firearm.

34 (2) Whether or not the person is a personal handgun importer.

35 (3) Any other information required by Article 2 (commencing with Section
36 28150) of Chapter 6.

37 **Comment.** Section 28060 continues former Section 12082(b) without substantive change.

38 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
39 “pistol,” and “revolver”), 17000 (“personal handgun importer”), 26700 (“dealer,” “licensee,” or
40 “person licensed pursuant to Sections 26700 to 26915, inclusive”).

1 **§ 28065. Dealer who does not sell, transfer, or keep inventory of handguns**

2 28065. Notwithstanding any other provision of law, a dealer who does not sell,
3 transfer, or keep an inventory of handguns is not required to process private party
4 transfers of handguns.

5 **Comment.** Section 28065 continues former Section 12082(c) without substantive change.

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

8 **§ 28070. Punishment**

9 28070. A violation of this chapter by a dealer is a misdemeanor.

10 **Comment.** Section 28070 continues former Section 12082(d) without substantive change.

11 See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
12 26915, inclusive”).

13 **CHAPTER 6. RECORDKEEPING, BACKGROUND CHECKS, AND FEES RELATING TO**
14 **SALE, LEASE, OR TRANSFER OF FIREARMS**

15 **☞ Staff Notes.**

16 (1) This chapter is organized as follows:

- 17 • Article 1, entitled “General Provisions Relating to Register or Record of Electronic or
18 Telephonic Transfer,” contains the material currently in Sections 12073, 12074, and
19 12075.
- 20 • Article 2, entitled “Form of Register and Record of Electronic Transfer,” contains the
21 material currently in Section 12077.
- 22 • Article 3, entitled “Submission of Fees and Firearm Purchaser Information to the
23 Department of Justice,” contains the material currently in Section 12076.
- 24 • Article 4, entitled “Firearms Safety and Enforcement Special Fund,” contains the material
25 currently in Section 12076.5.
- 26 • Article 5, entitled “Exceptions Relating to Law Enforcement,” contains four exceptions
27 currently stated in Section 12078, which relate to law enforcement and extend to the
28 entirety of Sections 12073, 12074, 12075, 12076, 12076.5, and 12077.
- 29 • Article 6, entitled “Centralized List of Exempted Federal Firearms Licensees,” contains
30 the material currently in Section 12083.

31 This approach is intended to be user-friendly, but will also facilitate conforming of cross-
32 references.

33 (2) The recordkeeping process for a firearm sale, lease, or transfer has evolved in the past few
34 decades. At first, recordkeeping was in hard copy format, using a register to generate
35 quadruplicate records (one original and three carbon copies). Later, the Department of Justice
36 began permitting dealers to submit information using electronic and telephonic transfer. In 1998,
37 that became the only acceptable means of submitting information to the Department of Justice
38 regarding a firearm sale, lease, or transfer. In 2003, the options were further narrowed.
39 Telephonic transfer was eliminated and electronic transfer became the only acceptable means of
40 submitting information.

41 The statutes governing the recordkeeping process still include material relating to
42 recordkeeping methods that are no longer in use. The staff presumes this has been done on
43 purpose, so that persons can readily refer to the rules that were applicable when a particular crime
44 or other misconduct allegedly occurred.

1 It is possible that some of the statutory material is no longer useful and could be deleted
2 without harm. Other references to outdated methods could perhaps be consolidated and
3 segregated from the current rules, so that readers can focus on the relevant material without being
4 distracted by rules that do not apply.

5 Because this is a strictly nonsubstantive study, and the Commission is striving to minimize any
6 concern that the proposed legislation would have a substantive impact, we have not attempted
7 such clean-up in drafting this chapter. That might be worth doing in the future, in a different
8 reform. Unless the Commission otherwise directs, we will add this issue to the Commission's list
9 of "Minor Clean-up Issues for Possible Future Legislative Attention." See Memorandum 2008-
10 52.

11 Article 1. General Provisions Relating to the Register or the
12 Record of Electronic or Telephonic Transfer

13 **§ 28100. Register or record of electronic or telephonic transfer**

14 28100. (a) As required by the Department of Justice, every dealer shall keep a
15 register or record of electronic or telephonic transfer in which shall be entered the
16 information prescribed in Article 2 (commencing with Section 28150).

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

18 (1) The loan of an unloaded firearm by a dealer to a person who possesses a
19 valid entertainment firearms permit issued pursuant to [Section 12081], for use
20 solely as a prop in a motion picture, television, video, theatrical, or other
21 entertainment production or event.

22 (2) The delivery of an unloaded firearm by a dealer to a gunsmith for service or
23 repair.

24 (3) The sale, delivery, or transfer of an unloaded firearm, other than a handgun,
25 by a dealer to another dealer, upon proof of compliance with the requirements of
26 Section 27555.

27 (4) The sale, delivery, or transfer of an unloaded firearm by a dealer who sells,
28 delivers, or transfers the firearm to a person who resides outside this state and is
29 licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
30 United States Code and any regulations issued pursuant thereto.

31 (5) The sale, delivery, or transfer of an unloaded firearm by a dealer to a
32 wholesaler if that firearm is being returned to the wholesaler and is intended as
33 merchandise in the wholesaler's business.

34 (6) The sale, delivery, or transfer of an unloaded firearm by a dealer to another
35 dealer, upon proof of compliance with the requirements of Section 27555, if the
36 firearm is intended as merchandise in the receiving dealer's business.

37 (7) The sale, delivery, or transfer of an unloaded firearm, other than a handgun,
38 by a dealer to himself or herself.

39 (8) The loan of an unloaded firearm by a dealer, if the dealer also operates a
40 target facility that holds a business or regulatory license on the premises of the
41 building designated in the license, the loan is made to a person at that target
42 facility, and the firearm is kept at all times within the premises of the target range.

1 (9) The loan of an unloaded firearm by a dealer, if the building designated in the
2 license is on the premises of any club or organization organized for the purpose of
3 practicing shooting at targets upon established public or private ranges, the loan is
4 made to a person at that club or organization, and the firearm is kept at all times
5 within the premises of the club or organization.

6 (10) The loan of an unloaded firearm by a dealer to a consultant-evaluator, if the
7 loan does not exceed 45 days from the date of delivery of the firearm by the dealer
8 to the consultant-evaluator.

9 (11) The return of an unloaded firearm to the owner of that firearm by a dealer,
10 if the owner initially delivered the firearm to the dealer for service or repair.

11 (12) The sale, delivery, or transfer of an unloaded firearm by a dealer to a person
12 licensed as an importer or manufacturer pursuant to Chapter 44 (commencing with
13 Section 921) of Title 18 of the United States Code and any regulations issued
14 pursuant thereto.

15 (c) A violation of this section is a misdemeanor.

16 **Comment.** Section 28100 continues former Section 12073 without substantive change.

17 For exceptions to provisions in this article and in Articles 2 (commencing with Section 28150),
18 3 (commencing with Section 28200), and 4 (commencing with Section 28300), see Article 5
19 (commencing with Section 28400).

20 See Sections 16410 (“consultant-evaluator”), 16520 (“firearm”), 16630 (“gunsmith”), 16640
21 (“handgun”), 17340 (“wholesaler”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
22 Sections 26700 to 26915, inclusive”).

23 **§ 28105. Requirements for preparation of register or record**

24 28105. (a)(1) The register required by Section 28100 shall be prepared by and
25 obtained from the State Printer.

26 (2) The State Printer shall furnish the register only to dealers on application, at a
27 cost to be determined by the Department of General Services.

28 (3) The Department of General Services shall determine the cost for each 100
29 leaves in quadruplicate, one original and three duplicates for the making of carbon
30 copies.

31 (4) The original and duplicate copies shall differ in color, and shall be in the
32 form provided by this chapter.

33 (b) Where the electronic transfer of applicant information is used, the
34 Department of Justice shall develop the standards for all appropriate electronic
35 equipment and telephone numbers to effect the transfer of information to the
36 department.

37 **Comment.** Section 28105 continues former Section 12074 without substantive change.

38 For exceptions to provisions in this article and in Articles 2 (commencing with Section 28150),
39 3 (commencing with Section 28200), and 4 (commencing with Section 28300), see Article 5
40 (commencing with Section 28400).

41 See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
42 26915, inclusive”).

1 § 28110. Duties relating to register

2 28110. (a) The State Printer upon issuing a register shall forward to the
3 Department of Justice both of the following:

4 (1) The name and business address of the dealer.

5 (2) The series and sheet numbers of the register.

6 (b) The register shall not be transferable.

7 (c) If the dealer moves the business to a different location, the dealer shall notify
8 the department of that fact in writing within 48 hours.

9 **Comment.** Section 28110 continues former Section 12075 without substantive change.

10 For exceptions to provisions in this article and in Articles 2 (commencing with Section 28150),
11 3 (commencing with Section 28200), and 4 (commencing with Section 28300), see Article 5
12 (commencing with Section 28400).

13 See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
14 26915, inclusive”).

15 Article 2. Form of the Register or the Record of Electronic Transfer

16 § 28150. “Purchase,” “purchaser,” and “sale”

17 28150. As used in this article,

18 (a) “Purchase” means the purchase, loan, or transfer of a firearm.

19 (b) “Purchaser” means the purchaser or transferee of a firearm or the person
20 being loaned a firearm.

21 (c) “Sale” means the sale, loan, or transfer of a firearm.

22 **Comment.** Section 28150 continues former Section 12077(g) without substantive change.

23 See Section 16520 (“firearm”).

24 ~~is~~ **Staff Note.** For discussion of these definitions and why the staff has placed them here instead
25 of in the “Definitions” portion of new Part 6, see Memorandum 2008-23, pp. 9-11; Minutes (June
26 2008), pp. 6-9.

27 The Commission and interested persons should assess how well it works to place the
28 definitions of “purchaser,” “purchase,” and “sale” in close proximity to the provisions in which
29 the terms are used as defined.

30 § 28155. Department of Justice to prescribe form of register and record of electronic
31 transfer

32 28155. The Department of Justice shall prescribe the form of the register and the
33 record of electronic transfer pursuant to Section 28105.

34 **Comment.** Section 28155 continues former Section 12077(a) without substantive change.

35 § 28160. Form for handgun

36 28160. (a) For handguns, the register or record of electronic transfer shall
37 include all of the following information:

38 (1) The date and time of sale.

39 (2) The make of firearm.

40 (3) Peace officer exemption status pursuant to [Section 12078(a)] and the
41 agency name.

- 1 (4) Dealer waiting period exemption pursuant to Sections 26900 and 27760.
- 2 (5) Dangerous weapons permitholder waiting period exemption pursuant to
- 3 Sections 26965 and 27665.
- 4 (6) Curio and relic waiting period exemption pursuant to Sections 26970 and
- 5 27670.
- 6 (7) Curio and relic waiting period exemption pursuant to Sections 27820 and
- 7 27965.
- 8 (8) California Firearms Dealer number issued pursuant to Article 1
- 9 (commencing with Section 26700) of Chapter 2.
- 10 (9) For transactions occurring prior to January 1, 2003, the purchaser's basic
- 11 firearms safety certificate number issued pursuant to [Sections 12805 and 12809].
- 12 (10) For transactions occurring on or after January 1, 2003, the purchaser's
- 13 handgun safety certificate number issued pursuant to [Article 8 (commencing with
- 14 Section 12800) of Chapter 6 of Title 2 of Part 4].
- 15 (11) Manufacturer's name if stamped on the firearm.
- 16 (12) Model name or number, if stamped on the firearm.
- 17 (13) Serial number, if applicable.
- 18 (14) Other number, if more than one serial number is stamped on the firearm.
- 19 (15) Any identification number or mark assigned to the firearm pursuant to
- 20 Section 23910.
- 21 (16) Caliber.
- 22 (17) Type of firearm.
- 23 (18) If the firearm is new or used.
- 24 (19) Barrel length.
- 25 (20) Color of the firearm.
- 26 (21) Full name of purchaser.
- 27 (22) Purchaser's complete date of birth.
- 28 (23) Purchaser's local address.
- 29 (24) If current address is temporary, complete permanent address of purchaser.
- 30 (25) Identification of purchaser.
- 31 (26) Purchaser's place of birth (state or country).
- 32 (27) Purchaser's complete telephone number.
- 33 (28) Purchaser's occupation.
- 34 (29) Purchaser's sex.
- 35 (30) Purchaser's physical description.
- 36 (31) All legal names and aliases ever used by the purchaser.
- 37 (32) Yes or no answer to questions that prohibit purchase including, but not
- 38 limited to, conviction of a felony as described in [Section 12021] or an offense
- 39 described in [Section 12021.1], the purchaser's status as a person described in
- 40 Section 8100 of the Welfare and Institutions Code, whether the purchaser is a
- 41 person who has been adjudicated by a court to be a danger to others or found not
- 42 guilty by reason of insanity, and whether the purchaser is a person who has been

1 found incompetent to stand trial or placed under conservatorship by a court
2 pursuant to Section 8103 of the Welfare and Institutions Code.

3 (33) Signature of purchaser.

4 (34) Signature of salesperson, as a witness to the purchaser's signature.

5 (35) Salesperson's certificate of eligibility number, if the salesperson has
6 obtained a certificate of eligibility.

7 (36) Name and complete address of the dealer or firm selling the firearm as
8 shown on the dealer's license.

9 (37) The establishment number, if assigned.

10 (38) The dealer's complete business telephone number.

11 (39) Any information required by Chapter 5 (commencing with Section 28050).

12 (40) Any information required to determine whether subdivision (f) of Section
13 27540 applies.

14 (41) A statement of the penalties for signing a fictitious name or address,
15 knowingly furnishing any incorrect information, or knowingly omitting any
16 information required to be provided for the register.

17 (b) Effective January 1, 2003, the purchaser shall provide the purchaser's right
18 thumbprint on the register in a manner prescribed by the department. No exception
19 to this requirement shall be permitted except by regulations adopted by the
20 department.

21 (c) The firearms dealer shall record on the register or record of electronic
22 transfer the date that the handgun is delivered.

23 **Comment.** Section 28160 continues former Section 12077(b) without substantive change.

24 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
25 3 (commencing with Section 28200), and 4 (commencing with Section 28300), see Article 5
26 (commencing with Section 28400).

27 See Sections 16240 ("basic firearms safety certificate"), 16520 ("firearm"), 16640
28 ("handgun"), 16670 ("handgun safety certificate"), 26700 ("dealer," "licensee," or "person
29 licensed pursuant to Sections 26700 to 26915, inclusive"), 28150 ("purchase," "purchaser," and
30 "sale").

31 **§ 28165. Form for firearm other than handgun**

32 28165. (a) For firearms other than handguns, the register or record of electronic
33 transfer shall include all of the following information:

34 (1) The date and time of sale.

35 (2) Peace officer exemption status pursuant to [Section 12078(a)] and the
36 agency name.

37 (3) Dangerous weapons permitholder waiting period exemption pursuant to
38 Sections 26965 and 27665.

39 (4) Curio and relic waiting period exemption pursuant to Sections 26970 and
40 27670.

41 (5) Auction or event waiting period exemption pursuant to Sections 26955 and
42 27655.

1 (6) California Firearms Dealer number issued pursuant to Article 1
2 (commencing with Section 26700) of Chapter 2.

3 (7) Full name of purchaser.

4 (8) Purchaser's complete date of birth.

5 (9) Purchaser's local address.

6 (10) If current address is temporary, complete permanent address of purchaser.

7 (11) Identification of purchaser.

8 (12) Purchaser's place of birth (state or country).

9 (13) Purchaser's complete telephone number.

10 (14) Purchaser's occupation.

11 (15) Purchaser's sex.

12 (16) Purchaser's physical description.

13 (17) All legal names and aliases ever used by the purchaser.

14 (18) Yes or no answer to questions that prohibit purchase, including, but not
15 limited to, conviction of a felony as described in [Section 12021] or an offense
16 described in [Section 12021.1], the purchaser's status as a person described in
17 Section 8100 of the Welfare and Institutions Code, whether the purchaser is a
18 person who has been adjudicated by a court to be a danger to others or found not
19 guilty by reason of insanity, whether the purchaser is a person who has been found
20 incompetent to stand trial or placed under conservatorship by a court pursuant to
21 Section 8103 of the Welfare and Institutions Code.

22 (19) Signature of purchaser.

23 (20) Signature of salesperson, as a witness to the purchaser's signature.

24 (21) Salesperson's certificate of eligibility number, if the salesperson has
25 obtained a certificate of eligibility.

26 (22) Name and complete address of the dealer or firm selling the firearm as
27 shown on the dealer's license.

28 (23) The establishment number, if assigned.

29 (24) The dealer's complete business telephone number.

30 (25) Any information required by Chapter 5 (commencing with Section 28050).

31 (26) A statement of the penalties for any person signing a fictitious name or
32 address, knowingly furnishing any incorrect information, or knowingly omitting
33 any information required to be provided for the register.

34 (b) Effective January 1, 2003, the purchaser shall provide the purchaser's right
35 thumbprint on the register in a manner prescribed by the department. No exception
36 to this requirement shall be permitted except by regulations adopted by the
37 department.

38 (c) The firearms dealer shall record on the register or record of electronic
39 transfer the date that the firearm is delivered.

40 **Comment.** Section 28165 continues former Section 12077(c) without substantive change.

41 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
42 3 (commencing with Section 28200), and 4 (commencing with Section 28300), see Article 5
43 (commencing with Section 28400).

1 See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person
2 licensed pursuant to Sections 26700 to 26915, inclusive”), 28150 (“purchase,” “purchaser,” and
3 “sale”).

4 **§ 28170. Requirements relating to use of register**

5 28170. Where the register is used, the following shall apply:

6 (a) Dealers shall use ink to complete each document.

7 (b) The dealer or salesperson making a sale shall ensure that all information is
8 provided legibly. The dealer and salespersons shall be informed that incomplete or
9 illegible information will delay sales.

10 (c) Each dealer shall be provided instructions regarding the procedure for
11 completion of the form and routing of the form. Dealers shall comply with these
12 instructions, which shall include the information set forth in this section.

13 (d) One firearm transaction shall be reported on each record of sale document.

14 (e) For purposes of this section, a “transaction” means a single sale, loan, or
15 transfer of any number of firearms that are not handguns.

16 **Comment.** Section 28170 continues former Section 12077(d) without substantive change.

17 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
18 3 (commencing with Section 28200), and 4 (commencing with Section 28300), see Article 5
19 (commencing with Section 28400).

20 See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person
21 licensed pursuant to Sections 26700 to 26915, inclusive”), 28150 (“purchase,” “purchaser,” and
22 “sale”).

23 **Staff Note.** Proposed Section 28170(e) would continue the definition of “transaction” that is
24 currently in Section 12077(d)(4). For discussion of this definition and the reasons for placing it
25 here instead of in the “Definitions” portion of new Part 6, see Memorandum 2008-23, pp. 9-11;
26 Minutes (June 2008), p. 14.

27 The Commission and interested persons should assess how well it works to place this definition
28 of “transaction” in close proximity to the provision in which the term is used as defined.

29 **§ 28175. Duty of dealer or salesperson to obtain complete information from purchaser**

30 28175. The dealer or salesperson making a sale shall ensure that all required
31 information has been obtained from the purchaser. The dealer and all salespersons
32 shall be informed that incomplete information will delay sales.

33 **Comment.** Section 28175 continues former Section 12077(e) without substantive change.

34 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
35 3 (commencing with Section 28200), and 4 (commencing with Section 28300), see Article 5
36 (commencing with Section 28400).

37 See Sections 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
38 26915, inclusive”), 28150 (“purchase,” “purchaser,” and “sale”).

39 **§ 28180. Use of magnetic strip to obtain purchaser’s name, date of birth, and driver’s
40 license or identification number**

41 28180. (a) Effective January 1, 2003, the purchaser’s name, date of birth, and
42 driver’s license or identification number shall be obtained electronically from the

1 magnetic strip on the purchaser’s driver’s license or identification and shall not be
2 supplied by any other means, except as authorized by the department.

3 (b) The requirement of subdivision (a) shall not apply in either of the following
4 cases:

5 (1) The purchaser’s identification consists of a military identification card.

6 (2) Due to technical limitations, the magnetic stripe reader is unable to obtain
7 the required information from the purchaser’s identification. In those
8 circumstances, the firearms dealer shall obtain a photocopy of the identification as
9 proof of compliance.

10 (c) In the event that the dealer has reported to the department that the dealer’s
11 equipment has failed, information pursuant to this section shall be obtained by an
12 alternative method to be determined by the department.

13 **Comment.** Section 28180 continues former Section 12077(f) without substantive change.

14 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
15 3 (commencing with Section 28200), and 4 (commencing with Section 28300), see Article 5
16 (commencing with Section 28400).

17 See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
18 Sections 26700 to 26915, inclusive”), 28150 (“purchase,” “purchaser,” and “sale”).

19 **Staff Note.** The introductory paragraph of existing Section 12077(f) says that “the
20 purchaser’s name, date of birth, and driver’s license or identification number shall be obtained
21 electronically from the magnetic *strip* on the purchaser’s driver’s license or identification”
22 (Emphasis added.) However, existing Section 12077(f)(2) refers to malfunctioning of “the
23 magnetic *stripe* reader,” not malfunctioning of “the magnetic *strip* reader.” (Emphasis added.)

24 The staff does not know why the statute uses “strip” in one place and “stripe” in another. It
25 would be preferable to consistently use only one of those terms.

26 Because this is a strictly nonsubstantive study, we did not attempt to conform the terminology
27 in drafting proposed Section 28180. That might be worth doing in the future, in a different
28 reform. Unless the Commission otherwise directs, we will add this issue to the Commission’s list
29 of “Minor Clean-up Issues for Possible Future Legislative Attention.” See Memorandum 2008-
30 52.

31 Article 3. Submission of Fees and Firearm Purchaser Information to
32 the Department of Justice

33 § 28200. “Purchase,” “purchaser,” “sale,” and “seller”

34 28200. As used in this article,

35 (a) “Purchase,” “purchaser,” and “sale” have the same meanings as in Section
36 28150.

37 (b) “Seller” means, if the transaction is being conducted pursuant to Chapter 5
38 (commencing with Section 28050), the person selling, loaning, or transferring the
39 firearm.

40 **Comment.** Section 28200 continues former Section 12076(l) without substantive change.

41 **Staff Note.** For discussion of these definitions and why the staff has placed them here instead
42 of in the “Definitions” portion of new Part 6, see Memorandum 2008-23, pp. 9-11; Minutes (June
43 2008), pp. 6-9.

1 The Commission and interested persons should assess how well it works to place the
2 definitions of “purchase,” “purchaser,” “sale,” and “seller” in close proximity to the provisions in
3 which the terms are used as defined.

4 **§ 28205. Means of submitting firearm purchaser information to Department of Justice**

5 28205. (a) Until January 1, 1998, the Department of Justice shall determine the
6 method by which a dealer shall submit firearm purchaser information to the
7 department. The information shall be in one of the following formats:

8 (1) Submission of the register described in Article 2 (commencing with Section
9 28150).

10 (2) Electronic or telephonic transfer of the information contained in the register
11 described in Article 2 (commencing with Section 28150).

12 (b) On or after January 1, 1998, electronic or telephonic transfer, including voice
13 or facsimile transmission, shall be the exclusive means by which purchaser
14 information is transmitted to the department.

15 (c) On or after January 1, 2003, except as permitted by the department,
16 electronic transfer shall be the exclusive means by which information is
17 transmitted to the department. Telephonic transfer shall not be permitted for
18 information regarding sales of any firearms.

19 **Comment.** Section 28205 continues former Section 12076(a) without substantive change.

20 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
21 2 (commencing with Section 28150), and 4 (commencing with Section 28300), see Article 5
22 (commencing with Section 28400).

23 For the consequences of violating this article, see Section 28250.

24 See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
25 Sections 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

26 **§ 28210. Use of register**

27 28210. (a)(1) Where the register is used, the purchaser of any firearm shall be
28 required to present to the dealer clear evidence of the person’s identity and age.

29 (2) The dealer shall require the purchaser to sign the purchaser’s current legal
30 name and affix the purchaser’s residence address and date of birth to the register in
31 quadruplicate.

32 (3) The salesperson shall sign the register in quadruplicate, as a witness to the
33 signature and identification of the purchaser.

34 (b) Any person furnishing a fictitious name or address, knowingly furnishing
35 any incorrect information, or knowingly omitting any information required to be
36 provided for the register shall be punished as provided in Section 28250.

37 (c)(1) The original of the register shall be retained by the dealer in consecutive
38 order.

39 (2) Each book of 50 originals shall become the permanent register of
40 transactions, which shall be retained for not less than three years from the date of
41 the last transaction.

42 (3) Upon presentation of proper identification, the permanent register of
43 transactions shall be available for inspection by any peace officer, Department of

1 Justice employee designated by the Attorney General, or agent of the federal
2 Bureau of Alcohol, Tobacco, Firearms, and Explosives. No information shall be
3 compiled therefrom regarding the purchasers or other transferees of firearms that
4 are not pistols, revolvers, or other firearms capable of being concealed upon the
5 person.

6 (d) On the date of the application to purchase, two copies of the original sheet of
7 the register shall be placed in the mail, postage prepaid, and properly addressed to
8 the Department of Justice in Sacramento.

9 (e) If requested, a photocopy of the original shall be provided to the purchaser
10 by the dealer.

11 (f) If the transaction is a private party transfer conducted pursuant to Chapter 5
12 (commencing with Section 28050), a photocopy of the original shall be provided
13 to the seller or purchaser by the dealer, upon request. The dealer shall redact all of
14 the purchaser's personal information, as required pursuant to subdivision (a) of
15 Section 28160 and subdivision (a) of Section 28165, from the seller's copy, and
16 the seller's personal information from the purchaser's copy.

17 **Comment.** Subdivision (a) of Section 28210 continues the first and second sentences of former
18 Section 12076(b)(1) without substantive change.

19 Subdivision (b) cross-refers to Section 28250, which continues the third sentence of former
20 Section 12076(b)(1) and the third sentence of former Section 12076(c)(1) without substantive
21 change.

22 Subdivision (c) continues former Section 12076(b)(2) without substantive change.

23 Subdivision (d) continues former Section 12076(b)(3) without substantive change.

24 Subdivision (e) continues former Section 12076(b)(4) without change.

25 Subdivision (f) continues former Section 12076(b)(5) without substantive change.

26 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
27 2 (commencing with Section 28150), and 4 (commencing with Section 28300), see Article 5
28 (commencing with Section 28400).

29 See Sections 16400 ("clear evidence of the person's identity and age"), 16520 ("firearm"),
30 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive"),
31 28200 ("purchase," "purchaser," "sale," and "seller").

32 **§ 28215. Use of electronic or telephonic transfer**

33 28215. (a)(1) Where the electronic or telephonic transfer of applicant
34 information is used, the purchaser shall be required to present to the dealer clear
35 evidence of the person's identity and age.

36 (2) The dealer shall require the purchaser to sign the purchaser's current legal
37 name to the record of electronic or telephonic transfer.

38 (3) The salesperson shall sign the record of electronic or telephonic transfer, as a
39 witness to the signature and identification of the purchaser.

40 (b) Any person furnishing a fictitious name or address, knowingly furnishing
41 any incorrect information, or knowingly omitting any information required to be
42 provided for the electronic or telephonic transfer shall be punished as provided in
43 Section 28250.

44 (c)(1) The original of each record of electronic or telephonic transfer shall be
45 retained by the dealer in consecutive order.

1 (2) Each original shall become the permanent record of the transaction, which
2 shall be retained for not less than three years from the date of the last transaction.

3 (3) Upon presentation of proper identification, the permanent record of the
4 transaction shall be provided for inspection by any peace officer, Department of
5 Justice employee designated by the Attorney General, or agent of the federal
6 Bureau of Alcohol, Tobacco, Firearms, and Explosives. No information shall be
7 compiled therefrom regarding the purchasers or other transferees of firearms that
8 are not pistols, revolvers, or other firearms capable of being concealed upon the
9 person.

10 (d) On the date of the application to purchase, the record of applicant
11 information shall be transmitted to the Department of Justice in Sacramento by
12 electronic or telephonic transfer

13 (e) If requested, a copy of the record of electronic or telephonic transfer shall be
14 provided to the purchaser by the dealer.

15 (f) If the transaction is a private party transfer conducted pursuant to Chapter 5
16 (commencing with Section 28050), a copy shall be provided to the seller or
17 purchaser by the dealer, upon request. The dealer shall redact all of the purchaser's
18 personal information, as required pursuant to subdivision (a) of Section 28160 and
19 subdivision (a) of Section 28165, from the seller's copy, and the seller's personal
20 information from the purchaser's copy.

21 **Comment.** Subdivision (a) of Section 28215 continues the first and second sentences of former
22 Section 12076(c)(1) without substantive change.

23 Subdivision (b) cross-refers to Section 28250, which continues the third sentence of former
24 Section 12076(b)(1) and the third sentence of former Section 12076(c)(1) without substantive
25 change.

26 Subdivision (c) continues former Section 12076(c)(3) without substantive change.

27 Subdivision (d) continues former Section 12076(c)(2) without substantive change.

28 Subdivision (e) continues former Section 12076(c)(4) without change.

29 Subdivision (f) continues former Section 12076(c)(5) without substantive change.

30 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
31 2 (commencing with Section 28150), and 4 (commencing with Section 28300), see Article 5
32 (commencing with Section 28400).

33 See Sections 16400 ("clear evidence of the person's identity and age"), 16520 ("firearm"),
34 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive"),
35 28200 ("purchase," "purchaser," "sale," and "seller").

36 **§ 28220. Background check by Department of Justice**

37 28220. (a) Upon submission of firearm purchaser information, the Department
38 of Justice shall examine its records, as well as those records that it is authorized to
39 request from the State Department of Mental Health pursuant to Section 8104 of
40 the Welfare and Institutions Code, in order to determine if the purchaser is a
41 person described in [Section 12021, 12021.1], or subdivision (a) of Section 27535
42 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code.

43 (b) To the extent that funding is available, the Department of Justice may
44 participate in the National Instant Criminal Background Check System (NICS), as
45 described in subsection (t) of Section 922 of Title 18 of the United States Code,

1 and, if that participation is implemented, shall notify the dealer and the chief of the
2 police department of the city or city and county in which the sale was made, or if
3 the sale was made in a district in which there is no municipal police department,
4 the sheriff of the county in which the sale was made, that the purchaser is a person
5 prohibited from acquiring a firearm under federal law.

6 (c) If the department determines that the purchaser is a person described in
7 [Section 12021, 12021.1], or subdivision (a) of Section 27535 of this code, or
8 Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately
9 notify the dealer and the chief of the police department of the city or city and
10 county in which the sale was made, or if the sale was made in a district in which
11 there is no municipal police department, the sheriff of the county in which the sale
12 was made, of that fact.

13 (d) If the department determines that the copies of the register submitted to it
14 pursuant to subdivision (d) of Section 28210 contain any blank spaces or
15 inaccurate, illegible, or incomplete information, preventing identification of the
16 purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee
17 required pursuant to Section 28225 is not submitted by the dealer in conjunction
18 with submission of copies of the register, the department may notify the dealer of
19 that fact. Upon notification by the department, the dealer shall submit corrected
20 copies of the register to the department, or shall submit any fee required pursuant
21 to Section 28225, or both, as appropriate and, if notification by the department is
22 received by the dealer at any time prior to delivery of the firearm to be purchased,
23 the dealer shall withhold delivery until the conclusion of the waiting period
24 described in Sections 26815 and 27540.

25 (e) If the department determines that the information transmitted to it pursuant to
26 Section 28215 contains inaccurate or incomplete information preventing
27 identification of the purchaser or the pistol, revolver, or other firearm capable of
28 being concealed upon the person to be purchased, or if the fee required pursuant to
29 Section 28225 is not transmitted by the dealer in conjunction with transmission of
30 the electronic or telephonic record, the department may notify the dealer of that
31 fact. Upon notification by the department, the dealer shall transmit corrections to
32 the record of electronic or telephonic transfer to the department, or shall transmit
33 any fee required pursuant to Section 28225, or both, as appropriate, and if
34 notification by the department is received by the dealer at any time prior to
35 delivery of the firearm to be purchased, the dealer shall withhold delivery until the
36 conclusion of the waiting period described in Sections 26815 and 27540.

37 **Comment.** Section 28220 continues former Section 12076(d) without substantive change.

38 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
39 2 (commencing with Section 28150), and 4 (commencing with Section 28300), see Article 5
40 (commencing with Section 28400).

41 For the consequences of violating this article, see Section 28250.

42 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
43 “pistol,” and “revolver”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections
44 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

1 **Staff Note.** Existing Section 12076(d)(2) says:

2 (2) To the extent that funding is available, the Department of Justice may participate in the
3 National Instant Criminal Background Check System (NICS), as described in subsection (t)
4 of Section 922 of Title 18 of the United States Code, and, if that participation is implemented,
5 shall notify the dealer and the chief of the police department of the city or city and county in
6 which the sale was made, or if the sale was made in a district in which there is no municipal
7 police department, the sheriff of the county in which the sale was made, that the purchaser is
8 a person prohibited from acquiring a firearm under federal law.

9 This provision is poorly worded. Taken literally, it says that if the Department of Justice
10 implements the NICS system, then the department shall notify the dealer and others “that the
11 purchaser is a person prohibited from acquiring a firearm under federal law.” But such
12 notification would only be appropriate *if the NICS system indicates* “that the purchaser is a person
13 prohibited from acquiring a firearm under federal law.” Section 12076(d)(2) does not include
14 such a qualifier.

15 Because this is a strictly nonsubstantive study, we did not include such a qualifier in proposed
16 Section 28220(b). That might be worth doing in the future, in a different reform. Unless the
17 Commission otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-
18 up Issues for Possible Future Legislative Attention.” See Memorandum 2008-52.

19 **§ 28225. Fee to be charged by dealer**

20 28225. (a) The Department of Justice may require the dealer to charge each
21 firearm purchaser a fee not to exceed fourteen dollars (\$14), except that the fee
22 may be increased at a rate not to exceed any increase in the California Consumer
23 Price Index as compiled and reported by the California Department of Industrial
24 Relations.

25 (b) The fee under subdivision (a) shall be no more than is necessary to fund the
26 following:

27 (1) The department for the cost of furnishing this information.

28 (2) The department for the cost of meeting its obligations under paragraph (2) of
29 subdivision (b) of Section 8100 of the Welfare and Institutions Code.

30 (3) Local mental health facilities for state-mandated local costs resulting from
31 the reporting requirements imposed by Section 8103 of the Welfare and
32 Institutions Code.

33 (4) The State Department of Mental Health for the costs resulting from the
34 requirements imposed by Section 8104 of the Welfare and Institutions Code.

35 (5) Local mental hospitals, sanitariums, and institutions for state-mandated local
36 costs resulting from the reporting requirements imposed by Section 8105 of the
37 Welfare and Institutions Code.

38 (6) Local law enforcement agencies for state-mandated local costs resulting
39 from the notification requirements set forth in subdivision (a) of Section 6385 of
40 the Family Code.

41 (7) Local law enforcement agencies for state-mandated local costs resulting
42 from the notification requirements set forth in subdivision (c) of Section 8105 of
43 the Welfare and Institutions Code.

44 (8) For the actual costs associated with the electronic or telephonic transfer of
45 information pursuant to Section 28215.1

1 (9) The Department of Food and Agriculture for the costs resulting from the
2 notification provisions set forth in Section 5343.5 of the Food and Agricultural
3 Code.

4 (10) The department for the costs associated with subdivisions (d) and (e) of
5 Section 27560.

6 (11) The department for the costs associated with funding Department of Justice
7 firearms-related regulatory and enforcement activities related to the sale, purchase,
8 loan, or transfer of firearms pursuant to any provision listed in Section 16580.

9 (c) The fee established pursuant to this section shall not exceed the sum of the
10 actual processing costs of the department, the estimated reasonable costs of the
11 local mental health facilities for complying with the reporting requirements
12 imposed by paragraph (3) of subdivision (b), the costs of the State Department of
13 Mental Health for complying with the requirements imposed by paragraph (4) of
14 subdivision (b), the estimated reasonable costs of local mental hospitals,
15 sanitariums, and institutions for complying with the reporting requirements
16 imposed by paragraph (5) of subdivision (b), the estimated reasonable costs of
17 local law enforcement agencies for complying with the notification requirements
18 set forth in subdivision (a) of Section 6385 of the Family Code, the estimated
19 reasonable costs of local law enforcement agencies for complying with the
20 notification requirements set forth in subdivision (c) of Section 8105 of the
21 Welfare and Institutions Code imposed by paragraph (7) of subdivision (b), the
22 estimated reasonable costs of the Department of Food and Agriculture for the costs
23 resulting from the notification provisions set forth in Section 5343.5 of the Food
24 and Agricultural Code, the estimated reasonable costs of the department for the
25 costs associated with subdivisions (d) and (e) of Section 27560, and the estimated
26 reasonable costs of department firearms-related regulatory and enforcement
27 activities related to the sale, purchase, loan, or transfer of firearms pursuant to any
28 provision listed in Section 16580.

29 (d) Where the electronic or telephonic transfer of applicant information is used,
30 the department shall establish a system to be used for the submission of the fees
31 described in this section to the department.

32 **Comment.** Subdivisions (a)-(c) of Section 28225 continue former Section 12076(e) without
33 substantive change.

34 Subdivision (d) continues former Section 12076(h) without substantive change.

35 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
36 2 (commencing with Section 28150), and 4 (commencing with Section 28300), see Article 5
37 (commencing with Section 28400).

38 For the consequences of violating this article, see Section 28250.

39 See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
40 Sections 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

41 **Staff Note.** Under existing Section 12076(e)(5), the fee to be paid by a firearm purchaser may
42 include an amount to fund “[l]ocal law enforcement agencies for state-mandated local costs
43 resulting from the notification requirements set forth in *subdivision (a) of Section 6385 of the*
44 *Family Code.*” (Emphasis added.) A similar cross-reference to Family Code Section 6385(a)
45 appears in the unlabeled paragraph at the end of existing Section 12076(e).

1 These cross-references to Family Code Section 6385(a) appear to be incorrect. That provision
2 does not include any notification requirements. It simply says:

3 (a) Proof of service of the protective order is not required for the purposes of Section 6380
4 if the order indicates on its face that both parties were personally present at the hearing at
5 which the order was issued and that, for the purpose of Section 6384, no proof of service is
6 required, or if the order was served by a law enforcement officer pursuant to Section 6383.

7 The staff suspects that the Legislature actually intended to refer to subdivision (a) of Family
8 Code Section 6383, which provides:

9 (a) A temporary restraining order or emergency protective order issued under this part
10 *shall*, on request of the petitioner, *be served on the respondent*, whether or not the respondent
11 has been taken into custody, *by any law enforcement officer* who is present at the scene of
12 reported domestic violence involving the parties to the proceeding.

13 (Emphasis added.)

14 However, the staff has not corrected the cross-references in drafting proposed Section
15 28225(b)(6) and (c). We are not sufficiently confident that Section 6383(a) is the correct
16 reference to take that step in this strictly nonsubstantive study.

17 But the cross-reference should be corrected in the future, in a different reform. Unless the
18 Commission otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-
19 up Issues for Possible Future Legislative Attention.” See Memorandum 2008-52.

20 **§ 28230. Fee that may be charged by Department of Justice**

21 28230. (a) The Department of Justice may charge a fee sufficient to reimburse it
22 for each of the following but not to exceed fourteen dollars (\$14), except that the
23 fee may be increased at a rate not to exceed any increase in the California
24 Consumer Price Index as compiled and reported by the California Department of
25 Industrial Relations:

26 (1) For the actual costs associated with the preparation, sale, processing, and
27 filing of forms or reports required or utilized pursuant to [Section 12078].

28 (2) For the actual processing costs associated with the submission of a Dealers’
29 Record of Sale to the department.

30 (3) For the actual costs associated with the preparation, sale, processing, and
31 filing of reports utilized pursuant to Section 26905, 27565, or 28000, or paragraph
32 (1) of subdivision (a) of Section 27560.

33 (4) For the actual costs associated with the electronic or telephonic transfer of
34 information pursuant to 28215.

35 (b) If the department charges a fee pursuant to paragraph (2) of subdivision (a),
36 it shall be charged in the same amount to all categories of transaction that are
37 within subdivision (a).

38 (c) Any costs incurred by the Department of Justice to implement this section
39 shall be reimbursed from fees collected and charged pursuant to this section. No
40 fees shall be charged to the dealer pursuant to Section 28225 for implementing this
41 section.

42 **Comment.** Section 28230 continues former Section 12076(f) without substantive change.

43 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
44 2 (commencing with Section 28150), and 4 (commencing with Section 28300), see Article 5
45 (commencing with Section 28400).

1 See Sections 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
2 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

3 **§ 28235. Dealers’ Record of Sale Special Account**

4 28235. All money received by the department pursuant to this article shall be
5 deposited in the Dealers’ Record of Sale Special Account of the General Fund,
6 which is hereby created, to be available, upon appropriation by the Legislature, for
7 expenditure by the department to offset the costs incurred pursuant to any of the
8 following:

- 9 (a) This article.
- 10 (b) [Section 12099].
- 11 (c) [Section 12131(c)].
- 12 (d) [Section 12234].
- 13 (e) [Section 12289].
- 14 (f) [Section 12289.5].
- 15 (g) Section 18910.
- 16 (h) Section 27555.
- 17 (i) Subdivisions (d) and (e) of Section 27560.
- 18 (j) Article 6 (commencing with Section 28450).

19 **Comment.** Section 28235 continues former Section 12076(g) without substantive change.

20 **§ 28240. Method of calculating fees**

21 28240. (a) Only one fee shall be charged pursuant to this article for a single
22 transaction on the same date for the sale of any number of firearms that are not
23 pistols, revolvers, or other firearms capable of being concealed upon the person, or
24 for the taking of possession of those firearms.

25 (b) In a single transaction on the same date for the delivery of any number of
26 firearms that are pistols, revolvers, or other firearms capable of being concealed
27 upon the person, the department shall charge a reduced fee pursuant to this article
28 for the second and subsequent firearms that are part of that transaction.

29 (c) Only one fee shall be charged pursuant to this article for a single transaction
30 on the same date for taking title or possession of any number of firearms pursuant
31 to Section 26905, 27870, 27875, 27915, 27920, or 27925.

32 **Comment.** Subdivisions (a) and (b) of Section 28240 continue former Section 12076(i)
33 without substantive change.

34 Subdivision (c) continues former Section 12076(j) without substantive change.

35 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
36 2 (commencing with Section 28150), and 4 (commencing with Section 28300), see Article 5
37 (commencing with Section 28400).

38 For the consequences of violating this article, see Section 28250.

39 See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
40 “pistol,” and “revolver”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

1 § 28245. Application of California Tort Claims Act

2 28245. Whenever the Department of Justice acts pursuant to this article as it
3 pertains to firearms other than pistols, revolvers, or other firearms capable of being
4 concealed upon the person, the department's acts or omissions shall be deemed to
5 be discretionary within the meaning of the California Tort Claims Act pursuant to
6 Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

7 **Comment.** Section 28245 continues former Section 12076(k) without substantive change.

8 See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person,"
9 "pistol," and "revolver").

10 § 28250. Punishment for violation of article, providing false information for firearm
11 transaction, or failing to provide necessary information for firearm transaction

12 28250. (a) Any person who does any of the following is guilty of a
13 misdemeanor:

14 (1) Furnishing a fictitious name or address for the register under Section 28210
15 or the electronic or telephonic transfer under Section 28215.

16 (2) Knowingly furnishing any incorrect information for the register under
17 Section 28210 or the electronic or telephonic transfer under Section 28215.

18 (3) Knowingly omitting any information required to be provided for the register
19 under Section 28210 or the electronic or telephonic transfer under Section 28215.

20 (4) Violating any provision of this article.

21 (b) Notwithstanding subdivision (a), any person who is prohibited from
22 obtaining a firearm pursuant to [Section 12021 or 12021.1 of this code], or Section
23 8100 or 8103 of the Welfare and Institutions Code who does any of the following
24 shall be punished by imprisonment in a county jail not exceeding one year or
25 imprisonment in the state prison for a term of 8, 12, or 18 months:

26 (1) Knowingly furnishes a fictitious name or address for the register under
27 Section 28210 or the electronic or telephonic transfer under Section 28215.

28 (2) Knowingly furnishes any incorrect information for the register under Section
29 28210 or the electronic or telephonic transfer under Section 28215.

30 (3) Knowingly omits any information required to be provided for the register
31 under Section 28210 or the electronic or telephonic transfer under Section 28215.

32 **Comment.** Section 28250 continues the third sentence of former Section 12076(b)(1) and the
33 third sentence of former Section 12076(c)(1) without substantive change.

34 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
35 2 (commencing with Section 28150), and 4 (commencing with Section 28300), see Article 5
36 (commencing with Section 28400).

37 **Staff Note.** Existing Section 12076(b) governs use of a register for submitting applicant
38 information to the Department of Justice for a firearm transaction. Existing Section 12076(c) is a
39 parallel provision, which governs electronic or telephonic transfer of applicant information for a
40 firearm transaction.

41 The third sentence of existing Section 12076(b)(1) says:

42 Any person furnishing a fictitious name or address or knowingly furnishing any incorrect
43 information or knowingly omitting any information required to be provided for *the register*
44 and any person violating any provision of this section is guilty of a misdemeanor, provided

1 For exceptions to provisions in this article and in Articles 1 (commencing with Section 28100),
2 2 (commencing with Section 28150), and 3 (commencing with Section 28200), see Article 5
3 (commencing with Section 28400).

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

6 Article 5. Exceptions Relating to Law Enforcement

7 **§ 28400. Exception for sale, delivery, or transfer to authorized law enforcement** 8 **representative of city, county, city and county, or state or federal government**

9 28400. (a) Articles 1 (commencing with Section 28100), 2 (commencing with
10 Section 28150), 3 (commencing with Section 28200), and 4 (commencing with
11 Section 28300) do not apply to any sale, delivery, or transfer of firearms made to
12 an authorized law enforcement representative of any city, county, city and county,
13 or state, or of the federal government, for exclusive use by that governmental
14 agency if, prior to the sale, delivery, or transfer of these firearms, written
15 authorization from the head of the agency authorizing the transaction is presented
16 to the person from whom the purchase, delivery, or transfer is being made.

17 (b) Proper written authorization is defined as verifiable written certification from
18 the head of the agency by which the purchaser or transferee is employed,
19 identifying the employee as an individual authorized to conduct the transaction,
20 and authorizing the transaction for the exclusive use of the agency by which that
21 person is employed.

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

28 **Comment.** Section 28400 continues former Section 12078(a)(2) without substantive change, as
29 that provision applied to former Sections 12073, 12074, 12075, 12076, 12076.5, and 12077
30 (through its reference to “the preceding provisions of this article”).

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

32 **§ 28405. Exception for loan of firearm to peace officer employee for use in performing** 33 **official duties**

34 28405. Articles 1 (commencing with Section 28100), 2 (commencing with
35 Section 28150), 3 (commencing with Section 28200), and 4 (commencing with
36 Section 28300) do not apply to the loan of a firearm if all of the following
37 conditions are satisfied:

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

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

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

3 **Comment.** Section 28405 continues former Section 12078(a)(3) without substantive change, as
4 that provision applied to former Sections 12073, 12074, 12075, 12076, 12076.5, and 12077
5 (through its reference to “the preceding provisions of this article”).

6 See Section 16520 (“firearm”).

7 **§ 28410. Exception for sale, delivery, or transfer by law enforcement agency to peace officer**
8 **pursuant to Public Contract Code**

9 28410. (a) Articles 1 (commencing with Section 28100), 2 (commencing with
10 Section 28150), 3 (commencing with Section 28200), and 4 (commencing with
11 Section 28300) do not apply to the sale, delivery, or transfer of a firearm by a law
12 enforcement agency to a peace officer pursuant to Section 10334 of the Public
13 Contract Code.

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

23 **Comment.** Section 28410 continues former Section 12078(a)(4) without substantive change, as
24 that provision applied to former Sections 12073, 12074, 12075, 12076, 12076.5, and 12077
25 (through its reference to “the preceding provisions of this article”).

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

27 **§ 28415. Exception for sale, delivery, or transfer by law enforcement agency to retiring**
28 **peace officer authorized to carry concealed and loaded firearm**

29 28415. (a) Articles 1 (commencing with Section 28100), 2 (commencing with
30 Section 28150), 3 (commencing with Section 28200), and 4 (commencing with
31 Section 28300) do not apply to the sale, delivery, or transfer of a firearm by a law
32 enforcement agency to a retiring peace officer who is authorized to carry a firearm
33 pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

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

1 **Comment.** Section 28415 continues former Section 12078(a)(5) without substantive change, as
2 that provision applied to former Sections 12073, 12074, 12075, 12076, 12076.5, and 12077
3 (through its reference to “the preceding provisions of this article”).

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

5 Article 6. Centralized List of Exempted Federal Firearms Licensees

6 **§ 28450. Centralized list of exempted federal firearms licensees**

7 28450. (a) Commencing January 1, 2008, the Department of Justice shall keep a
8 centralized list of persons who identify themselves as being licensed pursuant to
9 Chapter 44 (commencing with Section 921) of Title 18 of the United States Code
10 as a dealer, pawnbroker, importer, or manufacturer of firearms whose licensed
11 premises are within this state and who declare to the department an exemption
12 from the firearms dealer licensing requirements of Section 26500.

13 (b) The list shall be known as the centralized list of exempted federal firearms
14 licensees.

15 (c) To qualify for placement on the centralized list, an applicant shall do all of
16 the following:

17 (1) Possess a valid federal firearms license pursuant to Chapter 44 (commencing
18 with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker,
19 importer, or manufacturer of firearms.

20 (2) Maintain eligibility under California law to possess firearms by possessing a
21 current, valid certificate of eligibility pursuant to Section 26710.

22 (3) Maintain with the department a signed declaration enumerating the
23 applicant’s statutory exemptions from licensing requirements of Section 26500.

24 **Comment.** Section 28450 continues former Section 12083(a) without substantive change,
25 except the second sentence of paragraph (a)(3), which is continued without substantive change in
26 Section 28455.

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

29 **§ 28455. Punishment for misconduct in submitting declaration enumerating statutory**
30 **exemptions from licensing requirements**

31 28455. Any person furnishing a fictitious name, knowingly furnishing any
32 incorrect information, or knowingly omitting any information for the declaration
33 under paragraph (3) of subdivision (c) of Section 28450 shall be guilty of a
34 misdemeanor.

35 **Comment.** Section 28455 continues the second sentence of former Section 12083(a)(3)
36 without substantive change.

37 **§ 28460. Fee**

38 28460. (a) Commencing January 1, 2008, the department shall assess an annual
39 fee of one hundred fifteen dollars (\$115) to cover its costs of maintaining the
40 centralized list of exempted federal firearms licensees prescribed by Section
41 28450, conducting inspections in accordance with this article, and for the cost of

1 maintaining the firearm shipment verification number system described in Section
2 27555.

3 (b) The department may increase the fee at a rate not to exceed the increase in
4 the California Consumer Price Index as compiled and reported by the Department
5 of Industrial Relations.

6 (c) The fees collected shall be deposited in the Dealers' Record of Sale Special
7 Account.

8 **Comment.** Section 28460 continues former Section 12083(b) without substantive change.
9 For the provision establishing the Dealers' Record of Sale Special Account, see Section 28235.
10 See Section 16520 ("firearm").

11 **§ 28465. Restriction on importing or receiving firearms**

12 28465. (a) Any person licensed pursuant to Chapter 44 (commencing with
13 Section 921) of Title 18 of the United States Code as a dealer, pawnbroker,
14 importer, or manufacturer of firearms whose licensed premises are within this state
15 shall not import or receive firearms from any source unless listed on the
16 centralized list of firearms dealers pursuant to Section 26715, or the centralized
17 list of exempted federal firearms licensees pursuant to Section 28450, or the
18 centralized list of firearms manufacturers pursuant to [Section 12086(f)].

19 (b) A violation of this section is a misdemeanor.

20 **Comment.** Section 28465 continues former Section 12083(c) without substantive change.
21 See Section 16520 ("firearm").

22 **§ 28470. Maintaining record of verification number**

23 28470. (a) All persons on the centralized list of exempted federal firearms
24 licensees prescribed by Section 28450 shall record and keep on file for three years,
25 the verification number that shall accompany firearms received from other federal
26 firearms licensees pursuant to Section 27555.

27 (b) A violation of this section is cause for immediate removal from the
28 centralized list.

29 **Comment.** Section 28470 continues former Section 12083(d) without substantive change.
30 For another provision authorizing removal from the centralized list in specified circumstances,
31 see Section 28485.
32 See Section 16520 ("firearm").

33 **§ 28475. Use of information from centralized list of exempted federal firearms licensees**

34 28475. Information compiled from the list described in Section 28450 shall be
35 made available for the following purposes:

36 (a) Requests from local, state, and federal law enforcing agencies and the duly
37 constituted city, county, and city and county licensing authorities.

38 (b) When the information is requested by a person licensed pursuant to Chapter
39 44 (commencing with Section 921) of Title 18 of the United States Code for
40 determining the validity of the license for firearm shipments.

41 **Comment.** Section 28475 continues former Section 12083(e) without substantive change.

1 See Section 16520 (“firearm”).

2 **§ 28480. Inspection of business premises**

3 28480. (a) The department may conduct onsite inspections at the business
4 premises of a person on the centralized list described in Section 28450 to
5 determine compliance with firearms laws pursuant to the provisions listed in
6 Section 16575.

7 (b) The department shall work in consultation with the Bureau of Alcohol,
8 Tobacco, Firearms, and Explosives to ensure that licensees are not subject to
9 duplicative inspections.

10 (c) During the inspection the following firearm records shall be made available
11 for review:

12 (1) Federal records referred to in subdivision (a) of Section 478.125 of Title 27
13 of the Code of Federal Regulations and the bound book containing the same
14 information referred to in Section 478.124a and subdivision (e) of Section 478.125
15 of Title 27 of the Code of Federal Regulations.

16 (2) Verification numbers issued pursuant to Section 27555.

17 (3) Any other records requested by the department to determine compliance with
18 the provisions listed in Section 16575.

19 **Comment.** Section 28480 continues former Section 12083(f) without substantive change.

20 See Section 16520 (“firearm”).

21 **Staff Note.** Existing Section 12083(f)(1) permits inspection of:

22 Federal records referred to in subdivision (a) of Section 478.125 of Title 27 of the Code of
23 Federal Regulations and *the bound book containing the same information referred to in*
24 *Section 478.124a* and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal
25 Regulations.

26 (Emphasis added.)

27 The staff is not sure the reference to “the bound book containing the same information referred
28 to in Section 478.124a” is correct. There is no mention of a “bound book” or other bound
29 document in Section 478.124a of Title 27 of the Code of Federal Regulations. In contrast, there
30 are several references to a “bound record” in subdivision (a) of Section 478.125 of Title 27 of the
31 Code of Federal Regulations, which is adjacent to Section 478.124a.

32 It is possible that the Legislature actually intended to refer to subdivision (a) of Section
33 478.125, instead of Section 478.124a. But we are not confident of this.

34 Thus, we have left the cross-reference to Section 478.124a intact in drafting proposed Section
35 28480. We encourage comment on whether that cross-reference is correct and whether this matter
36 should be added to the Commission’s list of “Minor Clean-up Issues for Possible Future
37 Legislative Attention.”

38 **§ 28485. Removal from centralized list of exempted federal firearms licensees**

39 28485. The department may remove from the centralized list described in
40 Section 28450 any person who violates a provision listed in Section 16575.

41 **Comment.** Section 28485 continues former Section 12083(g) without substantive change.

42 See also Section 28470, which requires recording and retention of verification numbers and
43 states that violation of that requirement is cause for immediate removal from the centralized list
44 of exempted federal firearms licensees.

1 **§ 28490. Regulations**

2 28490. The department may adopt regulations as necessary to carry out the
3 provisions of this article, Articles 1 (commencing with Section 26700) and 2
4 (commencing with Section 26800) of Chapter 2, and Sections 27555 to 27570,
5 inclusive. The department shall work in consultation with the Bureau of Alcohol,
6 Tobacco, Firearms, and Explosives to ensure that state regulations are not
7 duplicative of federal regulations.

8 **Comment.** Section 28490 continues former Section 12083(h) without substantive change.
