

Memorandum 2009-4

**Nonsubstantive Reorganization of Deadly Weapon Statutes:
Assault Weapons and .50 BMG Rifles
(Chapter 2 of Division 10 of Title 4 of New Part 6)**

The Commission is preparing a tentative recommendation that would reorganize most of the substance of 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 change. To that end, attached is a draft of Chapter 2 of Division 10 of Title 4 of new Part 6, which relates to assault weapons and .50 BMG rifles.

Preparing this draft was more complicated than preparing some of the other material for new Part 6, because the rules relating to assault weapons and .50 BMG rifles were established and phased in at various different times, and some of the existing statutory material specifies or refers to rules for time periods that have already elapsed. For example, the registration period for .50 BMG rifles ended on April 30, 2006, and an exemption from certain restrictions relating to .50 BMG rifles also ended on that date. See Penal Code §§ 12280(s), 12285(a)(2). Similarly, different weapons were classified as “assault weapons” at different times, by different means. Some of the procedures have been discontinued. There were thus different registration periods for different weapons, different exemptions for different weapons, and the like. Much of this history remains memorialized in the existing statutes.

Some of this material might be obsolete, but the staff suspects that most of it remains useful for reference purposes. For example, the provision on registration of .50 BMG rifles and the corresponding exemption may be useful in determining what crimes can still be charged for conduct that occurred in the past, or in reviewing a conviction for conduct during a specific time period.

Because this is a strictly nonsubstantive study, the Commission has been extremely cautious about deleting any existing statutory material as obsolete. It has preserved essentially all of the existing statutory material, regardless of

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whether the material appears obsolete. Some matters have been noted for possible future study. See Memorandum 2008-62, Attachment pp. 17-18.

The staff continued that approach in drafting the chapter on assault weapons and .50 BMG rifles. More than elsewhere, however, preserving the existing material presented drafting complications.

For example, Penal Code Section 12276(d) provides:

12276. As used in this chapter, "assault weapon" shall mean the following designated semiautomatic firearms:

....
(d) Any firearm declared by the court pursuant to *Section 12276.5* to be an assault weapon that is specified as an assault weapon in a list promulgated pursuant to *Section 12276.5*.
....

(Emphasis added.) In recodifying this provision, it is necessary to decide how to conform the italicized statutory references.

Possibilities include the following:

- "Any firearm declared by the court pursuant to *Section 30520* to be an assault weapon that is specified as an assault weapon in a list promulgated pursuant to *Section 30520*."
- "Any firearm declared by the court pursuant to *former Section 12276.5* to be an assault weapon that is specified as an assault weapon in a list promulgated pursuant to *former Section 12276.5*."
- "Any firearm declared by the court pursuant to *former Section 12276.5* to be an assault weapon that is specified as an assault weapon in a list promulgated pursuant to *former Section 12276.5, which is continued in Section 30520*."
- "Any firearm declared by the court pursuant to *Section 30520 or former Section 12276.5* to be an assault weapon that is specified as an assault weapon in a list promulgated pursuant to *Section 30520 or former Section 12276.5*."

In deciding among these possibilities, does it matter that Section 12276.5 used to specify a procedure for a court to declare that a firearm is an assault weapon, but it has since been amended to discontinue that procedure? Does it matter that Section 12276.5 used to require the Attorney General to promulgate a list, consisting of all firearms declared to be assault weapons pursuant to that section or designated as assault weapons in Section 12276, but that duty ended on January 1, 2007?

The staff struggled with issues such as these in preparing the attached draft. We found that different approaches seemed to work better in different situations.

Sometimes, it seemed helpful to refer to both a provision being recodified (e.g., Section 12276, which would become “former Section 12276”) and its recodification (e.g., proposed Section 30510, which would become “Section 30510”). Elsewhere, that approach would have cluttered up the statute and impeded readability. In some such places, we referred only to the recodification, which will be more readily accessible than its predecessor. Still elsewhere, we referred only to the predecessor, because that appeared appropriate in context. For example, citing to the predecessor might be the best solution where a statute refers to a situation that clearly predates the recodification.

In making these drafting decisions, we relied in part on proposed Penal Code Section 16010, which would provide:

§ 16010. Continuation of existing law

16010. (a) A provision of this part, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be considered as a restatement and continuation thereof and not as a new enactment.

(b) A reference in a statute to a previously existing provision that is restated and continued in this part shall, unless a contrary intent appears, be deemed a reference to the restatement and continuation.

(c) A reference in a statute to a provision of this part that is substantially the same as a previously existing provision shall, unless a contrary intent appears, be deemed to include a reference to the previously existing provision.

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

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

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

Where this provision appeared particularly relevant, we cited to it in the Comment.

In some places, we also included background information or an explanation in the Comment. For example, if a proposed provision would refer to “former Section 12276,” the Comment would explain which new provision continues former Section 12276.

Thus, the provision quoted above — Section 12276(d) — would be recodified as follows:

30510. As used in this chapter and in [Sections 12011(a)], 16110, 16780, 17000, and 27555, “assault weapon” means the following designated semiautomatic firearms:

....

(d) Any firearm declared by the court pursuant to *former Section 12276.5* to be an assault weapon that is specified as an assault weapon in a list promulgated pursuant to *former Section 12276.5*.

....

Comment. Subdivisions (a)-(d) and the introductory clause of Section 30510 continue former Section 12276(a)-(d) and its introductory clause without substantive change. See also former Sections 12001(n)(11), 12072(f)(1)(A), 12282, and 12601(b)(12), which cross-referred to the definition in former Section 12276.

Subdivision (e) continues former Section 12276(f) without substantive change.

Subdivisions (d) and (e) refer to former Section 12276.5, which (1) prescribed a procedure by which a court could classify a weapon as an assault weapon, and (2) directed the Attorney General to promulgate a list of the weapons classified as assault weapons by statute or by a court. See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As so amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).

Subdivision (f) continues former Section 12276(e) without substantive change.

See Section 30515 (further clarification of “assault weapon”).

(Emphasis added.) **We encourage comment on whether this treatment of the cross-references in Section 12276(d) is appropriate. We would also appreciate similar scrutiny and input regarding the remainder of the attached draft.**

In addition, we suggest that **some discussion of the drafting issues described above be included in the narrative portion (preliminary part) of the Commission’s report.** Such discussion should emphasize the nonsubstantive nature of the proposed legislation and the overriding principle of interpreting the legislation consistent with its nonsubstantive intent. That principle is already stated in proposed Section 16005, which would provide:

§ 16005. Nonsubstantive reform

16005. Nothing in the Deadly Weapons Recodification Act of 2012 is intended to substantively change the law relating to deadly weapons. The act is intended to be entirely nonsubstantive in effect. *Every provision of the act, including, without limitation, every cross-*

reference in every provision of the act, shall be interpreted consistent with the nonsubstantive intent of the act.

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

(Emphasis added.) The staff will suggest some possible language for the preliminary part in Memorandum 2009-10.

In addition to the drafting issues discussed above, some other issues came to mind in preparing the attached draft. Staff Notes (~~is~~ **Staff Note**) in the draft raise points to consider. **The staff does not plan to discuss each of these points 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
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PROPOSED LEGISLATION

☞ Staff Note. This is a work in progress. The material shown below may be changed.

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 following 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.

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TITLE 4. FIREARMS

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DIVISION 10. SPECIAL RULES RELATING TO PARTICULAR TYPES OF FIREARMS OR FIREARM EQUIPMENT

....

CHAPTER 2. ASSAULT WEAPONS AND .50 BMG RIFLES

☞ Staff Notes.

(1) This chapter is organized as follows:

- Article 1, entitled “General Provisions,” contains the material currently in Sections 12275, 12275.5, 12276, 12276.1, and 12276.5, except (1) the definitions in Section 12276.1(d), which will be placed in the “Definitions” portion of new Part 6, and (2) Section 12276.1(e), which states an operative date that has long since passed and would be memorialized elsewhere in this chapter (see proposed Section 30620(c)).
- Article 2, entitled “Unlawful Acts Relating to Assault Weapons and .50 BMG Rifles,” contains the material currently in Section 12280.
- Article 3, entitled “SKS Rifles,” contains the material currently in Section 12281.
- Article 4, entitled “Assault Weapon or .50 BMG Rifle Constituting Nuisance,” contains the material currently in Section 12282.
- Article 5, entitled “Registration of Assault Weapons and .50 BMG Rifles and Related Rules,” contains the material currently in Section 12285.
- Article 6, entitled “Permits for Assault Weapons and .50 BMG Rifles,” contains the material currently in Sections 12286 and 12287.

- 1 • Article 7, entitled “Licensed Gun Dealers,” contains the material currently in Section
2 12290.
- 3 • Article 8, entitled “Miscellaneous Provisions,” contains the material currently in Sections
4 12288, 12288.5, 12289, and 12289.5.

5 The chapter will thus contain the entirety of the Roberti-Roos Assault Weapons Control Act of
6 1989 and the .50 Caliber BMG Regulation Act of 2004 (existing Sections 12275-12290), except
7 some definitions that would apply to the chapter but would be located in the “Definitions” portion
8 of new Part 6.

9 (2) Some of the material in this chapter appears to be outdated and possibly obsolete. In
10 drafting the chapter, the staff has preserved essentially all of that material. We took this cautious
11 approach because deleting language as obsolete might raise concerns about a possible substantive
12 change. In addition, apparently obsolete language might remain useful for reference purposes,
13 such as deciding what crimes can be charged for conduct that occurred in the past.

14 With regard to some of the provisions in the chapter, we have suggested that the possibility of
15 removing obsolete material be added to the Commission’s list of “Minor Clean-up Issues for
16 Possible Future Legislative Attention.” For instance, see the Staff Note at the beginning of the
17 article on SKS Rifles.

18 It might be advisable to review the *entire* chapter for obsolete material. Comments on this idea
19 would be helpful. In particular, it would be helpful to hear whether to include the idea on the
20 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

21 Article 1. General Provisions

22 § 30500. Title

23 30500. This chapter shall be known as the Roberti-Roos Assault Weapons
24 Control Act of 1989 and the .50 Caliber BMG Regulation Act of 2004.

25 **Comment.** Section 30500 continues former Section 12275 without substantive change.

26 § 30505. Legislative findings

27 30505. (a) The Legislature hereby finds and declares that the proliferation and
28 use of assault weapons poses a threat to the health, safety, and security of all
29 citizens of this state. The Legislature has restricted the assault weapons specified
30 in Section 30510 based upon finding that each firearm has such a high rate of fire
31 and capacity for firepower that its function as a legitimate sports or recreational
32 firearm is substantially outweighed by the danger that it can be used to kill and
33 injure human beings. It is the intent of the Legislature in enacting this chapter to
34 place restrictions on the use of assault weapons and to establish a registration and
35 permit procedure for their lawful sale and possession. It is not, however, the intent
36 of the Legislature by this chapter to place restrictions on the use of those weapons
37 which are primarily designed and intended for hunting, target practice, or other
38 legitimate sports or recreational activities.

39 (b) The Legislature hereby finds and declares that the proliferation and use of
40 .50 BMG rifles poses a clear and present terrorist threat to the health, safety, and
41 security of all residents of, and visitors to, this state, based upon findings that
42 those firearms have such a high capacity for long distance and highly destructive
43 firepower that they pose an unacceptable risk to the death and serious injury of

1 human beings, destruction or serious damage of vital public and private buildings,
2 civilian, police and military vehicles, power generation and transmission facilities,
3 petrochemical production and storage facilities, and transportation infrastructure.
4 It is the intent of the Legislature in enacting this chapter to place restrictions on the
5 use of these rifles and to establish a registration and permit procedure for their
6 lawful sale and possession.

7 **Comment.** Section 30505 continues former Section 12275.5 without substantive change.

8 See Sections 16110 (“.50 BMG rifle”), 16520 (“firearm”), 30510 (“assault weapon”), 30515
9 (further clarification of “assault weapon”).

10 **Staff Note.** Existing Section 12275.5(b) refers to “.50 BMG rifles, *as defined in Section*
11 *12278 ...*” (Emphasis added.) In proposed Section 30505, we have (1) replaced that reference
12 with “.50 BMG rifles,” and (2) included a reference to the definition of “.50 BMG rifle” in the
13 Comment, which also states that “Section 30505 continues former Section 12275.5 without
14 substantive change.”

15 We chose this approach because it would further the Legislature’s directive to “[a]void
16 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope of
17 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
18 weight to the Commission’s comments, we think this would be sufficient to preserve the
19 substance of Section 12275.5. See 2007-2008 Annual Report, 37 Cal. L. Revision Comm’n
20 Reports 1, 17-23 (2007).

21 **§ 30510. “Assault weapon”**

22 30510. As used in this chapter and in [Sections 12011(a)], 16110, 16780, 17000,
23 and 27555, “assault weapon” means the following designated semiautomatic
24 firearms:

25 (a) All of the following specified rifles:

26 (1) All AK series including, but not limited to, the models identified as follows:

27 (A) Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S.

28 (B) Norinco 56, 56S, 84S, and 86S.

29 (C) Poly Technologies AKS and AK47.

30 (D) MAADI AK47 and ARM.

31 (2) UZI and Galil.

32 (3) Beretta AR-70.

33 (4) CETME Sporter.

34 (5) Colt AR-15 series.

35 (6) Daewoo K-1, K-2, Max 1, Max 2, AR 100, and AR 110C.

36 (7) Fabrique Nationale FAL, LAR, FNC, 308 Match, and Sporter.

37 (8) MAS 223.

38 (9) HK-91, HK-93, HK-94, and HK-PSG-1.

39 (10) The following MAC types:

40 (A) RPB Industries Inc. sM10 and sM11.

41 (B) SWD Incorporated M11.

42 (11) SKS with detachable magazine.

43 (12) SIG AMT, PE-57, SG 550, and SG 551.

44 (13) Springfield Armory BM59 and SAR-48.

- 1 (14) Sterling MK-6.
- 2 (15) Steyer AUG.
- 3 (16) Valmet M62S, M71S, and M78S.
- 4 (17) Armalite AR-180.
- 5 (18) Bushmaster Assault Rifle.
- 6 (19) Calico M-900.
- 7 (20) J&R ENG M-68.
- 8 (21) Weaver Arms Nighthawk.

- 9 (b) All of the following specified pistols:
- 10 (1) UZI.
 - 11 (2) Encom MP-9 and MP-45.
 - 12 (3) The following MAC types:
 - 13 (A) RPB Industries Inc. sM10 and sM11.
 - 14 (B) SWD Incorporated M-11.
 - 15 (C) Advance Armament Inc. M-11.
 - 16 (D) Military Armament Corp. Ingram M-11.
 - 17 (4) Intratec TEC-9.
 - 18 (5) Sites Spectre.
 - 19 (6) Sterling MK-7.
 - 20 (7) Calico M-950.
 - 21 (8) Bushmaster Pistol.

- 22 (c) All of the following specified shotguns:
- 23 (1) Franchi SPAS 12 and LAW 12.
 - 24 (2) Striker 12.
 - 25 (3) The Streetsweeper type S/S Inc. SS/12.
- 26 (d) Any firearm declared by the court pursuant to former Section 12276.5 to be
- 27 an assault weapon that is specified as an assault weapon in a list promulgated
- 28 pursuant to former Section 12276.5.

29 (e) This section is declaratory of existing law and a clarification of the law and

30 the Legislature’s intent which bans the weapons enumerated in this section, the

31 weapons included in the list promulgated by the Attorney General pursuant to

32 former Section 12276.5, and any other models that are only variations of those

33 weapons with minor differences, regardless of the manufacturer. The Legislature

34 has defined assault weapons as the types, series, and models listed in this section

35 because it was the most effective way to identify and restrict a specific class of

36 semiautomatic weapons.

37 (f) As used in this section, “series” includes all other models that are only

38 variations, with minor differences, of those models listed in subdivision (a),

39 regardless of the manufacturer.

40 **Comment.** Subdivisions (a)-(d) and the introductory clause of Section 30510 continue former

41 Section 12276(a)-(d) and its introductory clause without substantive change. See also former

42 Sections 12001(n)(11), 12072(f)(1)(A), 12282, and 12601(b)(12), which cross-referred to the

43 definition in former Section 12276.

44 Subdivision (e) continues former Section 12276(f) without substantive change.

1 Subdivisions (d) and (e) refer to former Section 12276.5, which (1) prescribed a procedure by
2 which a court could classify a weapon as an assault weapon, and (2) directed the Attorney
3 General to promulgate a list of the weapons classified as assault weapons by statute or by a court.
4 See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those
5 procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As so
6 amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).

7 Subdivision (f) continues former Section 12276(e) without substantive change.

8 See Section 30515 (further clarification of “assault weapon”).

9 **☞ Staff Notes.**

10 (1) For discussion of why this definition is located here instead of in the “Definitions” portion
11 of new Part 6, see Memorandum 2008-42, pp. 4-8; Minutes (Sept. 2008), p. 7.

12 (2) Subdivision (d) of existing Section 12276 refers to any “firearm declared by the court
13 pursuant to *Section 12276.5* to be an assault weapon that is specified as an assault weapon in a list
14 promulgated pursuant to *Section 12276.5*.” (Emphasis added.) Similarly, subdivision (f) of the
15 same section refers to “the weapons included in the list promulgated by the Attorney General
16 pursuant to *Section 12276.5*” (Emphasis added.)

17 Subdivisions (d) and (e) of proposed Section 30510 would continue those provisions. In
18 drafting subdivisions (d) and (e), it was necessary to determine how to conform the cross-
19 references to “Section 12276.5.”

20 The staff’s initial reaction was to replace the cross-references to “Section 12276.5” with cross-
21 references to the provision that would continue Section 12276.5 — i.e., proposed Section 30520.

22 Further research showed, however, that such an approach would be inappropriate. In the past,
23 Section 12276.5 prescribed a procedure by which a court could classify a weapon as an assault
24 weapon on the ground that it was essentially identical to a weapon listed in Section 12276. See
25 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Section
26 12276.5 also directed the Attorney General to “promulgate a list that specifies all firearms
27 designated as assault weapons in Section 12276 or declared to be assault weapons pursuant to this
28 section.” See 1991 Cal. Stat. ch. 954, § 3.

29 In 1999, however, Section 12276.1 was enacted. It provided “a new ‘generic’ definition list of
30 assault weapons” See Senate Floor Analysis of SB 23 (July 19, 1999), p. 2. Consequently, the
31 judicial procedure for classifying a firearm as an assault weapon was no longer needed. It was
32 eliminated as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. The Attorney General’s duty to
33 promulgate a list of assault weapons likewise ended January 1, 2007. See Section 12276.5(b)(1).

34 Thus, in drafting proposed Section 30510, we have replaced each cross-reference to Section
35 12276.5 with a cross-reference to “former Section 12276.5.” A cross-reference to the provision
36 that would continue Section 12276.5 (proposed Section 30520) is not needed, because a court can
37 no longer declare a firearm to be an assault weapon, nor can the Attorney General add a new
38 firearm to the list of assault weapons.

39 **§ 30515. Further clarification of “assault weapon”**

40 30515. (a) Notwithstanding Section 30510, “assault weapon” also means any of
41 the following:

42 (1) A semiautomatic, centerfire rifle that has the capacity to accept a detachable
43 magazine and any one of the following:

44 (A) A pistol grip that protrudes conspicuously beneath the action of the weapon.

45 (B) A thumbhole stock.

46 (C) A folding or telescoping stock.

47 (D) A grenade launcher or flare launcher.

48 (E) A flash suppressor.

- 1 (F) A forward pistol grip.
- 2 (2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity
3 to accept more than 10 rounds.
- 4 (3) A semiautomatic, centerfire rifle that has an overall length of less than 30
5 inches.
- 6 (4) A semiautomatic pistol that has the capacity to accept a detachable magazine
7 and any one of the following:
- 8 (A) A threaded barrel, capable of accepting a flash suppressor, forward
9 handgrip, or silencer.
- 10 (B) A second handgrip.
- 11 (C) A shroud that is attached to, or partially or completely encircles, the barrel
12 that allows the bearer to fire the weapon without burning the bearer's hand, except
13 a slide that encloses the barrel.
- 14 (D) The capacity to accept a detachable magazine at some location outside of
15 the pistol grip.
- 16 (5) A semiautomatic pistol with a fixed magazine that has the capacity to accept
17 more than 10 rounds.
- 18 (6) A semiautomatic shotgun that has both of the following:
- 19 (A) A folding or telescoping stock.
- 20 (B) A pistol grip that protrudes conspicuously beneath the action of the weapon,
21 thumbhole stock, or vertical handgrip.
- 22 (7) A semiautomatic shotgun that has the ability to accept a detachable
23 magazine.
- 24 (8) Any shotgun with a revolving cylinder.
- 25 (b) The Legislature finds a significant public purpose in exempting from the
26 definition of "assault weapon" pistols that are designed expressly for use in
27 Olympic target shooting events. Therefore, those pistols that are sanctioned by the
28 International Olympic Committee and by USA Shooting, the national governing
29 body for international shooting competition in the United States, and that were
30 used for Olympic target shooting purposes as of January 1, 2001, and that would
31 otherwise fall within the definition of "assault weapon" pursuant to this section are
32 exempt, as provided in subdivision (c).
- 33 (c) "Assault weapon" does not include either of the following:
- 34 (1) Any antique firearm.
- 35 (2) Any of the following pistols, because they are consistent with the significant
36 public purpose expressed in subdivision (b):

37	MANUFACTURER	MODEL	CALIBER
38	BENELLI	MP90	.22LR
39	BENELLI	MP90	.32 S&W LONG
40	BENELLI	MP95	.22LR
41	BENELLI	MP95	.32 S&W LONG

1	HAMMERLI	280	.22LR
2	HAMMERLI	280	.32 S&W LONG
3	HAMMERLI	SP20	.22LR
4	HAMMERLI	SP20	.32 S&W LONG
5	PARDINI	GPO	.22 SHORT
6	PARDINI	GP-SCHUMANN	.22 SHORT
7	PARDINI	HP	.32 S&W LONG
8	PARDINI	MP	.32 S&W LONG
9	PARDINI	SP	.22LR
10	PARDINI	SPE	.22LR
11	WALTHER	GSP	.22LR
12	WALTHER	GSP	.32 S&W LONG
13	WALTHER	OSP	.22 SHORT
14	WALTHER	OSP-2000	.22 SHORT

15 (3) The Department of Justice shall create a program that is consistent with the
 16 purposes stated in subdivision (b) to exempt new models of competitive pistols
 17 that would otherwise fall within the definition of “assault weapon” pursuant to this
 18 section from being classified as an assault weapon. The exempt competitive pistols
 19 may be based on recommendations by USA Shooting consistent with the
 20 regulations contained in the USA Shooting Official Rules or may be based on the
 21 recommendation or rules of any other organization that the department deems
 22 relevant.

23 **Comment.** Section 30515 continues former Section 12276.1 without substantive change. See
 24 also former Sections 12001(n)(11), 12072(f)(1)(A), 12282, and 12601(b)(12), which cross-
 25 referred to the definitional material in former Section 12276.1.

26 See Sections 16170 (“antique firearm”), 16350 (“capacity to accept more than 10 rounds”),
 27 16890 (“magazine”), 30510 (“assault weapon”).

28 **☞ Staff Notes.**

29 (1) For discussion of why this definition is located here instead of in the “Definitions” portion
 30 of new Part 6, see Memorandum 2008-42, pp. 4-8; Minutes (Sept. 2008), p. 7.

31 (2) The introduction to existing Section 12276.1(c) says that assault weapon “does not include
 32 *either* of the following” (Emphasis added.) The provision then lists three different alternatives,
 33 which would be continued in proposed Section 30515(c)(1)-(3) as shown above.

34 Because there are three different alternatives, not just two, the introduction should perhaps be
 35 rephrased to say that assault weapon “does not include *any* of the following” The staff
 36 preserved the existing language, however, so as to minimize any concern that the Commission’s
 37 proposed reorganization would have a substantive impact.

38 The point might be worth addressing in the future, in a different reform. Unless the
 39 Commission otherwise directs, we will add this issue to the Commission’s list of “Minor Clean-
 40 up Issues for Possible Future Legislative Attention.”

1 **§ 30520. Duties of Attorney General**

2 30520. (a) The Attorney General shall prepare a description for identification
3 purposes, including a picture or diagram, of each assault weapon listed in Section
4 30510, and any firearm declared to be an assault weapon pursuant to former
5 Section 12276.5, and shall distribute the description to all law enforcement
6 agencies responsible for enforcement of this chapter. Those law enforcement
7 agencies shall make the description available to all agency personnel.

8 (b)(1) Until January 1, 2007, the Attorney General shall promulgate a list that
9 specifies all firearms designated as assault weapons in former Section 12276 or
10 declared to be assault weapons pursuant to former Section 12276.5. The Attorney
11 General shall file that list with the Secretary of State for publication in the
12 California Code of Regulations. Any declaration that a specified firearm is an
13 assault weapon shall be implemented by the Attorney General who, within 90
14 days, shall promulgate an amended list which shall include the specified firearm
15 declared to be an assault weapon. The Attorney General shall file the amended list
16 with the Secretary of State for publication in the California Code of Regulations.
17 Any firearm declared to be an assault weapon prior to January 1, 2007, shall
18 remain on the list filed with the Secretary of State.

19 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
20 Title 2 of the Government Code, pertaining to the adoption of rules and
21 regulations, shall not apply to any list of assault weapons promulgated pursuant to
22 this section.

23 (c) The Attorney General shall adopt those rules and regulations that may be
24 necessary or proper to carry out the purposes and intent of this chapter.

25 **Comment.** Section 30520 continues former Section 12276.5 without substantive change. An
26 incomplete cross-reference to a chapter in the Government Code has been corrected. See also
27 former Sections 12072(f)(1)(A) and 12282, which cross-referred to the definitional material in
28 former Section 12276.5.

29 As originally enacted, former Section 12276.5 prescribed a procedure by which a court could
30 classify a weapon as an assault weapon. See 1989 Cal. Stat. ch. 19, § 3. The provision was later
31 amended to direct the Attorney General to promulgate a list of the weapons classified as assault
32 weapons by a court or by former Section 12276 (which is continued in Section 30510). Still later,
33 the provision was amended to discontinue both of those procedures as of January 1, 2007. See
34 2006 Cal. Stat. ch. 793, § 1. This section continues former Section 12276.5 as so amended.

35 See Sections 16520 (“firearm”), 30510 (“assault weapon”), 30515 (further clarification of
36 “assault weapon”). See also Section 16010 (continuation of existing law).

37 **Staff Notes.**

38 (1) For discussion of why proposed Section 30520(a) and (b) would cross-refer to “former
39 Section 12276.5” instead of to the provision that would continue that section, and why proposed
40 Section 30520(b) would cross-refer to “former Section 12276” instead of to the provision that
41 would continue that section, see the Staff Note on proposed Section 30510.

42 (2) Existing Section 12276.5 cross-refers to “Chapter 3.5 (commencing with Section 11340) of
43 Division 3 of Title 2 of the Government Code.” That cross-reference is incomplete. The correct
44 cross-reference is to “Chapter 3.5 (commencing with Section 11340) of *Part 1* of Division 3 of
45 Title 2 of the Government Code.” (Emphasis added.)

1 The staff has corrected the cross-reference in drafting proposed Section 30520. This approach
2 seems more reasonable than perpetuating an obviously incomplete reference. Although this is a
3 strictly nonsubstantive study, some degree of commonsense is appropriate in interpreting existing
4 law. We would exercise such commonsense here and note the situation in the preliminary part of
5 the Commission’s report.

6 Article 2. Unlawful Acts Relating to Assault Weapons
7 and .50 BMG Rifles

8 **§ 30600. Unlawful manufacturing, distributing, transporting, importing, selling, giving, or**
9 **lending of assault weapon or .50 BMG rifle**

10 30600. (a) Any person who, within this state, manufactures or causes to be
11 manufactured, distributes, transports, or imports into the state, keeps for sale, or
12 offers or exposes for sale, or who gives or lends any assault weapon or any .50
13 BMG rifle, except as provided by this chapter, is guilty of a felony, and upon
14 conviction shall be punished by imprisonment in the state prison for four, six, or
15 eight years.

16 (b) In addition and consecutive to the punishment imposed under subdivision
17 (a), any person who transfers, lends, sells, or gives any assault weapon or any .50
18 BMG rifle to a minor in violation of subdivision (a) shall receive an enhancement
19 of one year.

20 (c) Except in the case of a first violation involving not more than two firearms as
21 provided in Sections 30605 and 30610, for purposes of this article, if more than
22 one assault weapon or .50 BMG rifle is involved in any violation of this article,
23 there shall be a distinct and separate offense for each.

24 **Comment.** Section 30600 continues former Section 12280(a) without substantive change.

25 A conviction under former Chapter 2.3 of Title 2 of Part 4 (former Sections 12275-12290)
26 counts as a prior conviction in determining the appropriate punishment under this section. See
27 Section 16015 (determining existence of prior conviction); see also Section 16010 (continuation
28 of existing law). For further guidance on punishment for a violation of this section, see Section
29 30615 (sentence enhancement for committing another crime while violating this article).

30 For exemptions to this provision, see Sections 30625-30675. For guidance in determining when
31 a firearm has become an assault weapon for purposes of this chapter, see Section 30620 (date that
32 firearm becomes assault weapon).

33 See Sections 16110 (“.50 BMG rifle”), 16520 (“firearm”), 16970 (“person”), 30510 (“assault
34 weapon”), 30515 (further clarification of “assault weapon”).

35 **Staff Note.** Existing Section 12280(a)(2) is a sentence enhancement provision, which
36 would be continued in proposed Section 30600(b). For discussion of why that provision has been
37 placed here instead of in “Title 2. Sentence Enhancements,” see Memorandum 2008-53, pp. 4-5.

38 **§ 30605. Unlawful possession of assault weapon**

39 30605. (a) Any person who, within this state, possesses any assault weapon,
40 except as provided in this chapter, shall be punished by imprisonment in a county
41 jail for a period not exceeding one year, or by imprisonment in the state prison.

42 (b) Notwithstanding subdivision (a), a first violation of these provisions is
43 punishable by a fine not exceeding five hundred dollars (\$500) if the person was

1 found in possession of no more than two firearms in compliance with Section
2 30945 and the person meets all of the following conditions:

3 (1) The person proves that he or she lawfully possessed the assault weapon prior
4 to the date it was defined as an assault weapon.

5 (2) The person has not previously been convicted of a violation of this article.

6 (3) The person was found to be in possession of the assault weapon within one
7 year following the end of the one-year registration period established pursuant to
8 Section 30900.

9 (4) The person relinquished the firearm pursuant to Section 31100, in which
10 case the assault weapon shall be destroyed pursuant to Sections 18000 and 18005.

11 **Comment.** Section 30605 continues former Section 12280(b) without substantive change.

12 A conviction under former Chapter 2.3 of Title 2 of Part 4 (former Sections 12275-12290)
13 counts as a prior conviction in determining the appropriate punishment under this section. See
14 Section 16015 (determining existence of prior conviction). For further guidance on punishment
15 for a violation of this section, see Section 30615 (sentence enhancement for committing another
16 crime while violating this article).

17 For exemptions to this provision, see Sections 30625-30675. For guidance in determining when
18 a firearm has become an assault weapon for purposes of this chapter, see Section 30620 (date that
19 firearm becomes assault weapon).

20 See Sections 16520 (“firearm”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further
21 clarification of “assault weapon”). See also Section 16010 (continuation of existing law).

22 **Staff Note.** Existing Section 12280(b)(1) refers to whether a person “lawfully possessed the
23 assault weapon prior to the date it was defined as an assault weapon *pursuant to Section 12276,*
24 *12276.1, or 12276.5.*” (Emphasis added.) In proposed Section 30605(b)(1), we deleted the cross-
25 references, referring simply to whether a person “lawfully possessed the assault weapon prior to
26 the date it was defined as an assault weapon.” We also:

- 27 • Included a reference to the definition of “assault weapon” in the Comment. Proposed
28 Sections 30510 and 30515 would continue existing Sections 12276 and 12276.1. A
29 reference to the continuation of Section 12276.5 is unnecessary, because Section 12276.5
30 no longer provides a procedure for defining an assault weapon, and the determinations
31 made pursuant to the procedure it used to provide are incorporated by reference in
32 proposed Section 30510(d).
- 33 • Stated in the Comment that “Section 30605 continues former Section 12280(b) without
34 substantive change.”

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 12280(b). See 2007-2008 Annual Report, 37 Cal. L. Revision Comm’n
40 Reports 1, 17-23 (2007).

41 § 30610. Unlawful possession of .50 BMG rifle

42 30610. (a) Any person who, within this state, possesses any .50 BMG rifle,
43 except as provided in this chapter, shall be punished by a fine of one thousand
44 dollars (\$1,000), imprisonment in a county jail for a period not to exceed one year,
45 or by both that fine and imprisonment.

1 (b) Notwithstanding subdivision (a), a first violation of these provisions is
2 punishable by a fine not exceeding five hundred dollars (\$500) if the person was
3 found in possession of no more than two firearms in compliance with Section
4 30905 and the person satisfies all of the following conditions:

5 (1) The person proves that he or she lawfully possessed the .50 BMG rifle prior
6 to January 1, 2005.

7 (2) The person has not previously been convicted of a violation of this article.

8 (3) The person was found to be in possession of the .50 BMG rifle within one
9 year following the end of the .50 BMG rifle registration period established
10 pursuant to Section 30905.

11 (c) Firearms seized pursuant to this section from persons who meet all of the
12 conditions in paragraphs (1), (2), and (3) of subdivision (b) shall be returned
13 unless the court finds in the interest of public safety, after notice and hearing, that
14 the .50 BMG rifle should be destroyed pursuant to Sections 18000 and 18005.
15 Firearms seized from persons who do not meet the conditions set forth in
16 paragraphs (1), (2), and (3) of subdivision (b) shall be destroyed pursuant to
17 Sections 18000 and 18005.

18 **Comment.** Section 30610 continues former Section 12280(c) without substantive change.

19 A conviction under former Chapter 2.3 of Title 2 of Part 4 (former Sections 12275-12290)
20 counts as a prior conviction in determining the appropriate punishment under this section. See
21 Section 16015 (determining existence of prior conviction). For further guidance on punishment
22 for a violation of this section, see Section 30615 (sentence enhancement for committing another
23 crime while violating this article).

24 For exemptions to this provision, see Sections 30625-30675.

25 See Sections 16110 (“.50 BMG rifle”), 16520 (“firearm”), 16970 (“person”). See also Section
26 16010 (continuation of existing law).

27 **§ 30615. Sentence enhancement for committing another crime while violating this article**

28 30615. Notwithstanding Section 654 or any other provision of law, any person
29 who commits another crime while violating this article may receive an additional,
30 consecutive punishment of one year for violating this article, in addition and
31 consecutive to the punishment, including enhancements, which is prescribed for
32 the other crime.

33 **Comment.** Section 30615 continues former Section 12280(d) without substantive change.

34 See Section 16970 (“person”).

35 **Staff Note.** Existing Section 12280(d) is a sentence enhancement provision, which would
36 be continued in proposed Section 30615. For discussion of why that provision has been placed
37 here instead of in “Title 2. Sentence Enhancements,” see Memorandum 2008-53, pp. 4-5.

38 **§ 30620. Date that firearm becomes assault weapon**

39 30620. As used in this chapter, the date a firearm is an assault weapon is the
40 earliest of the following:

41 (a) The effective date of an amendment to Section 30510 or to former Section
42 12276 that adds the designation of the specified firearm.

1 (b) The effective date of the list promulgated pursuant to former Section
2 12276.5 that adds or changes the designation of the specified firearm.

3 (c) January 1, 2000, which was the operative date of former Section 12276.1.

4 **Comment.** Section 30620 continues former Section 12280(u) without substantive change.

5 Subdivision (a) refers to former Section 12276. That section is continued in Section 30510
6 (“assault weapon”), which is also referred to in subdivision (a).

7 Subdivision (b) refers to the list promulgated pursuant to former Section 12276.5. In the past,
8 that section (1) prescribed a procedure by which a court could classify a weapon as an assault
9 weapon, and (2) directed the Attorney General to promulgate a list of the weapons classified as
10 assault weapons by Section 12276 or by a court. See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat.
11 ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those procedures were discontinued as of January 1,
12 2007. See 2006 Cal. Stat. ch. 793, § 1. As so amended, former Section 12276.5 is continued in
13 Section 30520 (duties of Attorney General).

14 Subdivision (c) refers to the operative date of former Section 12276.1. As subsequently
15 amended to exempt certain weapons, that section is continued in Section 30515 (further
16 clarification of “assault weapon”).

17 See Sections 16110 (“.50 BMG rifle”), 16520 (“firearm”), 30510 (“assault weapon”), 30515
18 (further clarification of “assault weapon”).

19 **Staff Note.** Existing Section 12280(u)(3) refers to the “operative date of Section 12276.1,
20 as specified in subdivision (d) of that section.” (Emphasis added.) The cross-reference to
21 subdivision (d) is a mistake. The operative date of January 1, 2000, was originally stated in
22 subdivision (d), but it is now stated in subdivision (e) instead.

23 Proposed Section 30620(c) would continue Section 12280(u)(3). To make the provision user-
24 friendly, the staff has directly stated the operative date of January 1, 2000, in the text, instead of
25 incorporating it by cross-referring to another provision.

26 § 30625. Exemption for police departments and certain other government entities

27 30625. Sections 30600, 30605, and 30610 shall not apply to the sale to, purchase
28 by, importation of, or possession of assault weapons or a .50 BMG rifle by the
29 Department of Justice, police departments, sheriffs’ offices, marshals’ offices, the
30 Department of Corrections and Rehabilitation, the Department of the California
31 Highway Patrol, district attorneys’ offices, the Department of Fish and Game, the
32 Department of Parks and Recreation, or the military or naval forces of this state or
33 of the United States, or any federal law enforcement agency for use in the
34 discharge of their official duties.

35 **Comment.** Section 30625 continues former Section 12280(e) without substantive change.

36 See Sections 16110 (“.50 BMG rifle”), 30510 (“assault weapon”), 30515 (further clarification
37 of “assault weapon”).

38 § 30630. Exemptions for peace officers and members of federal law enforcement agencies

39 30630. (a) Sections 30605 and 30610 shall not prohibit the possession or use of
40 assault weapons or a .50 BMG rifle by sworn peace officer members of those
41 agencies specified in Section 30625 for law enforcement purposes, whether on or
42 off duty.

43 (b)(1) Sections 30600, 30605, and 30610 shall not prohibit the delivery, transfer,
44 or sale of an assault weapon or a .50 BMG rifle to, or the possession of an assault
45 weapon or a .50 BMG rifle by, a sworn peace officer member of an agency

1 specified in Section 30625 if the peace officer is authorized by the officer's
2 employer to possess or receive the assault weapon or the .50 BMG rifle. Required
3 authorization is defined as verifiable written certification from the head of the
4 agency, identifying the recipient or possessor of the assault weapon as a peace
5 officer and authorizing that person to receive or possess the specific assault
6 weapon.

7 (2) For this exemption to apply, in the case of a peace officer who possesses or
8 receives the assault weapon prior to January 1, 2002, the officer shall register the
9 assault weapon pursuant to former Section 12285 on or before April 1, 2002. In
10 the case of a peace officer who possesses or receives the assault weapon on or
11 after January 1, 2002, the officer shall register the assault weapon pursuant to
12 former Section 12285 or pursuant to Article 5 (commencing with Section 30900),
13 not later than 90 days after possession or receipt. In the case of a peace officer
14 who possesses or receives a .50 BMG rifle on or before January 1, 2005, the
15 officer shall register the .50 BMG rifle on or before April 30, 2006. In the case of
16 a peace officer who possesses or receives a .50 BMG rifle after January 1, 2005,
17 the officer shall register the .50 BMG rifle not later than one year after possession
18 or receipt.

19 (3) With the registration, the peace officer shall include a copy of the
20 authorization required pursuant to this subdivision.

21 (c) Nothing in this article shall be construed to limit or prohibit the delivery,
22 transfer, or sale of an assault weapon or a .50 BMG rifle to, or the possession of an
23 assault weapon or a .50 BMG rifle by, a member of a federal law enforcement
24 agency provided that person is authorized by the employing agency to possess the
25 assault weapon or .50 BMG rifle.

26 **Comment.** Subdivision (a) of Section 30630 continues former Section 12280(f)(1) without
27 substantive change.

28 Subdivision (b) continues former Section 12280(f)(2) without substantive change. Subdivision
29 (b) refers to former Section 12285. That provision is continued in Article 5 (Sections 30900-
30 30965).

31 Subdivision (c) continues former Section 12280(f)(3) without substantive change.

32 See Sections 16110 (".50 BMG rifle"), 16970 ("person"), 30510 ("assault weapon"), 30515
33 (further clarification of "assault weapon"). See also Section 16010 (continuation of existing law).

34 **§ 30635. Exemption applicable during period soon after weapon was classified as assault**
35 **weapon**

36 30635. Section 30605 shall not apply to the possession of an assault weapon
37 during the 90-day period immediately after the date it was specified as an assault
38 weapon pursuant to former Section 12276.5, or during the one-year period after
39 the date it was defined as an assault weapon pursuant to former Section 12276.1, if
40 all of the following are applicable:

41 (a) At the time of the possession in question, the person was eligible under this
42 chapter to register the particular assault weapon.

1 (b) The person lawfully possessed the particular assault weapon prior to the date
2 it was specified as an assault weapon pursuant to former Section 12276.5, or prior
3 to the date it was defined as an assault weapon pursuant to former Section
4 12276.1.

5 (c) At the time of the possession in question, the person was otherwise in
6 compliance with this chapter.

7 **Comment.** Section 30635 continues former Section 12280(g) without substantive change.

8 The introductory clause and subdivision (b) refer to the date that a weapon “was specified as an
9 assault weapon pursuant to *former Section 12276.5*.” (Emphasis added.) In the past, that section
10 (1) prescribed a procedure by which a court could classify a weapon as an assault weapon, and (2)
11 directed the Attorney General to promulgate a list of the weapons classified as assault weapons
12 by statute or by a court. See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal.
13 Stat. ch. 19, § 3. Those procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat.
14 ch. 793, § 1. As so amended, former Section 12276.5 is continued in Section 30520 (duties of
15 Attorney General).

16 The introductory clause and subdivision (b) also refer to the date that a weapon “was defined as
17 an assault weapon pursuant to *former Section 12276.1*.” (Emphasis added.) That section became
18 operative on January 1, 2000. As subsequently amended to exempt certain weapons, it is
19 continued in Section 30515 (further clarification of “assault weapon”).

20 See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of
21 “assault weapon”). See also Section 16010 (continuation of existing law).

22 **Staff Note.** Existing Section 12280(g) provides:

23 Subdivision (b) shall not apply to the possession of an assault weapon during the 90-day
24 period immediately after the date it was specified as an assault weapon pursuant to Section
25 12276.5, or during the one-year period after the date it was defined as an assault weapon
26 pursuant to Section 12276.1, if all of the following are applicable:

27 (1) The person is eligible under this chapter to register the particular assault weapon.

28 (2) The person lawfully possessed the particular assault weapon prior to the date it was
29 specified as an assault weapon pursuant to Section 12276.5, or prior to the date it was defined
30 as an assault weapon pursuant to Section 12276.1.

31 (3) The person is otherwise in compliance with this chapter.

32 This provision provided protection to a person whose weapon was recently classified as an
33 assault weapon, but only while the registration period for that weapon was open. The registration
34 periods in question have ended. See existing Section 12285(a)(1). Thus, Section 12280(g) would
35 seem to be obsolete and continuation of the provision in proposed Section 30635 may not be
36 necessary.

37 The staff recognizes, however, that retaining the provision in the codes might sometimes be
38 useful for reference purposes. We do not know whether that is likely to occur often enough to
39 justify retention of the provision.

40 Because this is a strictly nonsubstantive study and the Commission is striving to minimize any
41 concern that the proposed legislation would have a substantive impact, the staff does not
42 recommend deleting the provision as obsolete in this study. We would appreciate input on
43 whether the provision remains useful, and whether it would be appropriate to add this matter to
44 the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

1 **§ 30640. Exemption for possession of .50 BMG rifle, not classified as assault weapon, before**
2 **May 1, 2006**

3 30640. Section 30610 shall not apply to the possession of a .50 BMG rifle,
4 which was not defined or specified as an assault weapon pursuant to this chapter.
5 by any person prior to May 1, 2006, if all of the following are applicable:

6 (a) At the time of the possession in question, the person was eligible under this
7 chapter to register that .50 BMG rifle.

8 (b) The person lawfully possessed the .50 BMG rifle prior to January 1, 2005.

9 (c) At the time of the possession in question, the person was otherwise in
10 compliance with this chapter.

11 **Comment.** Section 30640 continues former Section 12280(s) without substantive change.

12 See Sections 16110 (“.50 BMG rifle”), 16970 (“person”), 30510 (“assault weapon”), 30515
13 (further clarification of “assault weapon”). See also Section 16010 (continuation of existing law).

14 **Staff Note.** Proposed Section 30640 would continue the substance of existing Section
15 12280(s), which relates to possession of a .50 BMG rifle under specified circumstances “prior to
16 May 1, 2006” Technically, that provision would seem to be obsolete, because it is now well
17 after May 1, 2006.

18 The staff recognizes, however, that retaining the provision in the codes might sometimes be
19 useful for reference purposes. We do not know whether that is likely to occur often enough to
20 justify retention of the provision.

21 Because this is a strictly nonsubstantive study and the Commission is striving to minimize any
22 concern that the proposed legislation would have a substantive impact, the staff does not
23 recommend deleting the provision as obsolete in this study. We would appreciate input on
24 whether the provision remains useful, and whether it would be appropriate to add this matter to
25 the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

26 **§ 30645. Exemption for manufacture by person with permit, for sale to certain recipients**

27 30645. Sections 30600, 30605, and 30610 shall not apply to the manufacture by
28 any person who is issued a permit pursuant to Section 31005 of assault weapons or
29 .50 BMG rifles for sale to the following:

30 (a) Exempt entities listed in Section 30625.

31 (b) Entities and persons who have been issued permits pursuant to Section
32 31000 or 31005.

33 (c) Federal military and law enforcement agencies.

34 (d) Law enforcement and military agencies of other states.

35 (e) Foreign governments and agencies approved by the United States State
36 Department.

37 (f) Entities outside the state who have, in effect, a federal firearms dealer’s
38 license solely for the purpose of distribution to an entity listed in subdivisions (c)
39 to (e), inclusive.

40 **Comment.** Section 30645 continues former Section 12280(h) without substantive change.

41 See Sections 16110 (“.50 BMG rifle”), 16520 (“firearm”), 16970 (“person”), 30510 (“assault
42 weapon”), 30515 (further clarification of “assault weapon”).

1 **§ 30650. Exemption for sale by person with permit, for sale to certain recipients**

2 30650. Sections 30600, 30605, and 30610 shall not apply to the sale of assault
3 weapons or .50 BMG rifles by persons who are issued permits pursuant to Section
4 31005 to any of the following:

5 (a) Exempt entities listed in Section 30625.

6 (b) Entities and persons who have been issued permits pursuant to Section
7 31000 or 31005.

8 (c) Federal military and law enforcement agencies.

9 (d) Law enforcement and military agencies of other states.

10 (e) Foreign governments and agencies approved by the United States State
11 Department.

12 (f) Officers described in Section 30630 who are authorized to possess assault
13 weapons or .50 BMG rifles pursuant to Section 30630.

14 **Comment.** Section 30650 continues former Section 12088(t) without substantive change.

15 See Sections 16110 (“.50 BMG rifle”), 16970 (“person”), 30510 (“assault weapon”), 30515
16 (further clarification of “assault weapon”).

17 **§ 30655. Exemptions for executor or administrator of estate**

18 30655. (a) Section 30600 shall not apply to a person who is the executor or
19 administrator of an estate that includes an assault weapon or a .50 BMG rifle
20 registered under Article 5 (commencing with Section 30900) or that was possessed
21 pursuant to subdivision (a) of Section 30630 that is disposed of as authorized by
22 the probate court, if the disposition is otherwise permitted by this chapter.

23 (b) Sections 30605 and 30610 shall not apply to a person who is the executor or
24 administrator of an estate that includes an assault weapon or a .50 BMG rifle
25 registered under Article 5 (commencing with Section 30900) or that was possessed
26 pursuant to subdivision (a) of Section 30630, if the assault weapon or .50 BMG
27 rifle is possessed at a place set forth in subdivision (a) of Section 30945 or as
28 authorized by the probate court.

29 **Comment.** Subdivision (a) of Section 30655 continues former Section 12280(i) without
30 substantive change.

31 Subdivision (b) continues former Section 12280(j) without substantive change.

32 See Sections 16110 (“.50 BMG rifle”), 16520 (“firearm”), 16970 (“person”), 30510 (“assault
33 weapon”), 30515 (further clarification of “assault weapon”). See also Section 16010
34 (continuation of existing law).

35 **☞ Staff Notes.**

36 (1) Subdivisions (i) and (j) of existing Section 12280 refer to the executor or administrator of an
37 estate that includes an assault weapon or a .50 BMG rifle. Logically, it may make sense to extend
38 these provisions to any type of at-death transfer, not just the probate context. Such a reform might
39 also be appropriate for other provisions in the Penal Code. See, e.g., Section 12020(b)(7)-(8),
40 which would be continued as proposed Sections 17705 and 17710 in the draft attached to
41 Memorandum 2008-50.

42 Because this is a strictly nonsubstantive study, proposed Section 30655 would simply continue
43 existing law. The staff is not sure whether the possibility of extending that provision (and other
44 similar provisions) to other types of at-death transfers should be included on the Commission’s

1 list of “Minor Clean-up Issues for Possible Future Legislative Attention.” The issue might be too
2 significant to belong on that list. We invite comment on the point.

3 (2) Subdivisions (i) and (j) of existing Section 12280 refer to the “probate court.” Technically,
4 there is no independent entity known as the “probate court.” Rather, there is a probate division
5 within the superior court.

6 Nonetheless, the term “probate court” is widely used in statutory text. In contrast, the term
7 “probate division” is not used in statutory text but is used in some court rules.

8 In drafting proposed Section 30655, we left the term “probate court” intact. Statutory clean-up
9 of “probate court” terminology is beyond the scope of this study. Such a project would be so far
10 beyond the deadly weapons context that we do not recommend including it on the Commission’s
11 list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

12 § 30660. Exemption for loan and return under specified circumstances

13 30660. (a) Section 30600 shall not apply to a person who lawfully possesses and
14 has registered an assault weapon or .50 BMG rifle pursuant to this chapter who
15 lends that assault weapon or .50 BMG rifle to another person, if all the following
16 requirements are satisfied:

17 (1) The person to whom the assault weapon or .50 BMG rifle is lent is 18 years
18 of age or over and is not prohibited by state or federal law from possessing,
19 receiving, owning, or purchasing a firearm.

20 (2) The person to whom the assault weapon or .50 BMG rifle is lent remains in
21 the presence of the registered possessor of the assault weapon or .50 BMG rifle.

22 (3) The assault weapon or .50 BMG rifle is possessed at any of the following
23 locations:

24 (A) While on a target range that holds a regulatory or business license for the
25 purpose of practicing shooting at that target range.

26 (B) While on the premises of a target range of a public or private club or
27 organization organized for the purpose of practicing shooting at targets.

28 (C) While attending any exhibition, display, or educational project that is about
29 firearms and that is sponsored by, conducted under the auspices of, or approved by
30 a law enforcement agency or a nationally or state recognized entity that fosters
31 proficiency in, or promotes education about, firearms.

32 (b) Section 30600 shall not apply to the return of an assault weapon or .50 BMG
33 rifle to the registered possessor, or the lawful possessor, which is lent by that
34 registered or lawful possessor pursuant to subdivision (a).

35 (c) Sections 30605 and 30610 shall not apply to the possession of an assault
36 weapon or .50 BMG rifle by a person to whom an assault weapon or .50 BMG
37 rifle is lent pursuant to subdivision (a).

38 **Comment.** Subdivisions (a) and (b) of Section 30660 continue former Section 12280(k)
39 without substantive change.

40 Subdivision (c) continues former Section 12280(l) without substantive change.

41 See Sections 16110 (“.50 BMG rifle”), 16520 (“firearm”), 16970 (“person”), 30510 (“assault
42 weapon”), 30515 (further clarification of “assault weapon”).

43 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
44 2008 Cal. Stat. ch. 698.

1 **§ 30665. Exemption for possession and importation by nonresident attending match or**
2 **competition**

3 30665. Sections 30600, 30605, and 30610 shall not apply to the possession and
4 importation of an assault weapon or a .50 BMG rifle into this state by a
5 nonresident if all of the following conditions are met:

6 (a) The person is attending or going directly to or coming directly from an
7 organized competitive match or league competition that involves the use of an
8 assault weapon or a .50 BMG rifle.

9 (b) The competition or match is conducted on the premises of one of the
10 following:

11 (1) A target range that holds a regulatory or business license for the purpose of
12 practicing shooting at that target range.

13 (2) A target range of a public or private club or organization that is organized for
14 the purpose of practicing shooting at targets.

15 (c) The match or competition is sponsored by, conducted under the auspices of,
16 or approved by, a law enforcement agency or a nationally or state recognized
17 entity that fosters proficiency in, or promotes education about, firearms.

18 (d) The assault weapon or .50 BMG rifle is transported in accordance with
19 Section 25610 or Article 3 (commencing with Section 25500) of Chapter 2 of
20 Division 5.

21 (e) The person is 18 years of age or over and is not in a class of persons
22 prohibited from possessing firearms by virtue of Chapter 2 (commencing with
23 Section 29800) or 3 (commencing with Section 29900) of Division 9 of this code
24 or Section 8100 or 8103 of the Welfare and Institutions Code.

25 **Comment.** Section 30665 continues former Section 12280(m) without substantive change.

26 See Sections 16110 (“.50 BMG rifle”), 16520 (“firearm”), 16970 (“person”), 30510 (“assault
27 weapon”), 30515 (further clarification of “assault weapon”).

28 **§ 30670. Other exemptions relating to importation**

29 30670. (a) Section 30600 shall not apply to the importation into this state of an
30 assault weapon or a .50 BMG rifle by the registered owner of that assault weapon
31 or a .50 BMG rifle if it is in accordance with the provisions of Section 30945.

32 (b) Section 30600 shall not apply during the first 180 days of the 2005 calendar
33 year to the importation into this state of a .50 BMG rifle by a person who lawfully
34 possessed that .50 BMG rifle in this state prior to January 1, 2005.

35 **Comment.** Subdivision (a) of Section 30670 continues former Section 12280(q) without
36 substantive change.

37 Subdivision (b) continues former Section 12280(r) without substantive change.

38 See Sections 16110 (“.50 BMG rifle”), 16970 (“person”), 30510 (“assault weapon”), 30515
39 (further clarification of “assault weapon”). See also Section 16010 (continuation of existing law).

40 **Staff Note.** Proposed Section 30670(b) would continue the substance of existing Section
41 12280(r), which relates to importation of a .50 BMG rifle “during the first 180 days of the 2005
42 calendar year” Technically, that provision would seem to be obsolete, because it is now well
43 after the “first 180 days of the 2005 calendar year.”

1 The staff recognizes, however, that retaining the provision in the codes might sometimes be
2 useful for reference purposes. We do not know whether that is likely to occur often enough to
3 justify retention of the provision.

4 Because this is a strictly nonsubstantive study and the Commission is striving to minimize any
5 concern that the proposed legislation would have a substantive impact, the staff does not
6 recommend deleting the provision as obsolete in this study. We would appreciate input on
7 whether the provision remains useful, and whether it would be appropriate to add this matter to
8 the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

9 **§ 30675. Exemptions for persons acting in accordance with specified statutory provisions**

10 30675. (a) Sections 30605 and 30610 shall not apply to any of the following
11 persons:

12 (1) A person acting in accordance with Section 31000 or 31005.

13 (2) A person who has a permit to possess an assault weapon or a .50 BMG rifle
14 issued pursuant to Section 31000 or 31005 when that person is acting in
15 accordance with Section 31000 or 31005 or Article 5 (commencing with Section
16 30900).

17 (b) Sections 30600, 30605, and 30610 shall not apply to any of the following
18 persons:

19 (1) A person acting in accordance with Article 5 (commencing with Section
20 30900).

21 (2) A person acting in accordance with Section 31000, 31005, 31050, or 31055.

22 (c) Sections 30605 and 30610 shall not apply to the registered owner of an
23 assault weapon or a .50 BMG rifle possessing that firearm in accordance with
24 Section 30945.

25 **Comment.** Subdivision (a) of Section 30675 continues former Section 12280(n) without
26 substantive change.

27 Subdivision (b) continues former Section 12280(o) without substantive change.

28 Subdivision (c) continues former Section 12280(p) without substantive change.

29 See Sections 16110 (“.50 BMG rifle”), 16520 (“firearm”), 16970 (“person”), 30510 (“assault
30 weapon”), 30515 (further clarification of “assault weapon”).

31 **Staff Note.** Proposed Section 30675 would continue subdivisions (n), (o), and (p) of existing
32 Section 12280 almost verbatim. Those provisions are not user-friendly, but the staff could not
33 think of a way to make them more easily comprehensible without risking a substantive change.
34 Suggestions for a more user-friendly approach would be helpful.

35 In addition, the staff wonders whether the provisions being recodified contain any
36 redundancies that could be eliminated without affecting their substance. We would also be
37 interested in hearing comments on this matter.

38 For purposes of this strictly nonsubstantive study, the best way to address these points might be
39 to add them to the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative
40 Attention.” Unless the Commission otherwise directs, the staff will take that approach.

41 **Article 3. SKS Rifles**

42 **Staff Notes.**

43 (1) This article would contain the substance of existing Section 12281, which was enacted in
44 1998 to establish an immunity program for SKS rifles. Because that immunity program was

1 established and implemented a decade ago, some if not all of the substance of existing Section
2 12281 appears to be obsolete.

3 For example, subdivision (e) says:

4 (e) The Department of Justice shall notify all district attorneys *on or before January 31,*
5 *1999,* of the provisions of this section. The department shall identify all criminal prosecutions
6 in the state for conduct related to SKS rifles *within 90 days of the effective date of this*
7 *section.* In all cases so identified by the Attorney General, the district attorneys shall inform
8 defense counsel, or the defendant if the defendant is in propria persona, in writing, of the
9 provisions of this section *within 120 days of the effective date of this section.*

10 (Emphasis added.)

11 In drafting this article, the staff preserved the substance of Section 12281 intact, instead of
12 trying to remove obsolete material. This approach is intended to minimize any concern that the
13 Commission’s proposed reorganization would have a substantive impact.

14 The possibility of removing obsolete material might be worth pursuing in the future, in a
15 different reform. Unless the Commission otherwise directs, we will add this issue to the
16 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

17 (2) Existing Section 12281(f)(1) uses the phrase “person, firm, company, or corporation.”
18 Similar phrases are strewn throughout the rest of the section. To minimize any concern that the
19 Commission’s proposed reorganization would have a substantive impact, those phrases would be
20 continued without change in the provisions shown below.

21 Usually, however, the term “person” is defined to include a corporation or other entity, not just
22 an individual. For example, existing Section 7 says that in the Penal Code, “the word ‘person’
23 includes a corporation as well as a natural person.” Similarly, existing Section 12277 says that for
24 purposes of the chapter on assault weapons and .50 BMG rifles, “person” means “an individual,
25 partnership, corporation, limited liability company, association, or any other group or entity,
26 regardless of how it was created.” That provision would be continued in proposed Section 16970.

27 Given these definitions, it seems unnecessary to use phrases like “person, firm, company, or
28 corporation,” instead of just “person.” Simplification of these phrases might be worth doing in the
29 future, in a different reform. The possibility of standardizing the usage of “person” is already on
30 the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

31 **§ 30710. “SKS rifle”**

32 30710. Notwithstanding paragraph (11) of subdivision (a) of Section 30510, an
33 “SKS rifle” under this article means all SKS rifles commonly referred to as “SKS
34 Sporter” versions, manufactured to accept a detachable AK-47 magazine and
35 imported into this state and sold by a licensed gun dealer, or otherwise lawfully
36 possessed in this state by a resident of this state who is not a licensed gun dealer,
37 between January 1, 1992, and December 19, 1997.

38 **Comment.** Section 30700 continues former Section 12281(i) without substantive change.

39 See Section 16010 (continuation of existing law).

40 **Staff Note.** Existing Section 12276(a)(11) (to be continued in proposed Section 30510(a)(11))
41 classifies an “SKS with detachable magazine” as an “assault weapon.” Existing Section 12281(i)
42 states:

43 (i) *Notwithstanding paragraph (11) of subdivision (a) of Section 12276,* an “SKS rifle”
44 under this section means all SKS rifles commonly referred to as “SKS Sporter” versions,
45 manufactured to accept a detachable AK-47 magazine and imported into this state and sold
46 by a licensed gun dealer, or otherwise lawfully possessed in this state by a resident of this
47 state who is not a licensed gun dealer, between January 1, 1992, and December 19, 1997.

1 (Emphasis added.) This clarification of what constitutes an “SKS rifle” for purposes of existing
2 Section 12281 is critical to understanding the intended scope of the substantive rules provided in
3 that section, which would be continued in this article.

4 As drafted early in this study, however, the provision that would continue Section 12281(i) is
5 located in the “Definitions” portion of new Part 6, not in this article on “SKS Rifles.” See
6 proposed Section 17220.

7 On closely examining the substance of Section 12281, the staff believes that location is a
8 mistake. We recommend that it be moved to proposed Section 30710 (as shown above), to help
9 ensure that it is not overlooked. Consistent with this recommendation, proposed Section 17220
10 should be deleted.

11 **§ 30715. Immunity and other relief relating to SKS rifles**

12 30715. (a)(1) Any person who, or firm, company, or corporation that, operated a
13 retail or other commercial firm, company, or corporation, and manufactured,
14 distributed, transported, imported, possessed, possessed for sale, offered for sale,
15 or transferred, for commercial purpose, an SKS rifle in California between January
16 1, 1992, and December 19, 1997, shall be immune from criminal prosecution
17 under Article 2 (commencing with Section 30600) or former Section 12280.

18 (2) The immunity provided in this subdivision shall apply retroactively to any
19 person who, or firm, company, or corporation that, is or was charged by complaint
20 or indictment with a violation of former Section 12280 for conduct related to an
21 SKS rifle, whether or not the case of that person, firm, company, or corporation is
22 final.

23 (b)(1) Any person who possessed, gave, loaned, or transferred an SKS rifle in
24 California between January 1, 1992, and December 19, 1997, shall be immune
25 from criminal prosecution under Article 2 (commencing with Section 30600) or
26 former Section 12280.

27 (2) The immunity provided in this subdivision shall apply retroactively to any
28 person who was charged by complaint or indictment with a violation of former
29 Section 12280 for conduct related to an SKS rifle, whether or not the case of that
30 person is final.

31 (c) Any SKS rifle in the possession of any person who, or firm, company, or
32 corporation that, is described in subdivision (a) or (b), shall not be subject to
33 seizure by law enforcement for violation of Article 2 (commencing with Section
34 30600) or former Section 12280 prior to January 1, 2000.

35 (d) Any person, firm, company, or corporation, convicted under former Section
36 12280 for conduct relating to an SKS rifle, shall be permitted to withdraw a plea
37 of guilty or nolo contendere, or to reopen the case and assert the immunities
38 provided in this article, if the court determines that the allowance of the immunity
39 is in the interests of justice. The court shall interpret this article liberally to the
40 benefit of the defendant.

41 **Comment.** Section 30715 continues former Section 12281(a)-(d) without substantive change.

42 In a number of places, Section 30715 refers to former Section 12280. That provision is
43 continued in Article 2 (Sections 30600-30675).

44 See Sections 16970 (“person”), 30710 (“SKS rifle”). See also Section 16010 (continuation of
45 existing law). See also Section 16010 (continuation of existing law).

1 **§ 30720. Relinquishment or other disposal of SKS rifle**

2 30720. (a) Any person, firm, company, or corporation that is in possession of an
3 SKS rifle shall do one of the following on or before January 1, 2000:

4 (1) Relinquish the SKS rifle to the Department of Justice pursuant to subdivision
5 (h) of former Section 12281.

6 (2) Relinquish the SKS rifle to a law enforcement agency pursuant to former
7 Section 12288.

8 (3) Dispose of the SKS rifle as permitted by former Section 12285.

9 (b) Any person who has obtained title to an SKS rifle by bequest or intestate
10 succession shall be required to comply with paragraph (1) or (2) of subdivision (a)
11 unless that person otherwise complies with paragraph (1) of subdivision (b) of
12 former Section 12285.

13 (c) Any SKS rifle relinquished to the department pursuant to this section shall be
14 in a manner prescribed by the department.

15 **Comment.** Section 30720 continues former Section 12281(f)(1)-(3) without substantive
16 change.

17 For the consequences of complying or failing to comply with this provision, see Section 30725.

18 Subdivision (a)(1) refers to former Section 12281(h), which is continued in Section 30730(a).
19 Subdivision (a)(2) refers to former Section 12288, which is continued in Section 31100
20 (relinquishment of assault weapon or .50 BMG rifle). Subdivision (a)(3) refers to former Section
21 12285, which is continued in Article 5 (Sections 30900-30965).

22 Subdivision (b) refers to former Section 12285(b)(1). That provision is continued in Sections
23 30910 (restriction on sale or transfer of assault weapon), 30915 (assault weapon obtained by
24 bequest or intestate succession), and 30920 (firearm lawfully possessed before it was classified as
25 “assault weapon”).

26 See Sections 16970 (“person”), 30710 (“SKS rifle”). See also Section 16010 (continuation of
27 existing law).

28 **Staff Note.** Existing Section 12281(f)(3) says “[a]ny SKS rifle relinquished pursuant to this
29 subdivision shall be in a manner prescribed by the department.” The staff closely tracked that
30 language in drafting proposed Section 30720(c). We wonder, however, whether a word is missing
31 from the sentence. For example, it seems possible that the Legislature intended to say this:

32 Any SKS rifle relinquished pursuant to this subdivision shall be relinquished in a manner
33 prescribed by the department.

34 Or perhaps the Legislature intended to say this:

35 Any SKS rifle relinquished pursuant to this subdivision shall be disposed of in a manner
36 prescribed by the department.

37 Comments on this point would be helpful. Because this is a strictly nonsubstantive study, it would
38 be safest to stick to the existing language. But future clean-up might be appropriate, if the
39 provision is not obsolete.

40 **§ 30725. Consequences of compliance or noncompliance with Section 30720**

41 30725. (a) Any person who complies with Section 30720 shall be exempt from
42 the prohibitions set forth in Section 30600 or 30605 for those acts by that person
43 associated with complying with the requirements of Section 30720.

44 (b) Failure to comply with Section 30720 is a public offense punishable by
45 imprisonment in the state prison, or in a county jail, not exceeding one year.

1 **Comment.** Subdivision (a) of Section 30725 continues former Section 12281(g) without
2 substantive change.

3 Subdivision (b) continues former Section 12281(j) without substantive change.

4 See Sections 16970 (“person”), 30710 (“SKS rifle”). See also Section 16010 (continuation of
5 existing law).

6 **§ 30730. Purchase program for relinquished SKS rifles**

7 30730. (a)(1) The department shall purchase any SKS rifle relinquished pursuant
8 to Section 30720 from funds appropriated for this purpose by the act amending
9 former Section 12281 in the 1997-98 Regular Session of the Legislature or by
10 subsequent budget acts or other legislation.

11 (2) The department shall adopt regulations for this purchase program that
12 include, but are not limited to, the manner of delivery, the reimbursement to be
13 paid, and the manner in which persons shall be informed of the state purchase
14 program.

15 (3) Any person who relinquished possession of an SKS rifle to a law
16 enforcement agency pursuant to former Section 12288 prior to the effective date of
17 the purchase program set forth in paragraph (1) shall be eligible to be reimbursed
18 from the purchase program. The procedures for reimbursement pursuant to this
19 paragraph shall be part of the regulations adopted by the department pursuant to
20 paragraph (2).

21 (b) In addition to the regulations required pursuant to subdivision (a), emergency
22 regulations for the purchase program described in subdivision (a) shall be adopted
23 pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3
24 of Title 2 of the Government Code.

25 **Comment.** Subdivision (a) of Section 30730 continues former Section 12281(h) without
26 substantive change. Subdivision (a)(3) refers to former Section 12288. That provision is
27 continued in Section 31100 (relinquishment of assault weapon or .50 BMG rifle).

28 Subdivision (b) continues former Section 12281(k) without substantive change.

29 See Sections 16970 (“person”), 30710 (“SKS rifle”). See also Section 16010 (continuation of
30 existing law).

31 **§ 30735. Duties of Department of Justice**

32 30735. (a) The Department of Justice shall notify all district attorneys on or
33 before January 31, 1999, of the provisions of this article.

34 (b) The department shall identify all criminal prosecutions in the state for
35 conduct related to SKS rifles on or before April 1, 1999. In all cases so identified
36 by the Attorney General, the district attorneys shall inform defense counsel, or the
37 defendant if the defendant is in propria persona, in writing, of the provisions of
38 this article on or before May 1, 1999.

39 (c) The department shall conduct a public education and notification program as
40 described in Section 31115, commencing no later than January 1, 1999.

41 **Comment.** Subdivisions (a) and (b) of Section 30735 continues former Section 12281(e)
42 without substantive change.

43 Subdivision (c) continues former Section 12281(f)(4) without substantive change.

1 See Section 30710 (“SKS rifle”). See also Section 16010 (continuation of existing law).

2 **☞ Staff Note.** Existing Section 12281(e) says that the Department of Justice “shall identify all
3 criminal prosecutions in the state for conduct related to SKS rifles *within 90 days of the effective*
4 *date of this section.*” (Emphasis added.) It would be possible to continue this provision by saying
5 that the Department of Justice “shall identify all criminal prosecutions in the state for conduct
6 related to SKS rifles *within 90 days of the effective date of former Section 12281.*” (Emphasis
7 added.) To make the provision user-friendly, however, the staff revised it differently. Proposed
8 Section 30735(b) would say that the Department of Justice “shall identify all criminal
9 prosecutions in the state for conduct related to SKS rifles *on or before April 1, 1999.*” (Emphasis
10 added.)

11 Similarly, existing Section 12281(e) requires notification to the defense “within 120 days of the
12 effective date of this section.” Again, the staff tried to continue the provision in a user-friendly
13 manner. Proposed Section 30735(b) would say that notification to the defense is required “on or
14 before May 1, 1999.”

15 We encourage comment on these drafting decisions.

16 Article 4. Assault Weapon or .50 BMG Rifle Constituting Nuisance

17 § 30800. Assault weapon or .50 BMG rifle constituting nuisance

18 30800. (a)(1) Except as provided in Article 2 (commencing with Section 30600),
19 possession of any assault weapon or of any .50 BMG rifle in violation of this
20 chapter is a public nuisance, solely for purposes of this section and subdivision (c)
21 of Section 18005.

22 (2) The Attorney General, any district attorney, or any city attorney, may, in lieu
23 of criminal prosecution, bring a civil action or reach a civil compromise in any
24 superior court to enjoin the possession of the assault weapon or .50 BMG rifle that
25 is a public nuisance.

26 (b) Upon motion of the Attorney General, district attorney, or city attorney, a
27 superior court may impose a civil fine not to exceed three hundred dollars (\$300)
28 for the first assault weapon or .50 BMG rifle deemed a public nuisance pursuant to
29 subdivision (a) and up to one hundred dollars (\$100) for each additional assault
30 weapon or .50 BMG rifle deemed a public nuisance pursuant to subdivision (a).

31 (c) Any assault weapon or .50 BMG rifle deemed a public nuisance under
32 subdivision (a) shall be destroyed in a manner so that it may no longer be used,
33 except upon a finding by a court, or a declaration from the Department of Justice,
34 district attorney, or city attorney stating that the preservation of the assault weapon
35 or .50 BMG rifle is in the interest of justice.

36 (d) Upon conviction of any misdemeanor or felony involving the illegal
37 possession or use of an assault weapon, the assault weapon shall be deemed a
38 public nuisance and disposed of pursuant to subdivision (c) of Section 18005.

39 **Comment.** Section 30800 continues former Section 12282 without substantive change.

40 See Sections 16110 (“.50 BMG rifle”), 30510 (“assault weapon”), 30515 (further clarification
41 of “assault weapon”).

42 **☞ Staff Note.** Existing Section 12282 refers to “any assault weapon, *as defined in Section*
43 *12276, 12276.1, or 12276.5*” and “any .50 BMG rifle, *as defined in Section 12278.*” (Emphasis
44 added.) In proposed Section 30800, we have:

- 1 (1) Replaced those references with “any assault weapon,” and “any .50 BMG rifle.”
- 2 (2) Included a reference to the definition of “assault weapon” in the Comment. Proposed
3 Sections 30510 and 30515 would continue existing Sections 12276 and 12276.1. A
4 reference to the continuation of Section 12276.5 is unnecessary, because Section 12276.5
5 no longer provides a procedure for defining an assault weapon, and the determinations
6 made pursuant to the procedure it used to provide are incorporated by reference in
7 proposed Section 30510(d).
- 8 (3) Included a reference to the definition of “.50 BMG rifle” in the Comment.
- 9 (4) Stated in the Comment that “Section 30800 continues former Section 12282 without
10 substantive change.”

11 We chose this approach because it would further the Legislature’s directive to “[a]void
12 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope of
13 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
14 weight to the Commission’s comments, we think this would be sufficient to preserve the
15 substance of Section 12282. See 2007-2008 Annual Report, 37 Cal. L. Revision Comm’n Reports
16 1, 17-23 (2007).

17 Article 5. Registration of Assault Weapons and
18 .50 BMG Rifles and Related Rules

19 **§ 30900. Registration of assault weapon**

20 30900. (a) Any person who lawfully possesses an assault weapon, as defined in
21 former Section 12276, prior to June 1, 1989, shall register the firearm by January
22 1, 1991, and any person who lawfully possessed an assault weapon prior to the
23 date it was specified as an assault weapon pursuant to former Section 12276.5
24 shall register the firearm within 90 days with the Department of Justice pursuant to
25 those procedures that the department may establish.

26 (b) Except as provided in Section 30600, any person who lawfully possessed an
27 assault weapon prior to the date it was defined as an assault weapon pursuant to
28 former Section 12276.1, and which was not specified as an assault weapon under
29 former Section 12276 or 12276.5, shall register the firearm by January 1, 2001,
30 with the department pursuant to those procedures that the department may
31 establish.

32 (c) The registration shall contain a description of the firearm that identifies it
33 uniquely, including all identification marks, the full name, address, date of birth,
34 and thumbprint of the owner, and any other information that the department may
35 deem appropriate.

36 (d) The department may charge a fee for registration of up to twenty dollars
37 (\$20) per person but not to exceed the actual processing costs of the department.
38 After the department establishes fees sufficient to reimburse the department for
39 processing costs, fees charged shall increase at a rate not to exceed the
40 legislatively approved annual cost-of-living adjustment for the department’s
41 budget or as otherwise increased through the Budget Act. The fees shall be
42 deposited into the Dealers’ Record of Sale Special Account.

1 **Comment.** Section 30900 continues former Section 12285(a)(1) without substantive change.
 2 Under subdivision (a), a person “who lawfully possesses an assault weapon, *as defined in*
 3 *former Section 12276*, prior to June 1, 1989, shall register the firearm by January 1, 1991”
 4 (Emphasis added.) For the text of former Section 12276 during this registration period, see 1989
 5 Cal. Stat. ch. 19, § 3. The provision was subsequently amended on several occasions. See 1993
 6 Cal. Stat. ch. 606, § 19; 1992 Cal. Stat. ch. 427, § 134; 1991 Cal. Stat. ch. 954, § 2. As so
 7 amended, former Section 12276 is continued in Section 30510 (“assault weapon”).
 8 Subdivision (a) also refers to the date that a weapon “was specified as an assault weapon
 9 *pursuant to former Section 12276.5*.” (Emphasis added.) In the past, that section (1) prescribed a
 10 procedure by which a court could classify a weapon as an assault weapon, and (2) directed the
 11 Attorney General to promulgate a list of the weapons classified as assault weapons by statute or
 12 by a court. See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, §
 13 3. Those procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As
 14 so amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).
 15 Under subdivision (b), a person “who lawfully possessed an assault weapon prior to the date it
 16 was defined as an assault weapon *pursuant to former Section 12276.1*, and which was not
 17 specified as an assault weapon under former Section 12276 or 12276.5, shall register the firearm
 18 by January 1, 2001” (Emphasis added.) Former Section 12276.1 became operative on January
 19 1, 2000. As subsequently amended to exempt certain weapons, it is continued in Section 30515
 20 (further clarification of “assault weapon”).
 21 See Sections 16520 (“firearm”), 16970 (“person”). See also Section 16010 (continuation of
 22 existing law).

23 **Staff Notes.**

24 (1) Existing Section 12285(a)(1) differentiates between (1) an assault weapon “as defined in
 25 Section 12276,” (2) an assault weapon “specified as an assault weapon pursuant to Section
 26 12276.5,” and (3) a weapon “defined as an assault weapon pursuant to Section 12276.1.” Because
 27 the provision establishes different rules depending on which provision defining “assault weapon”
 28 applies, it would not be appropriate to delete those references and simply cite to the definitions in
 29 the Comment. Instead, we have replaced the existing references with references to (1) an assault
 30 weapon “as defined in former Section 12276,” (2) an assault weapon “specified as an assault
 31 weapon pursuant to former Section 12276.5,” and (3) a weapon “defined as an assault weapon
 32 pursuant to former Section 12276.1, and which was not specified as an assault weapon under
 33 former Section 12276 or 12276.5.”
 34 (2) Existing Section 12285(a)(1) says that any person who lawfully possessed a weapon
 35 meeting certain requirements “shall register the firearm within one year of the effective date of
 36 Section 12276.1” The effective and operative date of Section 12276.1 was January 1, 2000.
 37 See 1999 Cal. Stat. ch. 129; Section 12276.1(e); see also Cal. Const. art. IV, § 8(c)(1); Gov’t
 38 Code § 9600(a). To make the law more user-friendly, proposed Section 30900(b) would require a
 39 person to “register the firearm by January 1, 2001,” instead of requiring a person to “register the
 40 firearm within one year of the effective date of former Section 12276.1.”

41 **§ 30905. Registration of .50 BMG rifle**

42 30905. (a) Except as provided in Section 30600, any person who lawfully
 43 possesses any .50 BMG rifle prior to January 1, 2005, that is not specified as an
 44 assault weapon under former Section 12276 or 12276.5 or defined as an assault
 45 weapon pursuant to former Section 12276.1, shall register the .50 BMG rifle with
 46 the department no later than April 30, 2006, pursuant to those procedures that the
 47 department may establish.
 48 (b) The registration shall contain a description of the firearm that identifies it
 49 uniquely, including all identification marks, the full name, address, date of birth,

1 and thumbprint of the owner, and any other information that the department may
2 deem appropriate.

3 (c) The department may charge a fee for registration of twenty-five dollars (\$25)
4 per person to cover the actual processing and public education campaign costs of
5 the department. The fees shall be deposited into the Dealers' Record of Sale
6 Special Account. Data-processing costs associated with modifying the
7 department's data system to accommodate .50 caliber BMG rifles shall not be paid
8 from the Dealers' Record of Sale Special Account.

9 **Comment.** Section 30905 continues former Section 12285(a)(2) without substantive change.

10 Under subdivision (a), a person "who lawfully possesses any .50 BMG rifle prior to January 1,
11 2005, that is not specified as an assault weapon under *former Section 12276 or 12276.5* or
12 defined as an assault weapon pursuant to *former Section 12276.1*, shall register the .50 BMG rifle
13 with the department no later than April 30, 2006" (Emphasis added.) For the text of former
14 Section 12276 during this registration period, see 1993 Cal. Stat. ch. 606, § 19, which is
15 continued in Section 30510 ("assault weapon"). For the text of former Section 12276.1 during
16 this registration period, see 2002 Cal. Stat. ch. 911, § 3, which is continued in Section 30515
17 (further clarification of "assault weapon"). For the text of former Section 12276.5 during this
18 registration period, see 1991 Cal. Stat. ch. 954, § 3. Former Section 12276.5 was subsequently
19 amended. As so amended, it is continued in Section 30520 (duties of Attorney General).

20 See Sections 16110 (.50 BMG rifle"), 16520 ("firearm"), 16970 ("person"). See also Section
21 16010 (continuation of existing law).

22 § 30910. Restriction on sale or transfer of assault weapon

23 30910. Except as provided in Section 30925, no assault weapon possessed
24 pursuant to this article may be sold or transferred on or after January 1, 1990, to
25 anyone within this state other than to a licensed gun dealer or as provided in
26 Section 31100.

27 **Comment.** Section 30910 continues the first sentence of former Section 12285(b)(1) without
28 substantive change.

29 See Section 16790 ("licensed gun dealer"), 30510 ("assault weapon"), 30515 (further
30 clarification of "assault weapon"). See also Section 16010 (continuation of existing law).

31 **Staff Note.** Existing Section 12285(b)(1) refers to "a licensed gun dealer, *as defined in*
32 *subdivision (c) of Section 12290*" (Emphasis added.) In proposed Section 30910, we have (1)
33 replaced that reference with "licensed gun dealer," and (2) included a reference to the definition
34 of "licensed gun dealer" in the Comment, which also states that "Section 30910 continues the first
35 sentence of former Section 12285(b)(1) without substantive change."

36 We chose this approach because it would further the Legislature's directive to "[a]void
37 unnecessary use of cross-references" while "[n]either expand[ing] nor contract[ing] the scope of
38 criminal liability under current provisions." 2006 Cal. Stat. res. ch. 128. Because courts give great
39 weight to the Commission's comments, we think this would be sufficient to preserve the
40 substance of the first sentence of Section 12285(b)(1). See 2007-2008 Annual Report, 37 Cal. L.
41 Revision Comm'n Reports 1, 17-23 (2007).

42 § 30915. Assault weapon obtained by bequest or intestate succession

43 30915. Any person who obtains title to an assault weapon registered under this
44 article or that was possessed pursuant to subdivision (a) of Section 30630 by
45 bequest or intestate succession shall, within 90 days, do one or more of the
46 following:

- 1 (a) Render the weapon permanently inoperable.
- 2 (b) Sell the weapon to a licensed gun dealer.
- 3 (c) Obtain a permit from the Department of Justice in the same manner as
- 4 specified in [Sections 12230-12234].
- 5 (d) Remove the weapon from this state.

6 **Comment.** In combination with Section 30920, Section 30915 continues the second and third
7 sentences of former Section 12285(b)(1) without substantive change.

8 See Sections 16520 (“firearm”), 16790 (“licensed gun dealer”), 16970 (“person”), 30510
9 (“assault weapon”), 30515 (further clarification of “assault weapon”). See also Section 16010
10 (continuation of existing law).

11 **Staff Note.** Existing Section 12285(b)(1) applies only to an assault weapon obtained by
12 bequest or intestate succession, not to an assault weapon that is conveyed by another type of at-
13 death transfer (e.g., by a trust). Logically, it may make sense to extend the provision to any type
14 of at-death transfer. Such a reform might also be appropriate for other provisions in the Penal
15 Code. See, e.g., Section 12020(b)(7)-(8), which would be continued as proposed Sections 17705
16 and 17710 in the draft attached to Memorandum 2008-50.

17 Because this is a strictly nonsubstantive study, proposed Section 30915 would simply continue
18 existing law. The staff is not sure whether the possibility of extending that provision (and other
19 similar provisions) to other types of at-death transfers should be included on the Commission’s
20 list of “Minor Clean-up Issues for Possible Future Legislative Attention.” The issue might be too
21 significant to belong on that list. We invite comment on the point.

22 **§ 30920. Firearm lawfully possessed before it was classified as “assault weapon”**

23 30920. (a) Any person who lawfully possessed a firearm subsequently declared
24 to be an assault weapon pursuant to former Section 12276.5, or subsequently
25 defined as an assault weapon pursuant to former Section 12276.1, shall, within 90
26 days, do one or more of the following:

- 27 (1) Render the weapon permanently inoperable.
- 28 (2) Sell the weapon to a licensed gun dealer.
- 29 (3) Obtain a permit from the Department of Justice in the same manner as
- 30 specified in [Sections 12230-12234].
- 31 (4) Remove the weapon from this state.

32 (b) Notwithstanding subdivision (a), a person who lawfully possessed a firearm
33 that was subsequently declared to be an assault weapon pursuant to former Section
34 12276.5 may alternatively register the firearm within 90 days of the declaration
35 issued pursuant to subdivision (f) of former Section 12276.5.

36 **Comment.** In combination with Section 30915, Section 30920 continues the second and third
37 sentences of former Section 12285(b)(1) without substantive change.

38 Subdivision (a) refers to former Section 12276.1. That section became operative on January 1,
39 2000. As subsequently amended to exempt certain weapons, it is continued in Section 30515
40 (further clarification of “assault weapon”).

41 Subdivisions (a) and (b) refer to former Section 12276.5, which (1) prescribed a procedure by
42 which a court could classify a weapon as an assault weapon, and (2) directed the Attorney
43 General to promulgate a list of the weapons classified as assault weapons by statute or by a court.
44 See 1991 Cal. Stat. ch. 954, § 3; 1990 Cal. Stat. ch. 874, § 1; 1989 Cal. Stat. ch. 19, § 3. Those
45 procedures were discontinued as of January 1, 2007. See 2006 Cal. Stat. ch. 793, § 1. As so
46 amended, former Section 12276.5 is continued in Section 30520 (duties of Attorney General).

1 See Sections 16520 (“firearm”), 16790 (“licensed gun dealer”), 16970 (“person”). See also
2 Section 16010 (continuation of existing law).

3 **§ 30925. Person who moves into state with assault weapon**

4 30925. A person moving into this state, otherwise in lawful possession of an
5 assault weapon, shall do one of the following:

6 (a) Prior to bringing the assault weapon into this state, that person shall first
7 obtain a permit from the Department of Justice in the same manner as specified in
8 [Sections 12230-12234].

9 (b) The person shall cause the assault weapon to be delivered to a licensed gun
10 dealer in this state in accordance with Chapter 44 (commencing with Section 921)
11 of Title 18 of the United States Code and the regulations issued pursuant thereto.
12 If the person obtains a permit from the Department of Justice in the same manner
13 as specified in [Sections 12230-12234], the dealer shall redeliver that assault
14 weapon to the person. If the licensed gun dealer is prohibited from delivering the
15 assault weapon to a person pursuant to this section, the dealer shall possess or
16 dispose of the assault weapon as allowed by this chapter.

17 **Comment.** Section 30925 continues former Section 12285(b)(2) without substantive change.

18 See Sections 16790 (“licensed gun dealer”), 16970 (“person”), 30510 (“assault weapon”),
19 30515 (further clarification of “assault weapon”).

20 **Staff Note.** Existing Section 12285(b)(2) twice refers to a “licensed gun dealer, *as defined in*
21 *subdivision (c) of Section 12290.*” (Emphasis added.) In proposed Section 30925, we have (1)
22 replaced that reference with “licensed gun dealer,” and (2) included a reference to the definition
23 of “licensed gun dealer” in the Comment, which also states that “Section 30925 continues former
24 Section 12285(b)(2) without substantive change.”

25 We chose this approach because it would further the Legislature’s directive to “[a]void
26 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope of
27 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
28 weight to the Commission’s comments, we think this would be sufficient to preserve the
29 substance of Section 12285(b)(2). See 2007-2008 Annual Report, 37 Cal. L. Revision Comm’n
30 Reports 1, 17-23 (2007).

31 **§ 30930. Restriction on sale or transfer of .50 BMG rifle**

32 30930. Except as provided in Section 30940, no .50 BMG rifle possessed
33 pursuant to this article may be sold or transferred on or after January 1, 2005, to
34 anyone within this state other than to a licensed gun dealer or as provided in
35 Section 31100.

36 **Comment.** Section 30930 continues the first sentence of former Section 12285(b)(3) without
37 substantive change.

38 See Sections 16110 (“.50 BMG rifle”), 16790 (“licensed gun dealer”).

39 **Staff Note.** Existing Section 12285(b)(3) refers to a “licensed gun dealer, *as defined in*
40 *subdivision (c) of Section 12290.*” (Emphasis added.) In proposed Section 30930, we have (1)
41 replaced that reference with “licensed gun dealer,” and (2) included a reference to the definition
42 of “licensed gun dealer” in the Comment, which also states that “Section 30930 continues the first
43 sentence of former Section 12285(b)(3) without substantive change.”

44 We chose this approach because it would further the Legislature’s directive to “[a]void
45 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope of

1 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
2 weight to the Commission’s comments, we think this would be sufficient to preserve the
3 substance of the first sentence of Section 12285(b)(3). See 2007-2008 Annual Report, 37 Cal. L.
4 Revision Comm’n Reports 1, 17-23 (2007).

5 **§ 30935. .50 BMG rifle obtained by bequest or intestate succession**

6 30935. Any person who obtains title to a .50 BMG rifle registered under this
7 article or that was possessed pursuant to subdivision (a) of Section 30630 by
8 bequest or intestate succession shall, within 180 days of receipt, do one or more of
9 the following:

10 (a) Render the weapon permanently inoperable.

11 (b) Sell the weapon to a licensed gun dealer.

12 (c) Obtain a permit from the Department of Justice in the same manner as
13 specified in [Sections 12230-12234].

14 (d) Remove the weapon from this state.

15 **Comment.** Section 30935 continues the second sentence of former Section 12285(b)(3)
16 without substantive change.

17 See Sections 16110 (“.50 BMG rifle”), 16790 (“licensed gun dealer”), 16970 (“person”).

18 **Staff Note.** The second sentence of existing Section 12285(b)(3) applies only to a .50 BMG
19 rifle obtained by bequest or intestate succession, not to a .50 BMG rifle that is conveyed by
20 another type of at-death transfer (e.g., by a trust). Logically, it may make sense to extend the
21 provision to any type of at-death transfer. Such a reform might also be appropriate for other
22 provisions in the Penal Code. See, e.g., Section 12020(b)(7)-(8), which would be continued as
23 proposed Sections 17705 and 17710 in the draft attached to Memorandum 2008-50.

24 Because this is a strictly nonsubstantive study, proposed Section 30935 would simply continue
25 existing law. The staff is not sure whether the possibility of extending that provision (and other
26 similar provisions) to other types of at-death transfers should be included on the Commission’s
27 list of “Minor Clean-up Issues for Possible Future Legislative Attention.” The issue might be too
28 significant to belong on that list. We invite comment on the point.

29 **§ 30940. Person who moves into state with .50 BMG rifle**

30 30940. A person moving into this state, otherwise in lawful possession of a .50
31 BMG rifle, shall do one of the following:

32 (a) Prior to bringing the .50 BMG rifle into this state, that person shall first
33 obtain a permit from the Department of Justice in the same manner as specified in
34 [Sections 12230-12234].

35 (b) The person shall cause the .50 BMG rifle to be delivered to a licensed gun
36 dealer in this state in accordance with Chapter 44 (commencing with Section 921)
37 of Title 18 of the United States Code and the regulations issued pursuant thereto.
38 If the person obtains a permit from the Department of Justice in the same manner
39 as specified in [Sections 12230-12234], the dealer shall redeliver that .50 BMG
40 rifle to the person. If the licensed gun dealer is prohibited from delivering the .50
41 caliber BMG rifle to a person pursuant to this section, the dealer shall dispose of
42 the .50 BMG rifle as allowed by this chapter.

43 **Comment.** Section 30940 continues former Section 12285(b)(4) without substantive change.

44 See Sections 16110 (“.50 BMG rifle”), 16790 (“licensed gun dealer”), 16970 (“person”).

1 **☞ Staff Note.** Existing Section 12285(b)(4) twice refers to a “licensed gun dealer, *as defined in*
2 *subdivision (c) of Section 12290.*” (Emphasis added.) In proposed Section 30940, we have (1)
3 replaced that reference with “licensed gun dealer,” and (2) included a reference to the definition
4 of “licensed gun dealer” in the Comment, which also states that “Section 30940 continues former
5 Section 12285(b)(4) without substantive change.”

6 We chose this approach because it would further the Legislature’s directive to “[a]void
7 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope of
8 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
9 weight to the Commission’s comments, we think this would be sufficient to preserve the
10 substance of Section 12285(b)(4). See 2007-2008 Annual Report, 37 Cal. L. Revision Comm’n
11 Reports 1, 17-23 (2007).

12 **§ 30945. Permitted uses of registered assault weapon or registered .50 BMG rifle**

13 30945. Unless a permit allowing additional uses is first obtained under Section
14 31000, a person who has registered an assault weapon or registered a .50 BMG
15 rifle under this article may possess it only under any of the following conditions:

16 (a) At that person’s residence, place of business, or other property owned by that
17 person, or on property owned by another with the owner’s express permission.

18 (b) While on the premises of a target range of a public or private club or
19 organization organized for the purpose of practicing shooting at targets.

20 (c) While on a target range that holds a regulatory or business license for the
21 purpose of practicing shooting at that target range.

22 (d) While on the premises of a shooting club that is licensed pursuant to the Fish
23 and Game Code.

24 (e) While attending any exhibition, display, or educational project that is about
25 firearms and that is sponsored by, conducted under the auspices of, or approved by
26 a law enforcement agency or a nationally or state recognized entity that fosters
27 proficiency in, or promotes education about, firearms.

28 (f) While on publicly owned land, if the possession and use of a firearm
29 described in Section 16110, 30510, 30515, or 30520 is specifically permitted by
30 the managing agency of the land.

31 (g) While transporting the assault weapon or .50 BMG rifle between any of the
32 places mentioned in this section, or to any licensed gun dealer, for servicing or
33 repair pursuant to Section 31050, if the assault weapon is transported as required
34 by Sections 16850 and 25610.

35 **Comment.** Section 30945 continues former Section 12285(c) without substantive change.

36 See Sections 16110 (“.50 BMG rifle”), 16520 (“firearm”), 16790 (“licensed gun dealer”),
37 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”).

38 **☞ Staff Note.** Existing Section 12285(c)(7) refers to a “licensed gun dealer, *as defined in*
39 *subdivision (c) of Section 12290.*” (Emphasis added.) In proposed Section 30945, we have (1)
40 replaced that reference with “licensed gun dealer,” and (2) included a reference to the definition
41 of “licensed gun dealer” in the Comment, which also states that “Section 30945 continues former
42 Section 12285(c) without substantive change.”

43 We chose this approach because it would further the Legislature’s directive to “[a]void
44 unnecessary use of cross-references” while “[n]either expand[ing] nor contract[ing] the scope of
45 criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great
46 weight to the Commission’s comments, we think this would be sufficient to preserve the

1 substance of Section 12285(c). See 2007-2008 Annual Report, 37 Cal. L. Revision Comm'n
2 Reports 1, 17-23 (2007).

3 **§ 30950. No registration or possession of assault weapon or .50 BMG rifle by minor or**
4 **person in prohibited class**

5 30950. No person who is under the age of 18 years, and no person who is
6 prohibited by state or federal law from possessing, receiving, owning, or
7 purchasing a firearm, may register or possess an assault weapon or .50 BMG rifle.

8 **Comment.** Section 30950 continues former Section 12285(d) without substantive change.

9 See Sections 16110 (“.50 BMG rifle”), 16520 (“firearm”), 16970 (“person”), 30510 (“assault
10 weapon”), 30515 (further clarification of “assault weapon”).

11 **Staff Note.** The text of this provision reflects an amendment made by AB 837 (Feuer). See
12 2008 Cal. Stat. ch. 698.

13 **§ 30955. Joint registration**

14 30955. The department’s registration procedures shall provide the option of joint
15 registration for any assault weapon or .50 BMG rifle owned by family members
16 residing in the same household.

17 **Comment.** Section 30955 continues former Section 12285(e) without substantive change.

18 See Sections 16110 (“.50 BMG rifle”), 30510 (“assault weapon”), 30515 (further clarification
19 of “assault weapon”).

20 **§ 30960. Forgiveness period**

21 30960. (a) For 90 days following January 1, 1992, a forgiveness period shall
22 exist to allow any person specified in subdivision (b) of former Section 12280 to
23 register with the Department of Justice any assault weapon that the person
24 lawfully possessed prior to June 1, 1989.

25 (b)(1) Any person who registers an assault weapon during the 90-day
26 forgiveness period described in subdivision (a), and any person whose registration
27 form was received by the Department of Justice after January 1, 1991, and who
28 was issued a temporary registration prior to the end of the forgiveness period, shall
29 not be charged with a violation of subdivision (b) of former Section 12280, if law
30 enforcement becomes aware of that violation only as a result of the registration of
31 the assault weapon.

32 (2) This section shall have no effect upon any person charged with a violation of
33 subdivision (b) of former Section 12280 of the Penal Code prior to January 1,
34 1992, provided that law enforcement was aware of the violation before the weapon
35 was registered.

36 **Comment.** Subdivision (a) of Section 30960 continues former Section 12285(f) without
37 substantive change.

38 Subdivision (b) continues former Section 12285(h) without substantive change.

39 Subdivisions (a) and (b) refer to former Section 12280(b). That provision is continued in
40 Section 30605 (unlawful possession of assault weapons).

41 See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of
42 “assault weapon”). See also Section 16010 (continuation of existing law).

1 **§ 30965. Exception to registration requirement for weapon already registered on another**
2 **basis**

3 30965. (a) Any person who registered a firearm as an assault weapon pursuant to
4 the provisions of law in effect prior to January 1, 2000, where the assault weapon
5 is thereafter defined as an assault weapon pursuant to Section 30515 or former
6 Section 12276.1, shall be deemed to have registered the weapon for purposes of
7 this chapter and shall not be required to reregister the weapon pursuant to this
8 article.

9 (b) Any person who legally registered a firearm as an assault weapon pursuant
10 to the provisions of law in effect prior to January 1, 2005, where the assault
11 weapon is thereafter defined as a .50 caliber BMG rifle pursuant to Section 16110
12 or former Section 12278, shall be deemed to have registered the weapon for
13 purposes of this chapter and shall not be required to reregister the weapon
14 pursuant to this article.

15 **Comment.** Section 30965 continues former Section 12285(g) without substantive change.

16 Subdivision (a) refers to former Section 12276.1, which became operative on January 1, 2000.
17 As subsequently amended to exempt certain weapons, it is continued in Section 30515 (further
18 clarification of “assault weapon”), which is also referred to in subdivision (a).

19 Subdivision (b) refers to a weapon “defined as a .50 BMG caliber rifle pursuant to ... former
20 Section 12278.” The definition of “.50 BMG rifle” in former Section 12278 is continued in
21 Section 16110 (“.50 BMG rifle”), which is also referred to in subdivision (b).

22 See Sections 16110 (“.50 BMG rifle”), 16520 (“firearm”), 16970 (“person”), 30510 (“assault
23 weapon”), 30515 (further clarification of “assault weapon”). See also Section 16010
24 (continuation of existing law).

25 **Article 6. Permits for Assault Weapons and .50 BMG Rifles**

26 **§ 31000. Permit for use of assault weapon or .50 BMG rifle in manner not specified in**
27 **Section 30945**

28 31000. (a) Any person who lawfully acquired an assault weapon before June 1,
29 1989, or a .50 BMG rifle before January 1, 2005, and wishes to use it in a manner
30 different than specified in Section 30945 shall first obtain a permit from the
31 Department of Justice in the same manner as specified in [Sections 12230-12234].

32 (b) Any person who lawfully acquired an assault weapon between June 1, 1989,
33 and January 1, 1990, and wishes to keep it after January 1, 1990, shall first obtain
34 a permit from the Department of Justice in the same manner as specified in
35 [Sections 12230-12234].

36 (c) Any person who wishes to acquire an assault weapon after January 1, 1990,
37 or a .50 BMG rifle after January 1, 2005, shall first obtain a permit from the
38 Department of Justice in the same manner as specified in [Sections 12230-12234].

39 **Comment.** Section 31000 continues former Section 12286 without substantive change.

40 See Sections 16110 (“.50 BMG rifle”), 16970 (“person”), 30510 (“assault weapon”), 30515
41 (further clarification of “assault weapon”).

1 **Comment.** Section 31050 continues former Section 12290(b) without substantive change.
2 See Sections 16110 (".50 BMG rifle"), 16630 ("gunsmith"), 16790 ("licensed gun dealer"),
3 16970 ("person"), 30510 ("assault weapon"), 30515 (further clarification of "assault weapon").

4 ☞ **Staff Note.** Existing Section 12290(b) twice refers to a "licensed gun dealer, *as defined in*
5 *subdivision (c).*" (Emphasis added.) In proposed Section 31050, we have (1) replaced that
6 reference with "licensed gun dealer," and (2) included a reference to the definition of "licensed
7 gun dealer" in the Comment, which also states that "Section 31050 continues former Section
8 12290(b) without substantive change."

9 We chose this approach because it would further the Legislature's directive to "[a]void
10 unnecessary use of cross-references" while "[n]either expand[ing] nor contract[ing] the scope of
11 criminal liability under current provisions." 2006 Cal. Stat. res. ch. 128. Because courts give great
12 weight to the Commission's comments, we think this would be sufficient to preserve the
13 substance of Section 12290(b). See 2007-2008 Annual Report, 37 Cal. L. Revision Comm'n
14 Reports 1, 17-23 (2007).

15 **§ 31055. Other special rules for licensed gun dealer**

16 31055. In addition to the uses allowed in Article 5 (commencing with Section
17 30900), any licensed gun dealer who lawfully possesses an assault weapon or .50
18 BMG rifle pursuant to Article 5 (commencing with Section 30900) may do any of
19 the following:

20 (a) Transport the firearm between dealers or out of the state if that person is
21 permitted pursuant to the National Firearms Act. Any transporting allowed by this
22 section or Section 31050 shall be done as required by Sections 16850 and 25610.

23 (b) Display the firearm at any gun show licensed by a state or local
24 governmental entity.

25 (c) Sell the firearm to a resident outside the state.

26 (d) Sell the firearm to a person who has been issued a permit pursuant to Section
27 31000.

28 **Comment.** Section 31055 continues former Section 12290(a) without substantive change.

29 See Sections 16110 (".50 BMG rifle"), 16790 ("licensed gun dealer"), 16970 ("person"),
30 30510 ("assault weapon"), 30515 (further clarification of "assault weapon").

31 ☞ **Staff Note.** Existing Section 12290(a) refers to a "licensed gun dealer, *as defined in*
32 *subdivision (c).*" (Emphasis added.) In proposed Section 31055, we have (1) replaced that
33 reference with "licensed gun dealer," and (2) included a reference to the definition of "licensed
34 gun dealer" in the Comment, which also states that "Section 31055 continues former Section
35 12290(a) without substantive change."

36 We chose this approach because it would further the Legislature's directive to "[a]void
37 unnecessary use of cross-references" while "[n]either expand[ing] nor contract[ing] the scope of
38 criminal liability under current provisions." 2006 Cal. Stat. res. ch. 128. Because courts give great
39 weight to the Commission's comments, we think this would be sufficient to preserve the
40 substance of Section 12290(a). See 2007-2008 Annual Report, 37 Cal. L. Revision Comm'n
41 Reports 1, 17-23 (2007).

1

Article 8. Miscellaneous Provisions

2 **§ 31100. Relinquishment of assault weapon or .50 BMG rifle**

3 31100. Any individual may arrange in advance to relinquish an assault weapon
4 or a .50 BMG rifle to a police or sheriff's department. The assault weapon or .50
5 BMG rifle shall be transported in accordance with Sections 16850 and 25610.

6 **Comment.** Section 31100 continues former Section 12288 without substantive change.

7 See Sections 16110 (".50 BMG rifle"), 30510 ("assault weapon"), 30515 (further clarification
8 of "assault weapon").

9 **§ 31105. Broadcasting over police radio**

10 31105. (a) No peace officer or dispatcher shall broadcast over a police radio that
11 an individual has registered, or has obtained a permit to possess, an assault
12 weapon or .50 BMG rifle pursuant to this chapter, unless there exists a reason to
13 believe in good faith that one of the following conditions exist:

14 (1) The individual has engaged, or may be engaged, in criminal conduct.

15 (2) The police are responding to a call in which the person allegedly committing
16 a criminal violation may gain access to the assault weapon or .50 BMG rifle.

17 (3) The victim, witness, or person who reported the alleged criminal violation
18 may be using the assault weapon or .50 BMG rifle to hold the person allegedly
19 committing the criminal violation, or may be using the weapon in defense of self
20 or another person.

21 (b) This section shall not prohibit a peace officer or dispatcher from
22 broadcasting over a police radio that an individual has not registered, or has not
23 obtained a permit to possess, an assault weapon or .50 BMG rifle pursuant to this
24 chapter.

25 (c) This section does not limit the transmission of an assault weapon or a .50
26 BMG rifle ownership status via law enforcement computers or any other medium
27 that is legally accessible only to peace officers or other authorized personnel.

28 **Comment.** Section 31105 continues former Section 12288.5 without substantive change.

29 See Sections 16110 (".50 BMG rifle"), 16970 ("person"), 30510 ("assault weapon"), 30515
30 (further clarification of "assault weapon").

31 **§ 31110. Inspection conducted by Department of Justice**

32 31110. (a) Except as provided in subdivision (b), the Department of Justice
33 shall, for every person, firm, or corporation to whom a permit is issued pursuant to
34 this article, annually conduct an inspection for security and safe storage purposes,
35 and to reconcile the inventory of assault weapons.

36 (b) A person, firm, or corporation with an inventory of fewer than five devices
37 that require any Department of Justice permit shall be subject to an inspection for
38 security and safe storage purposes, and to reconcile inventory, once every five
39 years, or more frequently if determined by the department.

40 **Comment.** Section 31110 continues former Section 12289.5 without substantive change.

1 See Sections 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of
2 “assault weapon”).

3 **☞ Staff Note.** Existing Section 12289.5 uses the phrase “person, firm, or corporation.” To
4 minimize any concern that the Commission’s proposed reorganization would have a substantive
5 impact, that phrase would be continued without change in proposed Section 31110.

6 Usually, however, the term “person” is defined to include a corporation or other entity, not just
7 an individual. For example, existing Section 7 says that in the Penal Code, “the word ‘person’
8 includes a corporation as well as a natural person.” Similarly, existing Section 12277 says that for
9 purposes of the chapter on assault weapons and .50 BMG rifles, “person” means “an individual,
10 partnership, corporation, limited liability company, association, or any other group or entity,
11 regardless of how it was created.” That provision would be continued in proposed Section 16970.

12 Given these definitions, it seems unnecessary to use phrases like “person, firm, or corporation,”
13 instead of just “person.” Simplification of these phrases might be worth doing in the future, in a
14 different reform. The possibility of standardizing the usage of “person” is already on the
15 Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

16 § 31115. Public education and notification program

17 31115. (a) The Department of Justice shall conduct a public education and
18 notification program regarding the registration of assault weapons and the
19 definition of the weapons set forth in Section 30515 and former Section 12276.1.

20 (b) The public education and notification program shall include outreach to local
21 law enforcement agencies and utilization of public service announcements in a
22 variety of media approaches, to ensure maximum publicity of the limited
23 forgiveness period of the registration requirement specified in subdivision (f) of
24 former Section 12285 and the consequences of nonregistration. The department
25 shall develop posters describing gunowners’ responsibilities under former Chapter
26 2.3 (commencing with Section 12275) of Title 2 of Part 4, which shall be posted in
27 a conspicuous place in every licensed gun store in the state during the forgiveness
28 period.

29 (c) For .50 BMG rifles, the department’s education campaign shall provide
30 materials to dealers of .50 BMG rifles, and to recognized national associations that
31 specialize in .50 BMG rifles.

32 (d) Any costs incurred by the Department of Justice to implement this section,
33 which cannot be absorbed by the department, shall be funded from the Dealers’
34 Record of Sale Special Account, as set forth in Section 28220 or subdivision (d) of
35 former Section 12076, upon appropriation by the Legislature.

36 **Comment.** Section 31115 continues former Section 12289 without substantive change.

37 Subdivision (a) refers to former Section 12276.1, which became operative on January 1, 2000.
38 As subsequently amended to exempt certain weapons, it is continued in Section 30515 (further
39 clarification of “assault weapon”).

40 Subdivision (b) refers to former Section 12285(f). That provision is continued in Section
41 30960(a). Subdivision (b) also refers to “former Chapter 2.3 (commencing with Section 12275) of
42 Title 2 of Part 4.” Former Chapter 2.3 (former Sections 12275-12290) is continued in this chapter
43 (except some definitions that are located in “Division 2. Definitions” of Title 1).

44 Subdivision (d) refers to former Section 12076(d). That provision is continued in Section
45 28220.

- 1 See Sections 16110 (“.50 BMG rifle”), 16970 (“person”), 30510 (“assault weapon”), 30515
 - 2 (further clarification of “assault weapon”). See also Section 16010 (continuation of existing law).
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