Memorandum 2009-10

Nonsubstantive Reorganization of Deadly Weapon Statutes:
Staff Draft Tentative Recommendation
(Without Conforming Revisions)

Attached for review is a staff draft of a tentative recommendation proposing to reorganize the deadly weapon statutes to make them more user-friendly, without changing their substance. The Commission has previously reviewed and tentatively approved virtually all of the material in the attached draft. As noted on the last page of the “Proposed Legislation,” additional material will be inserted from Memoranda 2009-4, 2009-5, 2009-6, 2009-7, 2009-8, and 2009-9, as approved by the Commission at the upcoming meeting.

The deadline for the Commission’s final report to the Legislature is July 1, 2009. Because of that deadline, it is essential that the Commission approve a tentative recommendation at the upcoming meeting. The due date for comments on the tentative recommendation would be May 1, 2009, approximately two months after the staff would finalize and distribute the tentative recommendation (assuming it is approved at the upcoming meeting). That will give the staff time to analyze and present the comments for the meeting scheduled on June 17, 2009, which is less than two weeks before the due date for the Commission’s final report.

The attached draft differs in the following respects from the material previously reviewed by the Commission:

- The staff has incorporated the revisions approved at the December meeting. See Minutes (Dec. 2008), pp. 4-7.
- In the preliminary part, the staff has made a few minor revisions and filled in almost all of the blanks (we will complete the blanks in footnote 29 after the Commission approves a tentative recommendation). As recommended at pages 4-5 of Memorandum 2009-4, we have also added a paragraph on the drafting difficulties relating to the material on assault weapons and .50 BMG rifles. See the fourth paragraph in the discussion of “Conforming Cross-References.”
• In “Appendix A: Corrected Cross-References,” we have added the bullet points relating to Penal Code Sections 11106, 12132, 12276.5, and 12280(u)(3).

• We have reformatted the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention,” as shown in Appendix B. The substance of the list is the same as before, except we have added the following items: #23, #24, #27, #38, #43-49, #53, #54, #58, #62-67, #90, #92. These items are discussed in staff memoranda prepared for this meeting, which are cited in the footnotes as appropriate.

• In the “Proposed Legislation,” the staff has conformed numerous cross-references to reflect the proposed reorganization of the deadly weapon statutes. We have also made some formatting changes and minor corrections. As discussed in the Staff Notes to proposed Penal Code Sections 26875 and 26880, we did not know how to conform three cross-references to Penal Code Section 12806. We have added this matter to the Commission’s list of “Minor Clean-up Issues for Possible Future Legislative Attention.” See Appendix B (Item #58).

• For drafting convenience, we have added proposed Penal Code Section 16585 (“former Section 12078 provisions”). This provision is helpful in conforming some of the existing cross-references to Penal Code Section 12078.

• As discussed at pages 20-21 of the attachment to Memorandum 2009-4, the staff recommends that the definition of “SKS rifle” be moved to the chapter on assault weapons and .50 BMG rifles. Consistent with that recommendation, proposed Section 17220 (“SKS rifle”) has been converted into a guidepost provision.

• As recommended at page 2 of Memorandum 2009-8, the Comments to proposed Penal Code Sections 18000-18010 and 18250-18420 have been revised to cross-refer to proposed Penal Code Sections 33800-34010 (firearm in custody of court or law enforcement agency or similar situation) and similar provisions. This will help make the proposed law more user-friendly.

• As discussed at page 11 of the attachment to Memorandum 2009-8, the staff recommends that the substance of existing Penal Code Section 12021.3(i)(3) be recodified as proposed Penal Code Section 26590, instead of being placed in Division 11 of new Part 6 of the Penal Code. Consistent with that recommendation, proposed Section 26590 is included in the attached draft.

• The Comment to proposed Penal Code Section 28250 has been revised. We have added a sentence that states: “An erroneous reference to “the register” has been replaced with a reference to “the electronic or telephonic transfer.” This is consistent with the text of the provision and the previously approved discussion of this point in the preliminary part.
• At the end of proposed Penal Code Section 29300(a), we have added the phrase “and is subject to Sections 18000 and 18005.” This parallels the treatment of similar parts of Penal Code Section 12028, and is consistent with the discussion of that section at page 15 of the preliminary part.

• In proposed Penal Code Section 29535, we have added a cross-reference to proposed Penal Code Section 29515, as discussed at the December meeting. See Minutes (Dec. 2008), p. 6.

• As discussed at the December meeting, we have added an uncodified provision that would give the Commission authority to study the issues in its list of “Minor Clean-up Issues for Possible Future Legislative Attention.” We have also excluded this provision from the deferred operative date. See the last page of the “Proposed Legislation.”

The Commission needs to decide **whether to make any revisions in the attached draft and the drafts attached to Memoranda 2009-4, 2009-5, 2009-6, 2009-7, 2009-8, and 2009-9.** After resolving that matter, the Commission needs to decide **whether to approve a tentative recommendation,** to be posted to the Commission’s website and distributed for comment.

Respectfully submitted,

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CALIFORNIA LAW
REVISION COMMISSION

STAFF DRAFT

TENTATIVE RECOMMENDATION

Nonsubstantive Reorganization of Deadly Weapon Statutes

December 2008

The purpose of this tentative recommendation is to solicit public comment on the Commission’s tentative conclusions. A comment submitted to the Commission will be part of the public record. The Commission will consider the comment at a public meeting when the Commission determines what, if any, recommendation it will make to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made to it.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN May 1, 2009.

The Commission will often substantially revise a proposal in response to comment it receives. Thus, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

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The Legislature has directed the Law Revision Commission to “study, report on, and prepare recommended legislation by July 1, 2009, concerning the revision of the portions of the Penal Code relating to the control of deadly weapons….” 2006 Cal. Stat. res. ch. 128. The general purpose of the study is to improve the organization and accessibility of the deadly weapons statutes, without making any change to criminal liability under those statutes.

This tentative recommendation was prepared pursuant to that direction. In drafting the proposed law, the Commission took extreme care to ensure that it would not cause any substantive change in the law.

The Law Revision Commission invites public review and comment. In particular, the Commission invites comment on whether any provision of the proposed law would cause any substantive change in the law.
NONSUBSTANTIVE REORGANIZATION OF DEADLY WEAPON STATUTES

In 2006, the Legislature enacted Assembly Concurrent Resolution 73 (McCarthy) (hereafter “ACR 73”), which directed the Law Revision Commission to “study, report on, and prepare recommended legislation by July 1, 2009, concerning the revision of the portions of the Penal Code relating to the control of deadly weapons ....” The resolution states:

WHEREAS, Title 2 (commencing with Section 12000) of Part 4 of the Penal Code, relating to the control of deadly weapons, is lengthy and complex, and could be simplified; and

WHEREAS, It is the intent of the Legislature that the firearms laws be simplified and reorganized; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature authorizes and requests that the California Law Revision Commission study, report on, and prepare recommended legislation by July 1, 2009, concerning the revision of the portions of the Penal Code relating to the control of deadly weapons, and that this legislation shall accomplish the following objectives:

(a) Reduce the length and complexity of current sections.
(b) Avoid unnecessary use of cross-references.
(c) Neither expand nor contract the scope of criminal liability under current provisions. In the event that the commission’s draft changes the scope of criminal liability under the current provisions, this shall be made explicit in the commission’s draft or any commentary related to the draft.
(d) To the extent compatible with objective (c), use common definitions of terms.
(e) Organize existing provisions in such a way that similar provisions are located in close proximity to each other.
(f) Eliminate duplicative provisions; and be it further

Resolved, That nothing in this resolution shall be construed to prevent the Legislature, prior to receipt of the commission’s recommendations, from enacting any measure related to the Penal Code sections under review by the California Law Revision Commission; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Law Revision Commission and to the author for appropriate distribution.¹

The impetus for this study appears to have been a veto message by Governor Schwarzenegger, in which he stated:

Before a government exercises its power to take away one’s liberty, it should be clear to every person what actions will cause them to forfeit their freedom. Instead of adding to the lengthy and complex area of firearm laws, a reorganization of the

¹ ACR 73 (McCarthy); 2006 Cal. Stat. res. ch. 128 (emphasis in original).
current laws should be undertaken to ensure that statutes that impose criminal penalties are easily understandable.  

This tentative recommendation presents draft legislation consistent with the direction provided in ACR 73. The objectives of the proposed law and the methods used in preparing it are discussed more fully below. The Commission invites public review and comment on this tentative recommendation.

SCOPE OF STUDY

ACR 73 directs the Commission to study, report on, and prepare legislation “concerning the revision of the portions of the Penal Code relating to the control of deadly weapons ....” By itself, this directive seems clear, but reading it together with other portions of ACR 73 raises some issues regarding the intended scope of the Commission’s study. Those issues are discussed below.

Type of Weapons

An initial issue is whether the Commission’s study should focus exclusively on provisions relating to firearms, or should also encompass provisions relating to other types of deadly weapons.

The preamble to ACR 73 states that it “is the intent of the Legislature that the firearms laws be simplified and reorganized.” However, the preamble further states that “Title 2 (commencing with Section 12000) of Part 4 of the Penal Code, relating to the control of deadly weapons, is lengthy and complex, and could be simplified ....” These statements are arguably in conflict, but ACR 73 specifically directs the Commission to study, report on, and prepare legislation “concerning the revision of the portions of the Penal Code relating to the control of deadly weapons ....”

As introduced, ACR 73 referred only to “firearms.” Significantly, the resolution was later revised to refer to “deadly weapons.”

In light of the language of the resolution and its history, the Commission believes that the study should encompass all deadly weapons. That is the scope of the legislation proposed in this tentative recommendation.

2. As introduced on June 13, 2005, ACR 73 cited the Governor’s statement as a basis for the resolution. The cited language is from the Governor’s veto message on SB 1140 (Scott) (2004), which would have made changes to provisions regulating the storage of firearms. See also Senate Committee on Judiciary Analysis of ACR 73 (August 24, 2006).

3. See ACR 73 (McCarthy) (as introduced on June 13, 2005).

4. Id. (as amended July 12, 2005).
Relevant Code Sections

A second issue is whether the Commission’s study should focus on a specific portion of the Penal Code, or instead encompass any Penal Code provision that relates to the “control of deadly weapons.”

The preamble to ACR 73 refers specifically to “Title 2 (commencing with Section 12000) of Part 4 of the Penal Code, relating to the control of deadly weapons ....” The resolution then directs the Commission to study “the portions of the Penal Code relating to the control of deadly weapons ....” It is unclear whether this directive refers back to Title 2, or is meant to include all provisions in the Penal Code relating to the control of deadly weapons, regardless of where they are located.

To determine the intent, the Commission examined the analyses and different versions of ACR 73, and discussed the matter with legislative staff. Although other interpretations are possible, the Commission concluded that this study should focus on Title 2 of Part 4 of the Penal Code. The language of ACR 73 is broad enough to permit revision of other provisions relating to deadly weapons if needed, but the bulk of such provisions are in Title 2 and these appear to be the provisions that the Legislature considered in need of attention. That is the approach taken in the proposed law.

Sentence Enhancements

There are some provisions in Title 2 of Part 4 of the Penal Code that do not relate directly to the control of deadly weapons. These provisions establish “sentence enhancements.” A sentence enhancement is a provision that imposes an additional and consecutive term to the base term of punishment for a crime when specified conditions are met.

Many of the sentence enhancements in Title 2 of Part 4 of the Penal Code do not involve deadly weapons at all. Others include the use or possession of a deadly

5. Penal Code §§ 12000-12809. Unless otherwise indicated, all further statutory references are to the Penal Code.

6. There is one exception. Section 653k, which is located outside of Title 2, is included within the scope of the proposed law. Section 653k regulates the ownership, sale, and transfer of switchblade knives. It is currently located in a chapter on miscellaneous offenses, which contains a variety of unrelated provisions. ACR 73 directs the Commission to: “Organize existing provisions in such a way that similar provisions are located in close proximity to each other.” In accord with that direction, the proposed law would move the substance of Section 653k to the same location as other provisions regulating knives. See proposed Sections 16965, 17235, 21510 infra.

7. Sections 12022.6-12022.95.

8. See Sections 12022.1 (secondary offense), 12022.6 (taking or damaging property), 12022.7 (great bodily injury), 12022.75 (administration of controlled substance), 12022.8 (infliction of great bodily injury in committing sexual offense), 12022.85 (sexual offense by person with AIDS), 12022.9 (crime causing termination of pregnancy), 12022.95 (injury to child).
weapon as a condition for imposing a sentence enhancement, but do not relate to
the ownership, transfer, sale, or storage of deadly weapons.9

The proposed law would leave these sentence enhancement provisions unchanged, in their current location in the Penal Code.10 They would not be included within the reorganized body of statutes governing the control of deadly weapons.

There are two reasons for this approach. First, the sentence enhancement provisions do not primarily concern the control of deadly weapons. Second, it is preferable not to change the section numbers of provisions that are used in calculating criminal sentences. Judges and attorneys rely on a number of tools to assist in calculating sentences. Those tools would need to be updated if the section numbers of the sentence enhancement provisions were changed.

STUDY OBJECTIVES

Improve Accessibility of the Law

The primary purpose of this study is to simplify and improve the organization of the statutes governing control of deadly weapons, to make them more understandable and useable, without making any substantive changes to that law. The author of ACR 73, Assembly Member Kevin McCarthy, described the need for simplification of the law as follows:

These areas of the law are not for legal experts only. Firearms owners, licensed dealers, and law enforcement need to be able to interpret these provisions in order to comply with the law and avoid criminal liability. Ambiguity and confusion do not promote the public policy goals that those laws were designed to accomplish.

Gun owners shouldn’t have to consult an attorney specializing in firearms law just to find out what they need to do to avoid committing a crime. Law enforcement should have clear, bright line, easily understandable guidelines on how to enforce these laws. This resolution is offered in the hope that an independent, expert body of legal experts can offer up some helpful suggestions on ways that these laws can be clarified so that our citizens will be able to

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9. See Sections 12021.5 (street gang crimes), 12022 (possession or use of firearm or dangerous weapon), 12022.2 (armor piercing ammunition or body vest), 12022.3 (sexual offenses), 12022.4 (furnishing firearm used in crime), 12022.5(a) (personal use of firearm in commission of felony), 12022.53 (personal use or discharge of firearm), 12022.55 (discharge of firearm from vehicle causing great bodily injury).

A few provisions in Title 2 of Part 4 of the Penal Code provide sentence enhancements that are specific to crimes involving the control of deadly weapons. See Sections 12072(g)(4), 12280(a)(2) & (d). These provisions are closely tied to the substance of the sections in which they are located. They would therefore be moved to proposed Part 6, and kept in close proximity to the same substantive material as at present. See proposed Sections 27590, 30600, 30615 infra.

10. See proposed Sections 12001-12022.95 (“Title 2. Sentence Enhancements”) infra.
determine, with relative ease, what the law requires and prohibits in the area of firearms regulation.\textsuperscript{11}

In addition to the benefits described by Assembly Member McCarthy, improvement of the clarity and organization of the deadly weapon statutes would also facilitate the future development of the law, by making it easier for the Legislature to assess the state of existing law and thereby avoid redundancy or inconsistency in enacting new provisions.

Nonsubstantive Reform

The proposed law would improve the organizational clarity of the deadly weapons statutes, as intended. However, there is an important limit on the extent to which the Commission can make that law clearer, simpler, or better organized. ACR 73 requires that any reform proposed by the Commission “[n]either expand nor contract the scope of criminal liability under current provisions.”

That limitation has been the controlling principle in the preparation of the proposed law. The Commission has exercised extreme care to ensure that the proposed law would not result in any substantive change in outcome under the affected statutes.

Specific measures taken by the Commission to avoid making any substantive change in the law are described below.

Objective and Participatory Study Process

The Commission’s study process is well-suited to the development of a nonsubstantive reform of the deadly weapon statutes, for the following reasons:

- The Commission is neutral and objective, with no special interest in the subject of deadly weapons. The Commission has no motivation to introduce substantive changes into the deadly weapon statutes.
- The Commission has prior experience in drafting legislation to recodify complex bodies of law without making any substantive change.\textsuperscript{12}
- The Commission’s work is transparent. All materials are publicly distributed. All deliberations are conducted at open public meetings.
- The Commission actively solicits input from affected interest groups. Interim drafts of the proposed law are provided to those groups for review. Any objection that a change would have a substantive effect is carefully analyzed and addressed by the Commission. This tentative recommendation furthers that process.
- In proposing legislative reform, the Commission prepares a thorough explanatory report (similar to this tentative recommendation) that explains

\textsuperscript{11}. Senate Floor Analysis of ACR 73 (Aug. 26, 2006), pp. 4-5.

\textsuperscript{12}. For example, the Commission recently recommended the nonsubstantive recodification of the civil discovery statutes, an important and sensitive body of law. See \textit{Civil Discovery: Nonsubstantive Reform}, 33 Cal. L. Revision Comm’n Reports 789 (2003); enacted as 2004 Cal. Stat. ch. 182.
the purpose and effect of the proposed law, and sets out a complete draft of
the proposed legislation, with a detailed table of contents and a table
showing the disposition of every affected section. This report facilitates
public review of the proposed law.

Commission Comments
In preparing a recommendation, the Commission drafts an explanatory
“Comment” for every section that is added, amended, or repealed. A Comment
indicates the derivation of a section and often explains its purpose, its relation to
other law, and potential issues concerning its meaning or application.

The Comments in this recommendation state expressly, for each affected
section, that the proposed law is not intended to make any change to the substance
of the affected provision.

On completion of a final recommendation, the full recommendation, including
the proposed legislation and the Comments, will be presented to the Legislature
and the Governor. If legislation is introduced to effectuate the proposed law, the
full recommendation will be provided to each member of every policy committee
that reviews the legislation.

Commission materials that have been placed before and considered by the
Legislature are considered evidence of legislative intent, and are entitled to great
weight in construing statutes. The materials are a key interpretive aid for
practitioners as well as courts, and courts may judicially notice and rely on
them. Courts at all levels of the state and federal judicial systems use

13. The Comments follow each section of the proposed legislation infra.
14. See, e.g., Fair v. Bakhtiari, 40 Cal. 4th 189, 195, 147 P.3d 653, 657, 51 Cal. Rptr. 3d 871, 875 (2006) (“The Commission’s official comments are deemed to express the Legislature’s intent.”); People v. Williams, 16 Cal. 3d 663, 667-68, 547 P.2d 1000, 128 Cal. Rptr. 888 (1976) (“The official comments of the California Law Revision Commission on the various sections of the Evidence Code are declarative of the intent not only of the draft[ers] of the code but also of the legislators who subsequently enacted it. [Citation].”)

In an effort to discern legislative intent, an appellate court is entitled to take judicial notice of the various legislative materials, including committee reports, underlying the enactment of a statute. (Kern v. County of Imperial (1990) 226 Cal. App. 3d 391, 400, fn. 8 [276 Cal. Rptr. 524]; Coopers & Lybrad v. Superior Court (1989) 212 Cal. App. 3d 524, 535, fn. 7 [260 Cal. Rptr. 713].) In particular, reports and interpretive opinions of the Law Revision Commission are entitled to great
17. See, e.g., Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc., 133 Cal. App. 4th 26, 34 Cal. Rptr. 3d 520 (2005) (providing overview of materials that may be judicially noticed in
Commission materials to construe statutes enacted on Commission recommendation.

The Commission’s Comments will make clear that the proposed law should be construed as an entirely nonsubstantive reorganization of the law.

**Statements of Legislative Intent**

The proposed law would be known as the Deadly Weapons Recodification Act of 2012. It would include a number of codified provisions making clear that the proposed law would continue existing law without any substantive change. That general point would be stated in proposed Section 16005:

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.

In addition, proposed Section 16010 would make clear that a provision of the proposed law is intended as a restatement and continuation of the provision that it restates, and that any reference to a restated provision is deemed to include a reference to the section that restates it (and vice versa):

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21. See proposed Section 16000 infra. In selecting this title, the Commission assumed that because of its magnitude the proposed legislation would not be introduced until the first year of the 2011-2012 legislative session, and would not be enacted until the following year. The Commission solicits comments on this timing of bill introduction.
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.

The Commission has taken special care to avoid any ambiguity with respect to 
the operation of provisions that concern repeat offenses. Proposed Section 16015 
would expressly state that a conviction under a restated section is also deemed to 
be a conviction under the section that restates it:

16015. If a previously existing provision is restated and continued in this part, a 
conviction under that previously existing provision shall, unless a contrary intent 
appears, be treated as a prior conviction under the restatement and continuation of 
that provision.

Finally, proposed Sections 16020 and 16025 would make clear that restatement 
of a provision is not intended to have any effect, positive or negative, on a judicial 
interpretation of the restated provision or a judicial holding that the provision is 
unconstitutional:

16020. (a) A judicial decision interpreting a previously existing provision is 
relevant in interpreting a provision of this part that restates and continues that 
previously existing provision. 
(b) However, in enacting the Deadly Weapons Recodification Act of 2012, the 
Legislature has not evaluated the correctness of any judicial decision interpreting 
a provision affected by the act. 
(c) The Deadly Weapons Recodification Act of 2012 is not intended to, and 
does not, reflect any assessment of any judicial decision interpreting any 
provision affected by the act.

16025. (a) A judicial decision determining the constitutionality of a previously 
existing provision is relevant in determining the constitutionality of a provision of 
this part that restates and continues that previously existing provision. 
(b) However, in enacting the Deadly Weapons Recodification Act of 2012, the 
Legislature has not evaluated the constitutionality of any provision affected by the 
act, or the correctness of any judicial decision determining the constitutionality of 
any provision affected by the act. 
(c) The Deadly Weapons Recodification Act of 2012 is not intended to, and 
does not, reflect any determination of the constitutionality of any provision 
affected by the act.

By their terms, the provisions discussed above would apply to the entire body of 
recodified deadly weapon statutes. The Commission invites comment on whether 
there are any other general statements of legislative intent that would be helpful to
include in the proposed law, to avoid any implication that the proposed law would have a substantive effect.

Legislative Process

After the Commission completes its study process and issues a final recommendation, the proposed law would be scrutinized carefully in the legislative process. This would serve as a final safeguard against any unintended substantive change in the law. To facilitate careful legislative review of the proposed law, the Commission intends to request that a joint informational hearing be held by the Public Safety Committees of the Senate and Assembly, to invite further public review and comment on the proposed law, before the introduction of any legislation.

DRAFTING APPROACH

Structure of Proposed Law

The proposed law would relocate most of the provisions of existing Title 2 of Part 4 of the Penal Code to a new Part 6 of the Penal Code, commencing with proposed Section 16000.22

The provisions of existing Title 2 are organized into two levels: chapters and articles. That provides little organizational flexibility, making it difficult to group similar provisions together unless they are combined into an excessively long section.

By contrast, proposed Part 6 would be organized into four levels: Titles, divisions, chapters, and articles. This provides much greater latitude to group similar provisions together, and then combine similar groupings into a logical hierarchical structure.

This approach complies with the Legislature’s directive to “[o]rganize existing provisions in such a way that similar provisions are located in close proximity to each other.”23 It allows for a more coherent and intuitive organizational structure, which should make it easier for a reader to find relevant provisions within the statute.

Short, Simple Sections

One of the common complaints about existing Title 2 of Part 4 of the Penal Code is that many of its sections are excessively long. For example, Assembly

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22. A number of sentence enhancement provisions would not be relocated to new Part 6. See discussion under “Sentence Enhancements” supra. The portion of Section 12590 relating to picketing in the uniform of a peace officer would be placed in “Chapter 4.5. Peace Officers” of Title 3 of Part 2 of the Penal Code. See proposed Section 830.95 infra.

23. ACR 73.
Member McCarthy noted that “Penal Code Section 12078 is 5,880 words long and occupies 11 pages….”

Excessively long sections can obscure relevant details of law, especially if a single section addresses several different subjects.

A better approach is to divide the law into a larger number of smaller sections, with each section limited to a single subject. Short sections have numerous advantages. They enhance readability and understanding of the law, and make it easier to locate and refer to pertinent material. In contrast to a long section, a short section can be amended without undue technical difficulties and new material can be inserted where logically appropriate, facilitating sound development of the law.

The use of short sections is the preferred drafting technique of the California Code Commission, the Legislature, the Legislative Counsel, and the Law Revision Commission.

Moreover, ACR 73 specifically directs the Commission to “[r]educe the length and complexity of current sections.”

For all of the reasons discussed above, the proposed law would divide lengthy sections into shorter and simpler provisions. The result would be a significant increase in the number of sections, but not much change in the word count of the governing law.

Definition of Terms

Under existing law, many definitions are scattered throughout Title 2 of Part 4 of the Penal Code. Some terms are used with different definitions in different contexts, or are defined for some uses but not others. This can create uncertainty as to whether any given term is subject to a statutory definition. That may lead to

28. Commission Staff Memorandum 76-24 (Feb. 17, 1976); First Supplement to Commission Staff Memorandum 85-64 (May 31, 1985).
29. Title 2 of Part 4 of the Penal Code consists of 230 sections, with ___ words of text. The proposed legislation (including all material derived from Title 2 of Part 4, whether placed in the title on “Sentence Enhancements,” in proposed Part 6, or elsewhere) would consist of ___ sections, with ___ words of text. The increase in word count is primarily due to the addition of statements of legislative intent (see discussion of “Statements of Legislative Intent” supra) and the repetition of exceptions formerly consolidated in Section 12078 (see discussion of “Section 12078” infra).

Proposed Part 6 would commence with proposed Section 16000 infra. The Commission deliberately left numbering gaps in proposed Part 6. This will allow for future changes in the law, without resort to decimal numbering.

30. For example, the term “antique firearm” has three different definitions as applied in different contexts. See Sections 12001(e), 12020(b)(5), 12078(p)(6)(B), 12085(e)(3), 12088.8(a), 12276.1(d)(3), 12278(d), 12801(b).
misunderstanding of the law. It may also lead to unintended consequences, if the
Legislature uses a defined term without realizing that it would be subject to an
already existing definition.

The proposed law would group most of the definitions in a separate division
near the beginning of the proposed law, in alphabetical order. The Commission’s
Comments to sections that use a defined term would include a cross-reference to
the applicable definition. This approach would make it easier for members of the
public, attorneys, judges, and the Legislature to quickly determine whether a term
is subject to a statutory definition. It will also make it easier for the Legislature to
identify and review cases where a single term has multiple definitions that are
similar but not identical, or is defined for some purposes but not for others. That
would facilitate future simplification of the law.31

In drafting the definition provisions, the Commission was careful neither to
expand nor contract the existing scope of application of any definition. Where an
existing definition applies to every use of a term in Title 2 of Part 4 of the Penal
Code, the proposed law would provide that the definition applies to every use of
that term in proposed Part 6 of the Penal Code. That statement of general
application will facilitate the use of uniform definitions in the future. It will allow
the Legislature to use a term in its defined sense without the need to draft a new
definition provision.

Where an existing definition applies to some but not all uses of a term in Title 2
of Part 4, the proposed law would limit the definition to the same uses as under
current law. For example, Section 12126 defines “semiautomatic pistol” for
purposes of that section. The term is also used without definition elsewhere in
Title 2 of Part 4.32 To avoid creating a risk of a substantive change, the definition
of “semiautomatic pistol” in the proposed law would apply only to the provisions
that would continue the substance of Section 12126.33

In two cases, the proposed law deviates from the general approach of grouping
all definitions together near the beginning of proposed Part 6 of the Penal Code.

First, some existing provisions include common terms that are given special
definitions (e.g., “furnishes”). It may not be immediately obvious to a reader of
such a provision that the common term has a special definition. That could lead to

31. In conducting this strictly nonsubstantive study, the Commission has identified some instances in
which simplification or standardization of a definition or other terminology might be possible in a future
reform. See Appendix B (Items #1-#34) infra; see also discussion of “Minor Clean-up Issues for Possible
Future Legislative Attention” infra.
32. See Sections 12071(b)(8)(D)(i), 12130(d)(1)-(3), 12132(i), 12276.1(a)(4)-(5).
33. See proposed Section 17140 infra (defining “semiautomatic pistol” as used in proposed Sections
16900 and 31910).
34. See Section 12552.
misunderstanding of the law. In those cases, the definition is located near the provision that uses the defined term.\textsuperscript{35}

Second, some existing provisions mix definitions with substantive rules in complex ways. Rather than separate those definitions from the related substantive rules, the provisions are left largely unchanged and located with other provisions addressing the same substance.\textsuperscript{36} In order to help readers find those definitions, the proposed law includes “guidepost” provisions in the definitions division, which refer to those definitions located elsewhere.\textsuperscript{37}

**Substantive Organization**

Proposed Part 6 of the Penal Code would be divided into four different titles. Title 1, entitled “Preliminary Provisions,” would include the statements of legislative intent described above.\textsuperscript{38} Title 1 would also include the definitions for new Part 6, in alphabetical order.

Title 2, entitled “Weapons Generally,” would include substantive provisions that apply to all types of deadly weapons, such as the rules pertaining to seizure of a deadly weapon at the scene of domestic violence. Title 2 would also include other

\textsuperscript{35}. See proposed Sections 16730(c) (“transaction”), 17280(b) (“major component”), 19915(b) (“furnishes”), 20170(b) (“public place”), 25000 (“child”), 25200(d) (“off-premises”), 26045(c) (“immediate”), 26915(g) (“secured”), 27550 (“collusion”), 28150(a)-(b) (“purchase,” “purchaser”), 28150(c) (“sale”), 28170(e) (“transaction”), 28200(a)-(b) (“purchase,” “purchaser”), 28200(c)-(d) (“sale,” “seller”), 30510(f) (“series”), 31905(e) (“malfunction”) \textit{infra}.

\textsuperscript{36}. See proposed Sections 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 29030 (“licensee”), 29141 (“secure facility” for firearm storage by manufacturer), 29142 (special definition of “secure facility” for firearm storage by manufacturer producing fewer than 500 firearms per calendar year), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”), 30710 (“SKS rifle”), 31900 (“drop safety requirement for handguns”), 31905 (“firing requirement for handguns”), 31910 (“unsafe handgun”) \textit{infra}.

\textsuperscript{37}. See proposed Sections 16200 (“assault weapon” guidepost provision), 16440 (“dealer” guidepost provision), 16500 (“drop safety requirement for handguns” guidepost provision), 16560 (“firing requirement for handguns” guidepost provision), 16820 (“licensee” guidepost provision), 16980 (“person licensed pursuant to Sections 26700 to 26915, inclusive” guidepost provision), 17111 (guidepost provision for “secure facility” for firearm storage by manufacturer), 17220 (“SKS rifle” guidepost provision), 17300 (“unsafe handgun” guidepost provision) \textit{infra}.

The proposed law also includes “guidepost” provisions to help readers when several terms are defined synonymously. For example, proposed Section 16370 would define “certified instructor” and “DOJ Certified Instructor” synonymously, and would be located with other definitions that begin with the letter “C”. A guidepost provision for “DOJ Certified Instructor” would be located with the definitions that begin with the letter “D,” and would state that “[u]se of the term ‘DOJ Certified Instructor’ is governed by Section 16370.” See proposed Section 16480 \textit{infra}. For additional examples, see proposed Sections 16420 (“dagger” guidepost provision), 16470 (“dirk” or “dagger”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16810 (“licensed premises,” “licensee’s business premises,” and “licensee’s place of business”), 16822 (“licensee’s business premises” guidepost provision), 16824 (“licensee’s place of business” guidepost provision), 17010 (“pistol” guidepost provision), 17080 (“revolver” guidepost provision).

\textsuperscript{38}. See discussion of “Statements of Intent” \textit{supra}.
laws that relate to both firearms and non-firearms. For example, it would include the provisions governing a “destructive device,” which is defined to include some items that would be classified as a firearm and others that would not.\footnote{39}

Title 3, entitled “Weapons and Devices Other Than Firearms,” would include laws governing control of such deadly weapons as imitation firearms, knives, knuckles, nunchakus, and other non-firearms. The title would be divided into divisions, each of which would cover a different type of deadly weapon. The divisions would be arranged in alphabetical order, starting with “BB Devices” and ending with “Tear Gas and Tear Gas Weapons.”

Title 4, entitled “Firearms,” would contain the extensive provisions relating to control of firearms. It would consist of a number of different divisions, including one entitled “Special Rules Relating to Particular Types of Firearms or Firearm Equipment.” Within that division, there would be several different chapters, each of which would cover a different type of firearm or firearm equipment. The chapters would be arranged in alphabetical order, starting with “Ammunition” and ending with “Zip Guns.”

In reorganizing existing law in this manner, the Commission made a few drafting decisions that are particularly noteworthy. These decisions relate to the following provisions:

- Section 12020
- Sections 12028 and 12029
- Section 12078

The treatment of these provisions is described below.

\textit{Section 12020}

Section 12020 is an extremely long provision that generally prohibits the manufacture, import, sale, gift, loan, or possession of a panoply of weapons and associated equipment. The provision includes numerous exemptions, some of which relate to a broad range of weapons, while others relate to only one specific type of weapon.\footnote{40} Thus, a person interested in the rules applicable to a particular type of weapon may have to read much irrelevant material before finding the relevant portions of Section 12020.

To make it easier for persons to find the relevant rules, the Commission divided up the substance of Section 12020 according to the type of weapon or equipment to which it pertains. For example, the rules relating to short-barreled rifles and short-barreled shotguns would be placed in a chapter with other provisions relating

\footnote{39. See proposed Section 16460 infra, which would continue the definition of “destructive device” currently found in Section 12301(a).}

\footnote{40. See Section 12020(b)(1)-(32).}
to those types of weapons.\textsuperscript{41} Similarly, the many rules relating to large capacity
magazines would be placed in a chapter on large-capacity magazines.\textsuperscript{42}

Some of the exemptions in Section 12020 are broad. They pertain to more than
one type of weapon or equipment, and do not clearly specify which items are
within their scope.\textsuperscript{43}

Ideally, it would be possible to determine which items are covered by a broad
exemption, and to state the exemption in the division, chapter, or article for each
item covered. Because it is not entirely clear which items are covered, however,
the broad exemptions could not be treated in that manner without creating a risk of
a substantive change.\textsuperscript{44}

Instead, the proposed law would place the broad exemptions in a chapter within
the title on “Weapons Generally.”\textsuperscript{45} The entire chapter (as opposed to specific
provisions within the chapter) would be cross-referenced in every section
prohibiting the manufacture, import, sale, gift, loan, or possession of a type of
weapon or equipment that was covered by Section 12020.\textsuperscript{46} That would draw

\begin{itemize}
\item See proposed Sections 33215-33225 \textit{infra}.
\item See proposed Sections 32310, 32400-32450 \textit{infra}.
\item For a list of all of the provisions that would continue the substance of the weapon prohibitions in
Section 12020(a), see proposed Section 16590 \textit{infra}, which would define the term “generally prohibited
weapon” to include all of the items now covered by Section 12020(a).
\item For example, paragraph (b)(9) creates an exemption for an instrument or device possessed by a
historical society, museum, or institutional collection:
\begin{quote}
(b) Subdivision (a) does not apply to any of the following:

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

Other broad exemptions are stated in paragraphs (b)(5), (b)(7)-(8), (b)(10)-(13), and (b)(16)-(18).
\item For example, it is unclear whether the exemption for “an instrument or device” possessed by a
historical society, museum, or institutional collection (paragraph (b)(9)) would extend to a flechette dart,
which is a type of ammunition. A court might consider that exemption inapplicable to a flechette dart,
because some of the other exemptions in Section 12020 specifically refer to “ammunition,” not just to “an
instrument or device.” But such an interpretation is not a foregone conclusion.
The Commission could try to predict which interpretation a court would adopt, and then either include
or omit the exemption from the portion of the code relating to flechette darts, in accordance with its
prediction. That would necessarily entail a risk of a substantive change, however, because the
Commission’s prediction might be incorrect.
\item See proposed Sections 17700-17745 \textit{infra}.
\item For example, proposed Section 20610 would state:
\begin{quote}
20610. \textit{Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title
2, any person in this state who manufactures or causes to be manufactured, imports into the state,
keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any lipstick case knife
is punishable by imprisonment in a county jail not exceeding one year or in the state prison.}
\end{quote}
\end{itemize}

(Emphasis added.)
attention to the broad exemptions, without taking a position on whether a particular exemption pertains to a particular type of weapon or equipment.\textsuperscript{47}

\textit{Sections 12028 and 12029}

Section 12028 is another provision that pertains to a variety of weapons. It states that certain weapons constitute a nuisance under specified circumstances. The section also provides procedures for surrender and disposal of those weapons. Section 12029 is quite similar, except it classifies different weapons as a nuisance and the procedures for surrender and disposal of those weapons are much less detailed.

The Commission treated these two provisions the same way as Section 12020, dividing up their substance according to the type of weapon or equipment to which it pertains.\textsuperscript{48} The generally applicable procedures for surrender and disposal of weapons would be placed in the title on “Weapons Generally,”\textsuperscript{49} and cross-referenced in each weapon-specific provision derived from the same section.\textsuperscript{50} The cross-reference would help a reader find the procedures for surrender and disposal of the weapon in question.

\textit{Section 12078}

Section 12078 is an enormous provision that consists of 48 different exceptions, each of which relates to one or more enumerated code sections. As so drafted, the meaning of each exception is difficult to grasp without careful study.

To make the substance of Section 12078 more readily understandable, the proposed legislation would divide it up, such that each exception is stated in close proximity to each substantive rule that it modifies. For example, subdivision (e) of Section 12078 creates an exception relating to gunsmiths: “Section 12071, subdivisions (c) and (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.” In the proposed legislation,

\textsuperscript{47}. The possibility of relocating these provisions could be explored in the future, as a separate law reform project. See discussion of “Minor Clean-up Issues for Possible Future Legislative Attention” \textit{infra} and Appendix B (Item # 79) \textit{infra}.

\textsuperscript{48}. For example, the substance of Section 12028 relating to a switchblade knife would be continued in a chapter on switchblade knives. See proposed Section 21590 \textit{infra}.

\textsuperscript{49}. See proposed Sections 18000 and 18005, which would continue the surrender and disposal rules from Section 12028, and proposed Section 18010, which would continue the surrender and disposal rules from Section 12029.

\textsuperscript{50}. For example, the provision on switchblade knives constituting a nuisance (proposed Section 21590 \textit{infra}) would cross-refer to proposed Sections 18000 and 18005, which would continue the surrender and disposal rules from Section 12028:

\begin{verbatim}
21590. The unlawful possession and carrying of any switchblade knife, as provided in Section 21510, is a nuisance and is subject to Sections 18000 and 18005.
\end{verbatim}

(Emphasis added.)
that exception for gunsmith transactions would be stated in close proximity to (1) the provisions that would continue Section 12071,\(^{51}\) (2) the provision that would continue Section 12072(c),\(^{52}\) (3) the provision that would continue Section 12072(d),\(^{53}\) and (4) the provision that would continue Section 12801(b).\(^{54}\) This would make it more easily apparent which substantive rules are modified by the exception.

Unnecessary Cross-References

ACR 73 directs the Commission to “[a]void unnecessary use of cross-references.” Consistent with that direction, the proposed law would eliminate cross-references where doing so would not affect the meaning of a provision or make it more difficult to understand.

One type of cross-reference that can often be eliminated without affecting the substance of the law is a cross-reference to an applicable definition. As discussed above, the proposed law would group most definitions together near the beginning of proposed Part 6 of the Penal Code, with clear statements indicating the application of each definition. Each section that uses a defined term would have a Commission Comment directing the reader to the applicable definition. This obviates the need to include a statutory cross-reference whenever a defined term is used.\(^{55}\)

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51. The substance of Section 12071 (other than definitions) would be continued in proposed Sections 26700-26915 infra. The exception for gunsmith transactions would be stated nearby, in proposed Section 27105 infra. For convenient reference, it would be located with other exceptions to proposed Sections 26700-26915, and those exceptions would be cross-referenced in the Comments to proposed Sections 26700-26915.

52. The substance of Section 12072(c) would be continued in proposed Section 27540 infra. The exception for gunsmith transactions would be stated nearby, in proposed Section 27705 infra. For convenient reference, it would be located with other exceptions to proposed Section 27540, and those exceptions would be cross-referenced in the Comment to proposed Section 27540.

53. The substance of Section 12072(d) would be continued in proposed Section 27545 infra. The exception for gunsmith transactions would be stated nearby, in proposed Section 27890 infra. For convenient reference, it would be located with other exceptions to proposed Section 27545, and those exceptions would be cross-referenced in the Comment to proposed Section 27545.

54. The substance of Section 12801(b) would be continued in proposed Section 31615(a) infra (except the definition of “antique firearm”). The exception for gunsmith transactions would be stated nearby, in proposed Section 31755 infra. For convenient reference, it would be located with other exceptions to proposed Section 31615(a), and those exceptions would be cross-referenced in the Comment to proposed Section 31615.

55. However, there are some instances where a cross-reference to a definition has been preserved, where the definition is particularly important, potentially confusing, or likely to be overlooked. See, e.g., proposed Sections 17505, 17740, 23925, 25105, 25205, 27820, 27870, 27875, 27880, 27995, 27965 infra.
Conforming Cross-References

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

Often, an existing cross-reference can simply be replaced by a cross-reference to a new provision containing the exact same material as the previously cross-referenced provision.

In some instances, however, that is not the best approach. For example, the cross-referenced provision may have been reorganized into a series of smaller provisions, some of which are not relevant to the purpose of the cross-reference. If all of the smaller provisions were cited in place of the original cross-reference, readers would unnecessarily be forced to review irrelevant material. In such cases, it is necessary to exercise some judgment to properly conform the cross-reference in a way that is consistent with its original purpose. In making such changes, the Commission carefully examined the substance of the provisions in question and determined that there would be no substantive change. The Commission’s Comments would state as much, and would be official legislative history. In addition, proposed Section 16005 would state expressly that changes to cross-references should be construed as nonsubstantive.

Conforming the cross-references required particular attention where the existing statutory text relates to events that occurred in the past, such as registration periods that have ended or procedures that no longer apply. For example, suppose a provision refers to a “firearm declared by the court pursuant to Section 12276.5 to be an assault weapon,” but Section 12276.5 no longer establishes a procedure for a court to declare a firearm to be an assault weapon. In recodifying the provision that refers to Section 12276.5, it may not be appropriate to replace the cross-reference to Section 12276.5 with a cross-reference to the proposed new provision that would continue the current substance of Section 12276.5. Instead, it may be better to cross-refer to “former Section 12276.5.” The Commission used care in addressing such situations, as by providing background information or an explanation in the Comment to assist readers. Here, as elsewhere, the overriding

56. See “Commission Comments” supra.

57. There are a number of examples of this type of situation in the provisions relating to assault weapons and .50 BMG rifles (Sections 12275-12290). For an explanation of why the Commission preserved such statutory material instead of deleting it as obsolete, see discussion of “Provisions That Might Be Obsolete” infra.

58. See, e.g., Section 12276(d).


60. See, e.g., proposed Section 30510 Comment infra.
principle and intent was to preserve the substance of existing law without substantive change.\textsuperscript{61} There are also a few provisions that contain one or more cross-references that are plainly erroneous. Where the proper cross-reference is obvious, the Commission has corrected the cross-reference, rather than perpetuating the error. These corrections are listed and explained in Appendix A.\textsuperscript{62} Where the proper cross-reference is not altogether obvious, the Commission has left it alone, so as not to create a risk of a substantive change. These situations could be addressed in a future reform.\textsuperscript{63}

Finally, there are a large number of statutory provisions that are located outside of Title 2, which include cross-references to provisions located within Title 2. The Commission has prepared a separate tentative recommendation, which would correct those cross-references to reflect the new organization.\textsuperscript{64}

**Provisions That Might Be Obsolete**

Some of the provisions in Title 2 of Part 4 of the Penal Code contain language that might be obsolete, such as rules that no longer apply,\textsuperscript{65} deadlines that have long since passed,\textsuperscript{66} and procedures for programs that have ended.\textsuperscript{67} In drafting the

\textsuperscript{61}. Again, that intent would be clearly expressed in proposed Section 16005 (nonsubstantive reform) \textit{infra}. In determining how to conform the numerous cross-references in the deadly weapons statutes, the Commission also relied in part on proposed Section 16010 (continuation of existing law) \textit{infra}. Where this provision appeared particularly relevant, the Commission included a citation to it in the Comment. See, e.g., proposed Section 30520 Comment \textit{infra}.

\textsuperscript{62}. The Commission also corrected an obvious drafting error in Section 12076(c). That provision governs electronic or telephonic transfer of applicant information for a firearm transaction. Section 12076(b) is a parallel provision, which governs use of a register for submitting applicant information to the Department of Justice for a firearm transaction. Much of the wording of these provisions is similar, except Section 12076(c) refers to “the electronic or telephonic transfer” and Section 12076(b) refers to “the register.”

In one place, however, Section 12076(c)(1) refers to “the register,” not “the electronic or telephonic transfer.” That reference is misplaced in a provision on electronic or telephonic transfer. The reference to “the register” should be replaced with a reference to “the electronic or telephonic transfer.” The Commission has made this correction. See proposed Section 28250 & Comment \textit{infra}.

\textsuperscript{63}. See discussion of “Minor Clean-up Issues for Possible Future Legislative Attention” \textit{infra}.

\textsuperscript{64}. See Tentative Recommendation on Nonsubstantive Reorganization of Deadly Weapon Statutes: Conforming Revisions (Feb. 2009).

\textsuperscript{65}. See, e.g., Section 12076(a)(1), which says that “[b]efore January 1, 1998, the Department of Justice shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats ....” (Emphasis added.)

\textsuperscript{66}. See, e.g., Section 12021(i), which calls for development of a protocol that “shall be completed on or before January 1, 2005.”

\textsuperscript{67}. See, e.g., subdivision (f) of Section 12281, which requires relinquishment or disposal of an SKS rifle in a specified manner “on or before January 1, 2000,” and subdivision (h) of the same section, which establishes a purchase program for SKS rifles relinquished pursuant to subdivision (f).
proposed legislation, the Commission preserved almost all of that language. The Commission took this cautious approach because deleting such language might raise concerns about a possible substantive change, and because the apparently obsolete language might remain useful for reference purposes, such as deciding what crimes can be charged for conduct that occurred in the past. In a number of instances, the Commission suggests studying whether future clean-up to eliminate or otherwise revise obsolete language would be appropriate.68

Other Drafting Techniques

In reorganizing the provisions on control of deadly weapons, the Commission used a few other drafting techniques, which it regularly employs. In particular, the Commission (1) replaced gender-specific with gender neutral language, (2) primarily used the singular form instead of the plural, because the singular form tends to be more clear,69 and (3) eliminated awkward phrases such as “he or she,” “himself or herself,” “his or hers,” and “him or her” when possible. The Commission only used these drafting techniques where there appeared to be no risk of a substantive change.

DISPOSITION TABLE

This recommendation concludes with a disposition table showing, for every provision of Title 2 of Part 4 of the Penal Code, the new provision that would continue it. This table will be part of the Commission’s final recommendation and will assist the public and the Legislature in reviewing the proposed law.

If legislation enacting this recommendation is enacted, the disposition table will be provided to legal publishers, who would typically make the table available as part of the print and online versions of the Penal Code. The table would then help to correlate a court decision or other document that cites an existing provision, with the new provision that would continue the existing provision. This would ease the transition from existing law to the new law.

MINOR CLEAN-UP ISSUES FOR POSSIBLE FUTURE LEGISLATIVE ATTENTION

In conducting this study, the Commission identified a number of minor problems within Title 2 of Part 4 of the Penal Code, which could not be addressed without potentially raising concerns about a substantive change. Because this study is strictly nonsubstantive, the proposed law does not include any language to address those problems.

68. See discussion of “Minor Clean-up Issues for Possible Future Legislative Attention” infra and Appendix B (Items #35-#39) infra.

69. A change from plural form to singular form (or vice versa) does not affect the meaning of a provision. See Section 7 (“the singular number includes the plural, and the plural the singular ....”).
Instead, the Commission has prepared a list of “Minor Clean-up Issues for Possible Future Legislative Attention.” The proposed law includes an uncodified provision that would authorize the Commission to study the problems noted in the list and recommend legislation to correct them. No other authority would be granted under that provision.

The minor clean-up issues are listed in Appendix B. As far as the Commission is aware, these issues are unlikely to involve significant controversy.

DEFERRED OPERATIVE DATE

Because of the breadth of the organizational changes that would be made by the proposed law, the Commission recommends that it be given a deferred operative date. The proposed law includes an uncodified provision to that effect, delaying the operation of the proposed law by one year.70

This deferred operation will provide time for those who work closely with the affected statutes, including legal publishers, to adjust to the new organization before it takes effect.

REQUEST FOR COMMENTS

The Commission solicits comments on this tentative recommendation, in any format and by whatever means of delivery is most convenient for the person or organization submitting comments. The Commission recognizes that the tentative recommendation is lengthy and will be time-consuming to review. Comments of any nature are encouraged: A single sentence evaluation of the concept of the proposed reform, a detailed section-by-section analysis of the proposed legislation, or any other expression of views on the tentative recommendation. It is just as important to provide positive comments as negative comments. The Commission considers each comment submitted, and may substantially revise its proposal in light of the input received.

70. The proposed section authorizing the Commission to study the minor clean-up issues would not have a deferred operative date.
APPENDIX A: CORRECTED CROSS-REFERENCES

In reorganizing the provisions on control of deadly weapons, the Law Revision Commission found some provisions that contain one or more incomplete or incorrect cross-references. Where the proper cross-reference is obvious, the Commission corrected the cross-reference in drafting its proposed legislation. That approach seemed more sensible than perpetuating a plainly incorrect cross-reference.

Those instances are described in detail below:

- Section 11106 refers to “a firearms transaction record, as defined in paragraph (5) of subdivision (c) of Section 12071.” There no longer is a “paragraph (5) of subdivision (c) of Section 12071.” It was relabeled as Section 12071(c)(4)(A). The proposed law would correct this problem by replacing the cross-reference to “paragraph (5) of subdivision (c) of Section 12071” with a cross-reference to the provision that would continue the substance of Section 12071(c)(4)(A).

- Section 12031(b)(7) refers to armored vehicle guards “as defined in Section 7521 of the Business and Professions Code ....” The cross-reference to Business and Professions Code Section 7521 is incorrect. That section used to define “armored vehicle guard,” but now it only defines “private investigator.” The definition of “armored vehicle guard” has been relocated to Business and Professions Code Section 7582.1(d). The proposed law would correct this erroneous cross-reference.

- Section 12031(d)(3) refers to private investigators and private patrol operators “who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code ....” Similarly, Section 12031(d)(6) refers to uniformed employees of “private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code ....” These cross-references are incorrect. Private investigators are now licensed pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. Private patrol operators are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code. The proposed law would correct these erroneous cross-references.

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2. See proposed amendment to Section 11106, which is in the separate tentative recommendation on Nonsubstantive Reorganization of Deadly Weapon Statutes: Conforming Revisions (Feb. 2009).
3. See proposed Section 26015 infra.
4. See proposed Section 26030 infra.
• Section 12070(b)(2) refers to “a person acting pursuant to subdivision (e) of Section 186.22a.” The cross-reference to subdivision (e) of Section 186.22a does not make sense, because that provision simply says: “Nothing in this chapter shall preclude any aggrieved person from seeking any other remedy provided by law.” The correct cross-reference is to subdivision (f) of the same section, which concerns confiscation of firearms, ammunition, and deadly weapons as a nuisance, and disposal of the items following confiscation. It was formerly labeled as subdivision (e). The proposed law would correct this erroneous cross-reference.5

• Section 12072(f)(1)(B) says: “For every identification number request received pursuant to this section, the department shall determine whether the intended recipient is on the centralized list of firearms dealers pursuant to this section ....”6 The italicized cross-reference is incorrect, because Section 12072 does not provide for a centralized list of firearms dealers. That is done in Section 12071(e). The proposed law would correct this erroneous cross-reference.7

• Section 12078(i)(2)(A) refers to “a levying officer as defined in Section 481.140, 511.060, or 680.210 of the Code of Civil Procedure.” The reference to Code of Civil Procedure Section 680.210 is incorrect. That provision defines “general intangibles,” not “levying officer.” The definition of “levying officer” is in Code of Civil Procedure Section 680.260 instead. The proposed law would correct this erroneous cross-reference.8

• Section 12081(b)(5) says: “The Department of Justice shall review subsequent arrests ... to determine the continuing validity of the permit as specified in subdivision (d) for all entertainment firearms permit holders.” The cross-reference to subdivision (d) is obviously incorrect, because subdivision (d) does not relate to the continuing validity of an entertainment firearms permit. The correct cross-reference is to subdivision (f), which was originally labeled as subdivision (d) in the bill enacting Section 12081.9 Apparently due to inadvertence, the cross-reference was not adjusted when the bill was amended and the subdivisions were relabeled. The proposed law would correct this erroneous cross-reference.10

• Section 12101(c)(1)(B) cross-references to Section 12560. That provision existed when Section 12101 was added to the codes in 1988, but it has since been repealed.11 Consequently, there is no need to continue the cross-reference. The proposed law would delete this obsolete cross-reference.12

5. See proposed Section 26510 infra.
7. See proposed Section 27555 infra.
8. See proposed Section 27920 infra.
10. See proposed Section 29520 infra.
12. See proposed Section 29700 infra.
• Section 12101(d) cross-refers to “Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of the Welfare and Institutions Code.” That cross-reference is incomplete. The correct cross-reference is to “Article 1 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code.” The proposed law would correct this incomplete cross-reference.\textsuperscript{13}

• Section 12132(g) refers to “a curio or relic, as defined in Section 178.11 of the Code of Federal Regulations.” The reference to Section 178.11 of the Code of Federal Regulations is incorrect. There is no such provision. The cross-reference should be to Section 478.11 of Title 27 of the Code of Federal Regulations, which contains a definition of “curio or relic.” The proposed law would correct the cross-reference.\textsuperscript{14}

• Section 12276.5 cross-refers to “Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.” That cross-reference is incomplete. The correct cross-reference is to “Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The proposed law would correct this incomplete cross-reference.\textsuperscript{15}

• Section 12280(u)(3) refers to the “operative date of Section 12276.1, as specified in subdivision (d) of that section.” The cross-reference to subdivision (d) is incorrect. The operative date of January 1, 2000, was originally stated in subdivision (d), but it is now stated in subdivision (e) instead. The proposed law would correct this mistake by referring directly to the operative date of January 1, 2000.\textsuperscript{16}

• Section 12305 contains two references to a permit granted or issued pursuant to “this article.” Section 12305 is not part of an article. It is located in a chapter that is not divided into articles. The references to “this article” are plainly erroneous. Under existing law, the correct reference is to “this section,” because Section 12305 is the only section in its chapter that relates to the granting or issuance of a permit. In the proposed law, however, the substance of Section 12305 would be continued in an article.\textsuperscript{17} The references to “this article” would therefore be left intact, because they would no longer be erroneous.\textsuperscript{18}

• Section 12316(c) refers to “an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code ....” The cross-reference to Business and Professions Code Section 7521(e) is incorrect. That section

\textsuperscript{13} See proposed Section 29705 \textit{infra}.  
\textsuperscript{14} See proposed Section 32110 \textit{infra}.  
\textsuperscript{15} See proposed Section 30520 \textit{infra}.  
\textsuperscript{16} See proposed Section 30620(c) \textit{infra}.  
\textsuperscript{17} See proposed Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2 of Part 6 \textit{infra}.  
\textsuperscript{18} See proposed Sections 18905, 18910 \textit{infra}.
used to define “armored vehicle guard,” but now it only defines “private investigator.” The definition of “armored vehicle guard” has been relocated to Business and Professions Code Section 7582.1(d). The proposed law would correct this erroneous cross-reference.19

• Section 12403.8(a) refers to “paragraph (4) of subdivision (a) of Section 12403.7,” which does not exist. The obvious intent is to refer to subdivision (d) of Section 12403.7, which used to be paragraph (4) of subdivision (a).20 The proposed law would correct that error.21

• Section 12403.8(b) refers to “paragraph (3) of subdivision (a) of Section 12403.7,” which does not exist. The obvious intent is to refer to subdivision (c) of Section 12403.7, which used to be paragraph (3) of subdivision (a).22 The proposed law would correct that error.23

• Section 12403.5 refers to a “person holding a license as a private investigator or private patrol operator issued pursuant to Chapter 11 (commencing with Section 7500), Division 3 of the Business and Professions Code.” However, Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code no longer relates to private investigators and private patrol operators. Instead, it relates to reposessors. The provisions governing private investigators are now located in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. The provisions governing private patrol operators are now located in Chapter 11.5 (commencing with Section 7580) of the same division. The proposed law would correct the erroneous cross-reference.24

19. See proposed Section 30310 infra.
21. See proposed Section 22815(a) infra.
23. See proposed Section 22815(b) infra.
24. See proposed Section 22835 infra.
APPENDIX B:
MINOR CLEAN-UP ISSUES FOR POSSIBLE FUTURE LEGISLATIVE ATTENTION

In conducting this strictly nonsubstantive study, the Commission identified a number of minor problems within Title 2 of Part 4 of the Penal Code, which could not be addressed without potentially raising concerns about a substantive change. Those issues are listed here. As far as the Commission is aware, this list consists of relatively noncontroversial clean-up issues, not issues involving substantial controversy. If any of the issues listed below appears likely to involve substantial controversy, please notify the Commission.

(1) Consider whether to expand the following definitions to the entirety of new Part 6 of the Penal Code:

“Application to purchase”\(^1\)
“Assault weapon”\(^2\)
“Capacity to accept more than 10 rounds”\(^3\)
“Deadly weapon”\(^4\)
“Destructive device”\(^5\)
“Explosive”\(^6\)
“Firearm safety device”\(^7\)
“Licensed premises”\(^8\)
“Locked container”\(^9\)
“Rifle”\(^10\)
“Semiautomatic pistol”\(^11\)
“Short-barreled rifle”\(^12\)

\(^1\) See Commission Staff Memorandum 2007-20, Attachment p. 1. Any Commission Staff Memorandum referred to in this appendix can be obtained from the Commission, through its website (www.clrc.ca.gov) or otherwise.
\(^2\) See Commission Staff Memorandum 2007-33, Attachment pp. 7-8.
\(^3\) See Commission Staff Memorandum 2007-33, Attachment p. 15.
\(^5\) See Commission Staff Memorandum 2007-33, Attachment p. 22.
\(^8\) See Commission Staff Memorandum 2008-17, Attachment pp. 29-30.
\(^9\) See Commission Staff Memorandum 2008-17, Attachment pp. 31-32.
\(^11\) See Commission Staff Memorandum 2008-17, Attachment p. 47.
\(^12\) See Commission Staff Memorandum 2007-33, Attachment pp. 44-45.
“Short-barreled shotgun”\textsuperscript{13}
“Shotgun”\textsuperscript{14}
“Silencer”\textsuperscript{15}

(2) Consider whether it is really necessary to have multiple definitions of the term “antique firearm.”\textsuperscript{16}

(3) Consider whether a single definition of “honorably retired” could be applied to the entirety of new Part 6 of the Penal Code.\textsuperscript{17}

(4) Consider whether a single definition of “person” could be applied to the entirety of new Part 6 of the Penal Code.\textsuperscript{18}

(5) Consider whether the references to “person, parent, or guardian” now found in Penal Code Section 12403.8(c) should be replaced with “parent, guardian, or other person.”\textsuperscript{19}

(6) Consider whether a single definition of “lawful possession of the firearm” could be applied to the entirety of new Part 6 of the Penal Code.\textsuperscript{20}

(7) Consider whether to conform the definitions of “operation of law” and “A person taking title or possession of firearms by operation of law,” and whether to extend a single definition to the entirety of new Part 6 of the Penal Code.\textsuperscript{21}

(8) Consider whether the definition of “loaded” given in Penal Code Sections 12031(g) and 12035(a)(2) should be extended more broadly.\textsuperscript{22}

(9) Consider whether the definition of “magazine” given in Penal Code Section 12276.1(d)(1) should be extended more broadly.\textsuperscript{23}

(10) Consider whether the definition of “locking device” for firearm should be extended more broadly, particularly to the provision that would continue Penal Code Section 12071(b)(7).\textsuperscript{24}

\textsuperscript{13} See Commission Staff Memorandum 2007-33, Attachment p. 44.
\textsuperscript{14} See Commission Staff Memorandum 2008-17, Attachment pp. 49-50.
\textsuperscript{15} See Commission Staff Memorandum 2008-17, Attachment p. 50.
\textsuperscript{16} See Commission Staff Memorandum 2007-21, Attachment pp. 4-5.
\textsuperscript{17} See Commission Staff Memorandum 2007-33, Attachment p. 36.
\textsuperscript{18} See Commission Staff Memorandum 2008-17, Attachment pp. 37-38.
\textsuperscript{21} See Commission Staff Memorandum 2007-33, Attachment pp. 41-42; Commission Staff Memorandum 2008-17, Attachment pp. 36-37.
\textsuperscript{22} See Commission Staff Memorandum 2008-17, Attachment p. 31.
\textsuperscript{23} See Commission Staff Memorandum 2008-17, Attachment p. 34.
\textsuperscript{24} See Commission Staff Memorandum 2008-17, Attachment p. 32; Commission Staff Memorandum 2008-23, p. 5.
Penal Code Section 12316(a) defines “bona fide evidence of majority and identity.” Penal Code Section 12071(c)(1) defines “clear evidence of his or her identity and age.” The two definitions are different. Consider whether it is necessary to use two distinct terms with differing definitions.  

Consider whether to revise the definition of “department” to say: “As used in this part, unless otherwise apparent from the context, ‘department’ means the Department of Justice.”  

Consider whether to provide separate definitions of the terms “pistol” and “revolver.”  

Consider whether the definition of “unsafe handgun” should be revised to improve clarity and readability.  

Consider whether the same definition of “furnishes” should be used in the provisions relating to (1) furnishing tear gas or a tear gas weapon to a minor, (2) furnishing a stun gun to a minor, and (3) furnishing a BB device to a minor.  

Consider whether and, if so, how, to define “.50 BMG Rifle” for purposes of Penal Code Section 12022.5.  

Consider whether to revise the definition of “agent.”  

It is unclear which definition of “imitation firearm” applies in Penal Code Section 12553(b). Consider how to eliminate this ambiguity.  

It is unclear whether the definition of “imitation firearm” in Penal Code Section 12550(c) is meant to apply to Penal Code Section 12555 to any extent. Consider how to eliminate this ambiguity.  

Consider whether to clarify which definition of “licensee” applies to Penal Code Section 12086.  

Consider whether to clarify the intended scope of the definition of “secured” now found in Penal Code Section 12071(b)(20)(G)(ii).  

32. See Commission Staff Memorandum 2008-26, Attachment p. 18.  
34. See Commission Staff Memorandum 2008-49, Attachment p. 4.  
(22) Consider whether the definition of “ammunition” in Penal Code Section 12316(b)(2) should be extended to apply to Penal Code Section 12316(d), and perhaps elsewhere.\(^\text{36}\)

(23) Consider whether Welfare and Institutions Code Section 676(a)(24) should be revised to refer to the definition of “assault weapon” now found in Penal Code Section 12276.1, as well as the definition of “assault weapon” now found in Penal Code Section 12276.\(^\text{37}\)

(24) Consider whether Welfare and Institutions Code Section 8104 should be revised to refer to the definition of “assault weapon” now found in Penal Code Section 12276.1, as well as the definition of “assault weapon” now found in Penal Code Section 12276.\(^\text{38}\)

(25) Consider whether to rename the “certificate of eligibility” referred to in Penal Code Section 12071.1 and the “certificate of eligibility” referred to in Penal Code Section 12071(a), to prevent confusion.\(^\text{39}\)

(26) Consider whether to standardize the references to “facilities manager” and “facility’s manager” in Penal Code Section 12071.1.\(^\text{40}\)

(27) Consider whether to standardize the references to “applied orally” and “administered orally” in Penal Code Section 12804(c).\(^\text{41}\)

(28) The second sentence of Penal Code Section 12028.5(g) refers to a “family violence incident,” not a “domestic violence incident.” Consider whether to replace “family violence incident” with “domestic violence incident.”\(^\text{42}\)

(29) Article 8 of Chapter 6 of Title 2 of Part 4 (i.e., Penal Code §§ 12800-12809) is sloppy in referring to instructors.\(^\text{43}\) Consider whether and, if so, how, to address this problem.

(30) In Title 2 of Part 4 of the Penal Code, the usage of “dealer,” “licensee,” and similar terms is potentially confusing.\(^\text{44}\) Consider whether and, if so, how, to address this problem.

(31) Consider, on a case-by-case basis, whether references to “pistol, revolver, or firearm capable of being concealed upon the person” should be replaced with the term “handgun.”\(^\text{45}\)

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\(^{36}\) See Commission Staff Memorandum 2008-59, Attachment pp. 35-36.

\(^{37}\) See Commission Staff Memorandum 2009-11, Attachment p. 143.

\(^{38}\) See Commission Staff Memorandum 2009-11, Attachment pp. 169-70.

\(^{39}\) See Commission Staff Memorandum 2008-49, Attachment p. 47.

\(^{40}\) See Commission Staff Memorandum 2008-49, Attachment p. 49.

\(^{41}\) See Commission Staff Memorandum 2009-5, Attachment p. 11.

\(^{42}\) See Commission Staff Memorandum 2007-21, Attachment p. 17.

\(^{43}\) See Commission Staff Memorandum 2007-33, Attachment p. 16.

\(^{44}\) See Commission Staff Memorandum 2007-33, Attachment p. 20.
(32) Consider whether to revise the references to “gun show producer license” and “producer’s certificate of eligibility” now found in Penal Code Section 12071.1(e).46

(33) Consider whether to conform the references to “magnetic strip” and “magnetic stripe” in Penal Code Section 12077(f).47

(34) Consider whether statutory references to “Dealer Record of Sale Account” and “Dealers’ Record of Sale Special Account” should be conformed.48

(35) The first clause of Penal Code Section 12027(a)(1)(C) states a general rule. The remainder of Penal Code Section 12027(a)(1)(C) states an exception to that general rule. Consider whether the exception is obsolete.49

(36) The first clause of the third paragraph of Penal Code Section 12031(b)(1) states a general rule. The remainder of that paragraph states an exception to the general rule. Consider whether the exception is obsolete.50

(37) Consider whether the statutes governing the recordkeeping process for a firearm transaction should be revised to delete, segregate, or otherwise modify material relating to recordkeeping methods that are no longer in use.51

(38) Consider whether the statutes relating to SKS rifles should be revised to delete, segregate, or otherwise modify outdated material.52

(39) Consider whether Penal Code Section 12101(f) is obsolete and can be deleted from the codes.53

(40) Consider whether the language now in Penal Code Section 12035(h) is unnecessary and redundant.54

(41) Consider whether Penal Code Sections 12070(b)(2) and 12078(b)(8) are unnecessarily redundant to some extent.55

(42) Consider whether Penal Code Sections 12070(b)(13) and 12070(b)(14) are unnecessarily redundant to some extent.56

45. See, e.g., Commission Staff Memorandum 2008-17, Attachment pp. 21-22 (proposed §§ 16650, 16660), 24-25 (proposed § 16730), 52-53 (proposed § 17260), 54-57 (proposed § 17300), 60-61 (proposed § 17510).


Consider whether Penal Code Sections 12021.3(a)(1)(G) and 12021.3(a)(3) are unnecessarily redundant to some extent, and whether one or both of these provisions should be revised to improve clarity.57

Consider whether the language now in Penal Code Sections 12280(n), (o), and (p) contains redundancies, and whether that language could be improved to make it more readily understandable.58

Consider whether the language now in Penal Code Section 12021.3(a)(2) contains a redundancy, and whether to correct the grammatical structure of that provision.59

Consider whether Penal Code Section 12021.3(a)(2) and (i)(1) are unnecessarily redundant to some extent.60

Consider whether Penal Code Section 12021.3(b)(3) and (i)(2) are unnecessarily redundant to some extent.61

Consider whether Penal Code Section 12021.3(j)(2)(D) and (3) are unnecessarily redundant to some extent.62

Consider whether the language now found in Penal Code Section 12021.3(i)(4) should be deleted because it is redundant with the language now found in Penal Code Section 12078(j).63

Consider whether the language now found in Penal Code Section 12807(b)(2) should be revised to eliminate an accidental phrase repetition.64

Consider whether it is necessary to refer to the “successor” of 27 C.F.R. § 478.11 in Penal Code Section 12078(t)(1) & (2).65

Consider whether it is necessary to refer to the “successor” of 27 C.F.R. § 478.100 in Penal Code Sections 12071(e)(3)(C) and 12071(b)(1)(B).66

Consider whether the exception to Penal Code Section 12801(b) that is now found in Penal Code Section 12078(k)(1) is necessary.67

57. See Commission Staff Memorandum 2009-8, Attachment pp. 3-4.
60. See Commission Staff Memorandum 2009-8, Attachment pp. 4-5.
Consider whether the exception to Penal Code Section 12801(b) that is now found in Penal Code Section 12078(k)(5) is necessary. 68
Consider whether the cross-reference to Penal Code Section 12025 in Penal Code Section 12031(j)(2) is incorrect and should be fixed. 69
Consider whether the cross-reference at the beginning of Penal Code Section 12071(e)(1) should be expanded to encompass Penal Code Section 12071(e)(2). 70
Consider how to correct the erroneous cross-reference to Family Code Section 6385(a) in Penal Code Section 12076(e). 71
Consider how to correct the erroneous cross-references to Penal Code Section 12806 that are now found in Penal Code Sections 12071(b)(11) and (12). 72
Penal Code Section 12101(c)(1) says: “Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of ....” 73 Consider whether the italicized clause should refer to paragraph (3) in addition to paragraph (2). 74
Consider whether the reference in Penal Code Section 12071(h) to “Paragraph (14) or (15) of subdivision (b)” should be replaced with a reference to “Paragraphs (14) and (15) of subdivision (b).” 75
Consider whether the references to “this paragraph” and “this section” in Penal Code Section 12072(f)(2)(C) are correct, or should be made parallel. 76
Consider whether to revise the language now found in the first paragraph of Penal Code Section 12032, to improve clarity. 77
Consider whether to revise the language now found in Penal Code Section 12079(a), to improve clarity. 78
Consider whether to revise the language now found in Penal Code Section 12130(b), to improve clarity. 79

70. See Commission Staff Memorandum 2008-49, Attachment p. 17.
72. See Commission Staff Memorandum 2009-10, Attachment pp. 174-75.
73. Emphasis added.
75. See Commission Staff Memorandum 2008-49, Attachment p. 32.
77. See Commission Staff Memorandum 2009-6, Attachment p. 2.
78. See Commission Staff Memorandum 2009-6, Attachment p. 12.
(65) Consider whether to revise the language now found in Penal Code Section 12301(a)(3), to improve clarity. 80

(66) Consider whether to replace “those firearms” with “handguns” in what is now Penal Code Section 12800, to improve clarity. 81

(67) Consider whether to revise the language now found in Penal Code Section 12804(e), to improve clarity. 82

(68) Consider whether the language now found in Penal Code Section 12001.1(b) could be simplified without any change in meaning. 83

(69) Consider whether the language now found in Penal Code Section 12088.5 should be reworded to improve readability without any change in meaning. 84

(70) Consider whether the language now found in Penal Code Section 12071.4(i)-(j) should be revised to improve clarity and readability. 85

(71) Consider whether Penal Code Section 12101(a)(2)(A) should refer to “the use of a firearm” instead of “this use of a firearm.” Also consider whether to simplify Penal Code Section 12101(a)(2)(A)-(D) without changing the substance. 86

(72) Penal Code Section 12027(c) refers to “those weapons.” Consider whether to replace that phrase with a more precise phrase. 87

(73) Consider whether the language now in Penal Code Section 12050(f)(4)(B) should be revised to better reflect its intent. 88

(74) Consider whether the language now in the first sentence of Penal Code Section 12071(b)(14) should be revised to better reflect its intent. 89

(75) Consider whether the language now found in Penal Code Section 12076(d)(2), relating to use of the NICS system, should be revised so that the provision better reflects its intent. 90

79. See Commission Staff Memorandum 2009-5, Attachment pp. 33-34.
80. See Commission Staff Memorandum 2009-5, Attachment p. 15.
82. See Commission Staff Memorandum 2009-5, Attachment p. 11.
90. See Commission Staff Memorandum 2008-49, Attachment p. 112.
(76) Penal Code Section 12020.3 criminalizes possession of a bright orange or bright green gun. Consider whether the purpose of this provision would be better served by expanding the scope of the provision.91

(77) Penal Code Section 12088.1 addresses three distinct subjects: (a) the firearm safety device requirement and exemptions from that requirement, (b) the warning requirement for a long-gun safe that does not comply with the standards for gun safes, and (c) the warning requirement of Penal Code Section 12088.3. Consider the possibility of dividing this material into several code sections.92

(78) Consider whether to reorganize the provisions relating to identification certificates for retired peace officers and endorsements on those certificates authorizing officers to carry a concealed firearm, carry a loaded firearm, or carry a concealed and loaded firearm.93

(79) Consider which exemptions listed in Penal Code Section 12020 apply to which weapons and equipment, and then consider whether to place each of those exemptions in proximity to the provisions governing the weapons or equipment to which it applies.94

(80) Consider whether to relocate the substance of Penal Code Section 12316(c) to the chapter on “Schools” (Penal Code §§ 626-626.11).95

(81) Consider whether any of the provisions in new Part 6 of the Penal Code should be redrafted to use the singular form instead of the plural form.96

(82) Read literally, Penal Code Section 12028.5(c) only requires delivery of a firearm, not other deadly weapons. Consider whether this is due to an oversight that should be corrected.97

(83) In some places, Penal Code Section 12028.5 refers to “the owner or person who possessed the firearm” or to “the owner or person who was in lawful possession.” In other places, the provision refers only to “the owner” or to “the lawful owner.” These references should be reviewed to determine whether they are appropriate as is, or should be revised to achieve greater consistency.98

(84) Consider why the first sentence of Penal Code Section 12078(t) refers to a “loan,” while the second sentence does not.99

92. See Commission Staff Memorandum 2008-26, Attachment pp. 5-8.
95. See Commission Staff Memorandum 2008-59, pp. 36-37.
(85) Consider why the first sentence of Penal Code Section 12071.4(h) refers to the grandparent of a person under age 18, but the second sentence does not.100

(86) Consider whether Penal Code Section 12078(a)(8) should refer to an “authorized law enforcement representative” instead of “an authorized law enforcement agency.” 101

(87) Consider whether Penal Code Section 12078(i)(2)(A) should refer to “report forms” instead of “reports.” 102

(88) Penal Code Section 12071(b)(3)(D) refers to a person “prohibited by state or federal law from processing, owning, purchasing, or receiving a firearm.” Consider whether the phrase “processing, owning, purchasing, or receiving” should be replaced with “possessing, receiving, owning, or purchasing.” 103

(89) Consider whether Penal Code Sections 12101(a)(2), (b)(2), and (c)(1) should be revised to replace “one of the following” with “any of the following.” 104

(90) Consider whether the introduction to Penal Code Section 12276.1 should be revised to replace “either of the following” with “any of the following.” 105

(91) Consider whether to delete “in Sacramento” from Penal Code Section 12076(b)(3) & (c)(2), to fix a chaptering out problem. 106

(92) Consider how to designate the unlabeled paragraph now found in Penal Code Section 12370(b), and how to conform the references to “this paragraph.” 107

100. See Commission Staff Memorandum 2008-49, Attachment p. 54.
104. See Commission Staff Memorandum 2008-59, Attachment pp. 15, 16.
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**PROPOSED LEGISLATION**

☞ Note. This is a work in progress. The material shown below may be changed. All of the proposed provisions would be located in the Penal Code. All references are to the Penal Code unless otherwise noted.

Penal Code § 626.91 (added). Ammunition on school grounds

SECTION 1. Section 626.91 is added to the Penal Code, to read:

626.91. Possession of ammunition on school grounds is governed by Section 30310.

Comment. Section 626.91 is new. It is intended to help persons locate key rules relating to possession of ammunition on school grounds. This provision is for informational purposes only and has no substantive effect. It shall not be read to imply that Section 30310 is the only provision governing possession of ammunition on school grounds.

Penal Code § 653k (repealed). Switchblade knife

SEC. 2. Section 653k of the Penal Code is repealed.

Comment. The first paragraph of former Section 653k is continued without substantive change in Section 21510 (restrictions relating to switchblade knife).

The second paragraph of former Section 653k is continued without substantive change in Section 17235 (“switchblade knife”).

The third paragraph of former Section 653k is continued without substantive change in Section 16965 (“passenger’s or driver’s area”).

Penal Code § 830.95 (added). Picketing in uniform of peace officer

SEC. 3. Section 830.95 is added to the Penal Code, to read:

830.95. (a) Any person who wears the uniform of a peace officer while engaged in picketing, or other informational activities in a public place relating to a concerted refusal to work, is guilty of a misdemeanor, whether or not the person is a peace officer.

(b) This section shall not be construed to authorize or ratify any picketing or other informational activities not otherwise authorized by law.

Comment. Subdivision (a) of Section 830.95 continues former Section 12590(a)(4) without substantive change.

With respect to picketing in the uniform of a peace officer, subdivision (b) continues former Section 12590(b) without substantive change. See also Section 17510(b), which continues former Section 12590(b) with respect to certain other acts.

Penal Code §§ 12000-12809 (repealed). Control of Deadly Weapons

SEC. 4. Title 2 (commencing with Section 12000) of Part 4 of the Penal Code is repealed.

Comment. The provisions of the repealed title are continued without substantive change, as follows:

(1) The repealed provisions that relate to sentence enhancements are continued without substantive change in new Title 2 (commencing with Section 12001), entitled “Sentence Enhancements.”
(2) The portions of former Section 12590 relating to picketing in the uniform of a peace officer are continued in new Section 830.95.

(3) All other repealed provisions are continued without substantive change in new Part 6 (commencing with Section 16000), entitled “Control of Deadly Weapons.”

Penal Code §§ 12001-12022.95 (added). Sentence enhancements

SEC. 5. Title 2 (commencing with Section 12001) is added to Part 4 of the Penal Code, to read:

TITLE 2. SENTENCE ENHANCEMENTS

§ 12001. “Firearm”
12001. As used in this title, “firearm” has the meaning provided in subdivision (a) of Section 16520.

Comment. Section 12001 continues the definition of “firearm” provided in former Section 12001(b), without substantive change.

§ 12003. Severability of provisions
12003. If any section, subsection, sentence, clause or phrase of this title or any other provision listed in Section 16580 is for any reason held to be unconstitutional, that decision shall not affect the validity of the remaining portions of this title or any other provision listed in Section 16580. The Legislature hereby declares that it would have passed this title and any other provision listed in Section 16580, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Comment. Section 12003 continues former Section 12003 without substantive change.

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

(b) Every person who carries a loaded or unloaded firearm together with a detachable shotgun magazine, a detachable pistol magazine, a detachable magazine, or a belt-feeding device on his or her person, or in a vehicle, during the commission or attempted commission of any street gang crimes described in subdivision (a) or (b) of Section 186.22, shall, upon conviction of the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for two, three, or four years in the court’s discretion. The court shall impose
the middle term unless there are circumstances in aggravation or mitigation. The
court shall state the reasons for its enhancement choice on the record at the time of
sentence.
(c) As used in this section, the following definitions shall apply:
(1) “Detachable magazine” means a device that is designed or redesigned to do
all of the following:
(A) To be attached to a rifle that is designed or redesigned to fire ammunition.
(B) To be attached to, and detached from, a rifle that is designed or redesigned
to fire ammunition.
(C) To feed ammunition continuously and directly into the loading mechanism
of a rifle that is designed or redesigned to fire ammunition.
(2) “Detachable pistol magazine” means a device that is designed or redesigned
to do all of the following:
(A) To be attached to a semiautomatic firearm that is not a rifle or shotgun that
is designed or redesigned to fire ammunition.
(B) To be attached to, and detached from, a firearm that is not a rifle or shotgun
that is designed or redesigned to fire ammunition.
(C) To feed ammunition continuously and directly into the loading mechanism
of a firearm that is not a rifle or a shotgun that is designed or redesigned to fire
ammunition.
(3) “Detachable shotgun magazine” means a device that is designed or
redesigned to do all of the following:
(A) To be attached to a firearm that is designed or redesigned to fire a fixed
shotgun shell through a smooth or rifled bore.
(B) To be attached to, and detached from, a firearm that is designed or
redesigned to fire a fixed shotgun shell through a smooth bore.
(C) To feed fixed shotgun shells continuously and directly into the loading
mechanism of a firearm that is designed or redesigned to fire a fixed shotgun shell.
(4) “Belt-feeding device” means a device that is designed or redesigned to
continuously feed ammunition into the loading mechanism of a machinegun or a
semiautomatic firearm.
(5) “Rifle” shall have the same meaning as specified in Section 17090.
(6) “Shotgun” shall have the same meaning as specified in Section 17190.

Comment. Section 12021.5 continues former Section 12021.5 without change, except that
subdivisions (c)(5)-(6) are revised to correct cross-references to the definitions of “rifle” and
“shotgun.”

§ 12022. Armed with firearm or personal use of deadly or dangerous weapon
12022. (a)(1) Except as provided in subdivisions (c) and (d), any person who is
armed with a firearm in the commission of a felony or attempted felony shall be
punished by an additional and consecutive term of imprisonment in the state
prison for one year, unless the arming is an element of that offense. This additional
term shall apply to any person who is a principal in the commission of a felony or
attempted felony if one or more of the principals is armed with a firearm, whether
or not the person is personally armed with a firearm.

(2) Except as provided in subdivision (c), and notwithstanding subdivision (d), if
the firearm is an assault weapon, as defined in Section 30510 or Section 30515, or
a machinegun, as defined in Section 16880, or a .50 BMG rifle, as defined in
Section 16110, the additional and consecutive term described in this subdivision
shall be three years whether or not the arming is an element of the offense of
which the person was convicted. The additional term provided in this paragraph
shall apply to any person who is a principal in the commission of a felony or
attempted felony if one or more of the principals is armed with an assault weapon
or machinegun, or a .50 BMG rifle, whether or not the person is personally armed
with an assault weapon or machinegun, or a .50 BMG rifle.

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

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

(3) When a person is found to have personally used a deadly or dangerous
weapon in the commission of a felony or attempted felony as provided in this
subdivision and the weapon is owned by that person, the court shall order that the
weapon be deemed a nuisance and disposed of in the manner provided in Sections
18000 and 18005.

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

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

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

(f) Notwithstanding any other provision of law, the court may strike the
additional punishment for the enhancements provided in subdivision (c) or (d) in
an unusual case where the interests of justice would best be served, if the court
specifies on the record and enters into the minutes the circumstances indicating
that the interests of justice would best be served by that disposition.
Comment. Section 12022 continues former Section 12022 without change, except that subdivision (a)(2) is revised to correct cross-references to the definitions of “.50 BMG Rifle,” “assault weapon,” and “machinegun,” and subdivision (b)(3) is revised to correct a cross reference to former Section 12028.

See also Section 12001 (“firearm” defined).

§ 12022.1. Secondary offense

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

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

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

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

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

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

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

(f) If the person is convicted of a felony for the primary offense, is granted probation for the primary offense, and is convicted of a felony for the secondary offense, any state prison sentence for the secondary offense shall be enhanced as provided in subdivision (b).
(g) If the primary offense conviction is reversed on appeal, the enhancement shall be suspended pending retrial of that felony. Upon retrial and reconviction, the enhancement shall be reimposed. If the person is no longer in custody for the secondary offense upon reconviction of the primary offense, the court may, at its discretion, reimpose the enhancement and order him or her recommitted to custody.

Comment. Section 12022.1 continues former Section 12022.1 without change.

§ 12022.2. Possession of armor penetrating ammunition or wearing of body vest

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

(b) Any person who wears a body vest in the commission or attempted commission of a violent offense, as defined in Section 29905, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one, two, or five years. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

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

Comment. Section 12022.2 continues former Section 12022.2 without change, except that subdivision (b) is revised to correct a cross-reference to the definition of “violent offense.”

See also Section 12001 (“firearm” defined).

§ 12022.3. Weapon enhancement for sexual offense

12022.3. For each violation of Section 220 involving a specified sexual offense, or for each violation or attempted violation of Section 261, 262, 264.1, 286, 288, 288a, or 289, and in addition to the sentence provided, any person shall receive the following:

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

(b) A one-, two-, or five-year enhancement if the person is armed with a firearm or a deadly weapon.

Comment. Section 12022.3 continues former Section 12022.3 without change.

See also Section 12001 (“firearm” defined).
§ 12022.4. Furnishing firearm

12022.4. Any person who, during the commission or attempted commission of a felony, furnishes or offers to furnish a firearm to another for the purpose of aiding, abetting, or enabling that person or any other person to commit a felony shall, in addition and consecutive to the punishment prescribed by the felony or attempted felony of which the person has been convicted, be punished by an additional term of one, two, or three years in the state prison. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence. The additional term provided in this section shall not be imposed unless the fact of the furnishing is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

Comment. Section 12022.4 continues former Section 12022.4 without change.

See also Section 12001 (“firearm” defined).

§ 12022.5. Personal use of firearm

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

(b) Notwithstanding subdivision (a), any person who personally uses an assault weapon, as specified in Section 30510 or Section 30515, or a machinegun, as defined in Section 16880, in the commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 6, or 10 years.

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

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

(e) When a person is found to have personally used a firearm, an assault weapon, a machinegun, or a .50 BMG rifle, in the commission of a felony or attempted felony as provided in this section and the firearm, assault weapon, machinegun, or a .50 BMG rifle, is owned by that person, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Sections 18000 and 18005.

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

Comment. Section 12022.5 continues former Section 12022.5 without change, except that subdivision (b) is revised to correct cross-references to the definitions of “assault weapon” and
“machinegun” and subdivision (e) is amended to correct a cross reference to former Section 12028.

See also Section 12001 (“firearm” defined).

§ 12022.53. Personal use or discharge of firearm

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

(1) Section 187 (murder).
(2) Section 203 or 205 (mayhem).
(3) Section 207, 209, or 209.5 (kidnapping).
(4) Section 211 (robbery).
(5) Section 215 (carjacking).
(6) Section 220 (assault with intent to commit a specified felony).
(7) Subdivision (d) of Section 245 (assault with a firearm on a peace officer or firefighter).
(8) Section 261 or 262 (rape).
(9) Section 264.1 (rape or sexual penetration in concert).
(10) Section 286 (sodomy).
(11) Section 288 or 288.5 (lewd act on a child).
(12) Section 288a (oral copulation).
(13) Section 289 (sexual penetration).
(14) Section 4500 (assault by a life prisoner).
(15) Section 4501 (assault by a prisoner).
(16) Section 4503 (holding a hostage by a prisoner).
(17) Any felony punishable by death or imprisonment in the state prison for life.
(18) Any attempt to commit a crime listed in this subdivision other than an
assault.

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

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

(d) Notwithstanding any other provision of law, any person who, in the
commission of a felony specified in subdivision (a), Section 246, or subdivision
(c) or (d) of Section 26100, personally and intentionally discharges a firearm and
proximately causes great bodily injury, as defined in Section 12022.7, or death, to
any person other than an accomplice, shall be punished by an additional and
consecutive term of imprisonment in the state prison for 25 years to life.

(e)(1) The enhancements provided in this section shall apply to any person who
is a principal in the commission of an offense if both of the following are pled and
proved:
(A) The person violated subdivision (b) of Section 186.22.

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

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

(f) Only one additional term of imprisonment under this section shall be
imposed per person for each crime. If more than one enhancement per person is
found true under this section, the court shall impose upon that person the
enhancement that provides the longest term of imprisonment. An enhancement
involving a firearm specified in Section 12021.5, 12022, 12022.3, 12022.4,
12022.5, or 12022.55 shall not be imposed on a person in addition to an
enhancement imposed pursuant to this section. An enhancement for great bodily
injury as defined in Section 12022.7, 12022.8, or 12022.9 shall not be imposed on
a person in addition to an enhancement imposed pursuant to subdivision (d).

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

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

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

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

(k) When a person is found to have used or discharged a firearm in the
commission of an offense that includes an allegation pursuant to this section and
the firearm is owned by that person, a coparticipant, or a coconspirator, the court
shall order that the firearm be deemed a nuisance and disposed of in the manner
provided in Sections 18000 and 18005.

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

Comment. Section 12022.53 continues former Section 12022.53 without change, except that
subdivision (d) is revised to correct a cross-reference to former Section 12034(c)-(d) and
subdivision (k) is revised to correct a cross-reference to former Section 12028.
See also Section 12001 (“firearm” defined).

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

Comment. Section 12022.55 continues former Section 12022.55 without change.
See also Section 12001 (“firearm” defined).

§ 12022.6. Taking, damaging, or destroying property
12022.6. (a) When any person takes, damages, or destroys any property in the
commission or attempted commission of a felony, with the intent to cause that
taking, damage, or destruction, the court shall impose an additional term as
follows:
(1) If the loss exceeds sixty-five thousand dollars ($65,000), the court, in
addition and consecutive to the punishment prescribed for the felony or attempted
felony of which the defendant has been convicted, shall impose an additional term
of one year.
(2) If the loss exceeds two hundred thousand dollars ($200,000), the court, in
addition and consecutive to the punishment prescribed for the felony or attempted
felony of which the defendant has been convicted, shall impose an additional term
of two years.
(3) If the loss exceeds one million three hundred thousand dollars ($1,300,000),
the court, in addition and consecutive to the punishment prescribed for the felony
or attempted felony of which the defendant has been convicted, shall impose an
additional term of three years.
(4) If the loss exceeds three million two hundred thousand dollars ($3,200,000),
the court, in addition and consecutive to the punishment prescribed for the felony
or attempted felony of which the defendant has been convicted, shall impose an
additional term of four years.
(b) In any accusatory pleading involving multiple charges of taking, damage, or
destruction, the additional terms provided in this section may be imposed if the
aggregate losses to the victims from all felonies exceed the amounts specified in
this section and arise from a common scheme or plan. All pleadings under this
section shall remain subject to the rules of joinder and severance stated in Section
954.
(c) The additional terms provided in this section shall not be imposed unless the facts of the taking, damage, or destruction in excess of the amounts provided in this section are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

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

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

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

(2) When counterfeited but unassembled components of computer software packages are recovered, including, but not limited to, counterfeited computer diskettes, instruction manuals, or licensing envelopes, the “loss” from the counterfeiting of those components of computer software packages shall be equivalent to the retail price or fair market value of the number of completed computer software packages that could have been made from those components.

(f) It is the intent of the Legislature that the provisions of this section be reviewed within 10 years to consider the effects of inflation on the additional terms imposed. For that reason this section shall remain in effect only until January 1, 2018, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 2018, deletes or extends that date.

Comment. Section 12022.6 continues former Section 12022.6 without change.

§ 12022.7. Great bodily injury

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

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

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

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

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

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

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

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

Comment. Section 12022.7 continues former Section 12022.7 without change.

§ 12022.75. Administration of controlled substance

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

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

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

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

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

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

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

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

Comment. Section 12022.75 continues former Section 12022.75 without change.

§ 12022.8. Infliction of great bodily injury in committing sexual offense

12022.8. Any person who inflicts great bodily injury, as defined in Section 12022.7, on any victim in a violation of Section 220 involving a specified sexual offense, or a violation or attempted violation of paragraph (2), (3), or (6) of
subdivision (a) of Section 261, paragraph (1) or (4) of subdivision (a) of Section 262, Section 264.1, subdivision (b) of Section 288, subdivision (a) of Section 289, or sodomy or oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person as provided in Section 286 or 288a shall receive a five-year enhancement for each violation in addition to the sentence provided for the felony conviction.

Comment. Section 12022.8 continues former Section 12022.8 without change.

§ 12022.85. Sexual offense by person with knowledge that the person has AIDS

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

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

(1) Rape in violation of Section 261.

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

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

(4) Sodomy in violation of Section 286.

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

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

Comment. Section 12022.85 continues former Section 12022.85 without change.

§ 12022.9. Termination of pregnancy of victim known to be pregnant

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

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

Comment. Section 12022.9 continues former Section 12022.9 without change.

§ 12022.95. Injury to child

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

Comment. Section 12022.95 continues former Section 12022.95 without change.

Penal Code §§ 16000-34730 (added). Control of deadly weapons

SEC. 6. Part 6 (commencing with Section 16000) is added to the Penal Code, to read:

PART 6. CONTROL OF DEADLY WEAPONS

TITLE 1. PRELIMINARY PROVISIONS

DIVISION 1. GENERAL PROVISIONS

§ 16000. Deadly Weapons Recodification Act of 2012

16000. This act recodifies the provisions of former Title 2 (commencing with Section 12000) of Part 4, which was entitled “Control of Deadly Weapons.” The act shall be known and may be cited as the “Deadly Weapons Recodification Act of 2012.”

Comment. Section 16000 provides a convenient means of referring to the recodification of former Sections 12000-12809. For background, see Nonsubstantive Reorganization of Deadly Weapon Statutes, __ Cal. L. Revision Comm’n Reports __ (2009).

§ 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).
§ 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).

§ 16015. Determining existence of prior conviction

16015. If a previously existing provision is restated and continued in this part, a conviction under that previously existing provision shall, unless a contrary intent appears, be treated as a prior conviction under the restatement and continuation of that provision.

Comment. Section 16015 makes clear that in determining the existence of a prior conviction that affects the severity of punishment for an offense, a conviction under a former provision that has been restated and continued in this part counts as a prior conviction under the corresponding new provision.

For example, Section 20170 prohibits open display of an imitation firearm in a public place. A first violation of that provision is punishable by a $100 fine, and a second violation is punishable by a $300 fine. See Section 20180. In determining whether to impose a $100 fine or a $300 fine, a violation of the predecessor of Section 20170 (former Section 12256(a)) counts as a prior violation of Section 20170.

§ 16020. Judicial decision interpreting former law

16020. (a) A judicial decision interpreting a previously existing provision is relevant in interpreting a provision of this part that restates and continues that previously existing provision.

(b) However, in enacting the Deadly Weapons Recodification Act of 2012, the Legislature has not evaluated the correctness of any judicial decision interpreting a provision affected by the act.

(c) The Deadly Weapons Recodification Act of 2012 is not intended to, and does not, reflect any assessment of any judicial decision interpreting any provision affected by the act.

Comment. Subdivision (a) of Section 16020 makes clear that case law construing a predecessor provision is relevant in construing its successor in this part.

Subdivisions (b) and (c) make clear that in recodifying former Sections 12000-12809, the Legislature has not taken any position on any case interpreting any of those provisions.
§ 16025. Constitutionality

16025. (a) A judicial decision determining the constitutionality of a previously existing provision is relevant in determining the constitutionality of a provision of this part that restates and continues that previously existing provision.

(b) However, in enacting the Deadly Weapons Recodification Act of 2012, the Legislature has not evaluated the constitutionality of any provision affected by the act, or the correctness of any judicial decision determining the constitutionality of any provision affected by the act.

(c) The Deadly Weapons Recodification Act of 2012 is not intended to, and does not, reflect any determination of the constitutionality of any provision affected by the act.

Comment. Subdivision (a) of Section 16025 makes clear that case law determining the constitutionality of a predecessor provision is relevant in determining the constitutionality of its successor in this part. Subdivisions (b) and (c) make clear that in recodifying former Sections 12000-12809, the Legislature has not taken any position on the constitutionality of any of those provisions.

DIVISION 2. DEFINITIONS

§ 16100. “.50 BMG cartridge”

16100. As used in this part, “.50 BMG cartridge” means a cartridge that is designed and intended to be fired from a center fire rifle and that meets all of the following criteria:

(a) It has an overall length of 5.54 inches from the base to the tip of the bullet.

(b) The bullet diameter for the cartridge is from .510 to, and including, .511 inch.

(c) The case base diameter for the cartridge is from .800 inch to, and including, .804 inch.

(d) The cartridge case length is 3.91 inches.

Comment. Section 16100 continues former Section 12278(b) without substantive change.

§ 16110. “.50 BMG rifle”

16110. (a) As used in this part, “.50 BMG rifle” means a center fire rifle that can fire a .50 BMG cartridge and is not already an assault weapon or a machinegun.

(b) A “.50 BMG rifle” does not include any antique firearm, nor any curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

Comment. Subdivision (a) of Section 16110 continues former Section 12278(a) without substantive change. See Sections 16880 (“machinegun”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”). Subdivision (b) continues former Section 12278(c) without substantive change. See Section 16170 (“antique firearm”).

§ 16120. “Abuse”

16120. As used in this part, “abuse” means any of the following:
(a) Intentionally or recklessly to cause or attempt to cause bodily injury.
(b) Sexual assault.
(c) To place a person in reasonable apprehension of imminent serious bodily injury to that person or to another.
(d) To molest, attack, strike, stalk, destroy personal property, or violate the terms of a domestic violence protective order issued pursuant to Part 4 (commencing with Section 6300) of Division 10 of the Family Code.

Comment. Section 16120 continues former Section 12028.5(a)(1) without substantive change.

§ 16130. “Agent”
16130. As used in Section 26915, “agent” means an employee of the licensee.

Comment. Section 16130 continues former Section 12071(b)(20)(G)(i) without substantive change.

§ 16140. “Air gauge knife”
16140. As used in this part, “air gauge knife” means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

Comment. Section 16140 continues former Section 12020(c)(18) without substantive change.

§ 16150. “Ammunition”
16150. (a) As used in Section 30300, “ammunition” means handgun ammunition as defined in Section 16650.
(b) As used in subdivisions (a) and (b) of Section 30305, “ammunition” includes, but is not limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence.

Comment. Subdivision (a) of Section 16150 continues the second sentence of former Section 12316(a)(1)(B) without substantive change.
Subdivision (b) continues former Section 12316(b)(2) without substantive change.

§ 16160. “Antique cannon”
16160. As used in this part, “antique cannon” means any cannon manufactured before January 1, 1899, which has been rendered incapable of firing or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

Comment. Section 16160 continues the second sentence of former Section 12301(a)(3) without substantive change.

§ 16170. “Antique firearm”
16170. (a) As used in Sections 16110 and 30515, “antique firearm” means any firearm manufactured before January 1, 1899.
(b) As used in Section 16520, subdivision (a) of Section 23630, paragraph (1) of subdivision (b) of Section 27505, and subdivision (a) of Section 31615, “antique firearm” has the same meaning as in Section 921(a)(16) of Title 18 of the United States Code.

(c) As used in Section 17700, “antique firearm” means either of the following:
(1) Any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898. This includes any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898.
(2) Any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

Comment. Subdivision (a) of Section 16170 continues former Section 12276.1(d)(3) and former Section 12278(d) without substantive change.
Subdivision (b) continues without substantive change the definition of “antique firearm” that was used in former Sections 12001(e), 12078(p)(6)(B), 12085(e)(3), 12088.8(a), and 12801(b).
Subdivision (c) continues the second sentence of former Section 12020(b)(5) without substantive change.
See Section 16520 (“firearm”).

§ 16180. “Antique rifle”
16180. As used in this part, “antique rifle” means a firearm conforming to the definition of an “antique firearm” in Section 479.11 of Title 27 of the Code of Federal Regulations.

Comment. Section 16180 continues the third sentence of former Section 12301(a)(3) without substantive change.
See Section 16520 (“firearm”).

§ 16190. “Application to purchase”
16190. As used in Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4, and in Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4, “application to purchase” means either of the following:
(a) The initial completion of the register by the purchaser, transferee, or person being loaned a firearm, as required by Section 28210.
(b) The initial completion and transmission to the Department of Justice of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned a firearm, as required by Section 28215.

Comment. Section 16190 continues former Section 12001(i) without substantive change.
See Section 16520 (“firearm”).

§ 16200. “Assault weapon”
16200. Use of the term “assault weapon” is governed by Sections 30510 and 30515.
Comment. Section 16200 is new. It is intended to help persons locate the provisions defining “assault weapon.”

§ 16220. “Ballistic knife”

16220. As used in this part, “ballistic knife” means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device that propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater speargun.

Comment. Section 16220 continues former Section 12020(c)(8) without substantive change.

§ 16230. “Ballistics identification system”

16230. As used in this part, “ballistics identification system” includes, but is not limited to, any automated image analysis system that is capable of storing firearm ballistics markings and tracing those markings to the firearm that produced them.

Comment. Section 16230 continues former Section 12072.5(a) without substantive change.

§ 16240. “Basic firearms safety certificate”

16240. As used in this part, “basic firearms safety certificate” means a certificate issued by the Department of Justice pursuant to former Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, before January 1, 2003.

Comment. Section 16240 continues former Section 12001(p) without substantive change.

§ 16250. “BB device”

16250. As used in this part, “BB device” means any instrument that expels a projectile, such as a BB or a pellet, not exceeding 6mm caliber, through the force of air pressure, gas pressure, or spring action, or any spot marker gun.

Comment. Section 16250 continues former Sections 12001(g) and 12550(a) without substantive change.

§ 16260. “Belt buckle knife”

16260. As used in this part, “belt buckle knife” is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2-1/2 inches.

Comment. Section 16260 continues former Section 12020(c)(13) without substantive change.

§ 16270. “Blowgun”

16270. As used in this part, “blowgun” means a hollow tube designed and intended to be used as a tube through which a dart is propelled by the force of the breath of the user.

Comment. Section 16270 continues former Section 12580 without substantive change.
§ 16280. “Blowgun ammunition”

16280. As used in this part, “blowgun ammunition” means a dart designed and intended for use in a blowgun.

Comment. Section 16280 continues former Section 12581 without substantive change. See Section 16270 (“blowgun”).

§ 16290. “Body vest” or “body shield”

16290. As used in this part, “body vest” or “body shield” means any bullet-resistant material intended to provide ballistic and trauma protection for the wearer or holder.

Comment. Section 16290 continues former Section 12323(c) without substantive change.

§ 16300. “Bona fide evidence of majority and identity”

16300. As used in this part, “bona fide evidence of majority and identity” means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator’s license, California state identification card, identification card issued to a member of the armed forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

Comment. Section 16300 continues the second sentence of former Section 12316(a)(2) without substantive change.

§ 16310. “Boobytrap”

16310. As used in this part, “boobytrap” means any concealed or camouflaged device designed to cause great bodily injury when triggered by an action of any unsuspecting person coming across the device. Boobytraps may include, but are not limited to, guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wire with hooks attached.

Comment. Section 16310 continues former Section 12355(c) without substantive change.

§ 16320. “Camouflaging firearm container”

16320. (a) As used in this part, “camouflaging firearm container” means a container that meets all of the following criteria:

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

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

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

(b) “Camouflaging firearm container” does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

Comment. Section 16320 continues former Section 12020(c)(9) without substantive change. See Section 16520 (“firearm”).
§ 16330. “Cane gun”
16330. As used in this part, “cane gun” means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

Comment. Section 16330 continues former Section 12020(c)(5) without substantive change. See Section 16520 (“firearm”).

§ 16340. “Cane sword”
16340. As used in this part, “cane sword” means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

Comment. Section 16340 continues former Section 12020(c)(15) without substantive change.

§ 16350. “Capacity to accept more than 10 rounds”
16350. As used in 30515, “capacity to accept more than 10 rounds” means capable of accommodating more than 10 rounds. The term does not apply to a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.

Comment. Section 16350 continues former Section 12276.1(d)(2) without substantive change.

§ 16360. “CCW”
16360. As used in this part, “CCW” means “carry concealed weapons.”

Comment. Section 16360 continues former Section 12027(a)(1)(E) without substantive change.

§ 16370. “Certified instructor” or “DOJ Certified Instructor”
16370. As used in Sections 31610 to 31700, inclusive, “certified instructor” or “DOJ Certified Instructor” means a person designated as a handgun safety instructor by the Department of Justice pursuant to subdivision (a) of Section 31635.

Comment. Section 16370 continues former Section 12801(a)(2) without substantive change.

§ 16380. “Chamber load indicator”
16380. As used in this part, “chamber load indicator” means a device that plainly indicates that a cartridge is in the firing chamber. A device satisfies this definition if it is readily visible, has incorporated or adjacent explanatory text or graphics, or both, and is designed and intended to indicate to a reasonably foreseeable adult user of the pistol, without requiring the user to refer to a user’s manual or any other resource other than the pistol itself, whether a cartridge is in the firing chamber.

Comment. Section 16380 continues former Section 12126(c) without substantive change. See also former Section 12130(d)-(2), which used the same definition of “chamber load indicator.”
§ 16400. “Clear evidence of the person’s identity and age”
16400. As used in this part, “clear evidence of the person’s identity and age”
means either of the following:
(a) A valid California driver’s license.
(b) A valid California identification card issued by the Department of Motor
Vehicles.
Comment. Section 16400 continues former Section 12071(c)(1) without substantive change.

§ 16410. “Consultant-evaluator”
16410. As used in this part, “consultant-evaluator” means a consultant or
evaluator who, in the course of that person’s profession is loaned firearms from a
person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18
of the United States Code and the regulations issued pursuant thereto, for research
or evaluation, and has a current certificate of eligibility issued pursuant to Section
26710.
Comment. Section 16410 continues former Section 12001(s) without substantive change.

§ 16420. “Dagger”
16420. Use of the term “dagger” is governed by Section 16470.
Comment. Section 16420 is new. It is intended to help persons locate the definition of
“dagger,” which is the same as the definition of “dirk.”

§ 16430. “Deadly weapon”
16430. As used in Division 4 (commencing with Section 18250) of Title 2,
“deadly weapon” means any weapon, the possession or concealed carrying of
which is prohibited by any provision listed in Section 16590.
Comment. Section 16430 continues former Section 12028.5(a)(3) without substantive change.

§ 16440. “Dealer”
16440. Use of the term “dealer” is governed by Section 26700.
Comment. Section 16440 is new. It is intended to help persons locate the definition of
“dealer.”
See also Section 16790 (“licensed gun dealer”).

§ 16450. “Department”
16450. As used in Sections 31610 to 31700, inclusive, and in Chapter 2
(commencing with Section 29030) of Division 7 of Title 4, “department” means
the Department of Justice.
Comment. Section 16450 continues former Sections 12086(a)(2) and 12801(a)(1) without
substantive change.
§ 16460. “Destructive device”

16460. (a) As used in Sections 16510, 16520, and 16780, and in Chapter 1 (commencing with Section 18710) of Division 5 of Title 2, “destructive device” includes any of the following weapons:

(1) Any projectile containing any explosive or incendiary material or any other chemical substance, including, but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns.

(2) Any bomb, grenade, explosive missile, or similar device or any launching device therefor.

(3) Any weapon of a caliber greater than 0.60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun (smooth or rifled bore) conforming to the definition of a “destructive device” found in subsection (b) of Section 479.11 of Title 27 of the Code of Federal Regulations, shotgun ammunition (single projectile or shot), antique rifle, or an antique cannon.

(4) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-propelled projectile, or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for that device, except those devices as are designed primarily for emergency or distress signaling purposes.

(5) Any breakable container that contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

(6) Any sealed device containing dry ice (CO2) or other chemically reactive substances assembled for the purpose of causing an explosion by a chemical reaction.

(b) A bullet containing or carrying an explosive agent is not a destructive device as that term is used in subdivision (a).

Comment. Subdivision (a) of Section 16460 continues former Section 12301(a)(1)-(2) & (4)-(6) without substantive change. Subdivision (a) also continues the first sentence of former Section 12301(a)(3) without substantive change. See also former Section 12601(b)(6) and the first sentence of former Section 12030(d), which used the same definition of “destructive device.”

Subdivision (b) continues the second sentence of the second paragraph of former Section 12020(a)(4) without substantive change.

See Sections 16160 (“antique cannon”), 16180 (“antique rifle”).

§ 16470. “Dirk” or “dagger”

16470. As used in this part, “dirk” or “dagger” means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 21510, or a pocketknife is capable of ready
use as a stabbing weapon that may inflict great bodily injury or death only if the
blade of the knife is exposed and locked into position.

Comment. Section 16470 continues former Section 12020(c)(24) without substantive change. See also former Section 12028(a), which referred to former Section 12020.

§ 16480. “DOJ Certified Instructor”
16480. Use of the term “DOJ Certified Instructor” is governed by Section 16370.

Comment. Section 16480 is new. It is intended to help persons locate the definition of “DOJ Certified Instructor,” which is the same as the definition of “certified instructor.”

§ 16490. “Domestic violence”
16490. As used in this part, “domestic violence” means abuse perpetrated against any of the following persons:
(a) A spouse or former spouse.
(b) A cohabitant or former cohabitant, as defined in Section 6209 of the Family Code.
(c) A person with whom the respondent is having or has had a dating or engagement relationship.
(d) A person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act (Part 3 (commencing with Section 7600) of Division 12 of the Family Code).
(e) A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected.
(f) Any other person related by consanguinity or affinity within the second degree.

Comment. Section 16490 continues former Section 12028.5(a)(2) without substantive change.

§ 16500. “Drop safety requirement for handguns”
16500. Use of the phrase “drop safety requirement for handguns” is governed by Section 31900.

Comment. Section 16500 is new. It is intended to help persons locate the definition of “drop safety requirement for handguns.”

§ 16510. “Explosive”
16510. As used in Section 16460 and Chapter 1 (commencing with Section 18710) of Division 5 of Title 2, “explosive” means any substance, or combination of substances, the primary or common purpose of which is detonation or rapid combustion, and which is capable of a relatively instantaneous or rapid release of gas and heat, or any substance, the primary purpose of which, when combined with others, is to form a substance capable of a relatively instantaneous or rapid release of gas and heat. “Explosive” includes, but is not limited to, any explosive
as defined in Section 841 of Title 18 of the United States Code and published pursuant to Section 555.23 of Title 27 of the Code of Federal Regulations, and any of the following:

(a) Dynamite, nitroglycerine, picric acid, lead azide, fulminate of mercury, black powder, smokeless powder, propellant explosives, detonating primers, blasting caps, or commercial boosters.

(b) Substances determined to be division 1.1, 1.2, 1.3, or 1.6 explosives as classified by the United States Department of Transportation.

(c) Nitro carbo nitrate substances (blasting agent) classified as division 1.5 explosives by the United States Department of Transportation.

(d) Any material designated as an explosive by the State Fire Marshal. The designation shall be made pursuant to the classification standards established by the United States Department of Transportation. The State Fire Marshal shall adopt regulations in accordance with the Government Code to establish procedures for the classification and designation of explosive materials or explosive devices that are not under the jurisdiction of the United States Department of Transportation pursuant to provisions of Section 841 of Title 18 of the United States Code and published pursuant to Section 555.23 of Title 27 of the Code of Federal Regulations that define explosives.

(e) Certain division 1.4 explosives as designated by the United States Department of Transportation when listed in regulations adopted by the State Fire Marshal.

(f) As used in Section 16460 and Chapter 1 (commencing with Section 18710) of Division 5 of Title 2, “explosive” does not include any destructive device, nor does it include ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols.

Comment. Section 16510 continues former Section 12301(b) without substantive change. To make the provision more easily understandable, the definition of “explosive” in Health and Safety Code Section 12000 is repeated in Section 16510, rather than incorporated by reference as it was in the past. Case law construing the definition in Health and Safety Code Section 12000 is relevant in construing Section 16510.

See Section 16460 (“destructive device”).

§ 16520. “Firearm”

16520. (a) As used in this part, “firearm” means any device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of any explosion or other form of combustion.

(b) As used in the following provisions, “firearm” includes the frame or receiver of the weapon:

(1) Section 16550.
(2) Section 16730.
(3) Section 16960.
(4) Section 16990.
(5) Section 17070.
(6) Section 17310.
(7) Sections 26500 to 27140, inclusive.
(8) Sections 27400 to 28000, inclusive.
(9) Section 28100.
(10) Sections 28400 to 28415, inclusive.
(11) Sections 29010 to 29150, inclusive.
(12) Sections 29610 to 29750, inclusive.
(13) Sections 29800 to 29905, inclusive.
(14) Sections 30150 to 30165, inclusive.
(15) Section 31615.
(16) Sections 31705 to 31830, inclusive.
(17) Sections 34355 to 34370, inclusive.
(18) Sections 8100, 8101, and 8103 of the Welfare and Institutions Code.

(c) As used in the following provisions, “firearm” also includes any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes:

(1) Section 16750.
(2) Subdivision (b) of Section 16840.
(3) Section 25400.
(4) Sections 25850 to 26025, inclusive.
(5) Subdivisions (a), (b), and (c) of Section 26030.
(6) Sections 26035 to 26055, inclusive.

(d) As used in the following provisions, “firearm” does not include an unloaded antique firearm:

(1) Subdivisions (a) and (c) of Section 16730.
(2) Section 16550.
(3) Section 16960.
(4) Section 17310.
(5) Sections 26500 to 26585, inclusive.
(6) Sections 26700 to 26915, inclusive.
(7) Section 27510.
(8) Section 27530.
(9) Section 27540.
(10) Section 27545.
(11) Sections 27555 to 27570, inclusive.
(12) Sections 29010 to 29150, inclusive.

(e) As used in Sections 34005 and 34010, “firearm” does not include a destructive device.

(f) As used in Sections 17280 and 24680, “firearm” has the same meaning as in Section 922 of Title 18 of the United States Code.
(g) As used in Sections 29010 to 29150, inclusive, “firearm” includes the unfinished frame or receiver of a weapon that can be readily converted to the functional condition of a finished frame or receiver.

Comment. Subdivision (a) of Section 16520 continues former Sections 12001(b) and 12550(b) without substantive change, for purposes of “Part 6. Control of Deadly Weapons.” See also Section 12001, which continues former Section 12001(b) without substantive change, for purposes of “Title 2. Sentencing Enhancements” of “Part 4. Prevention of Crimes and Apprehension of Criminals.”

Subdivision (b) continues former Section 12001(c) and former Section 12085(e)(1) without substantive change.

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

Subdivision (d) continues former Section 12001(e) and former Section 12085(e)(3) without substantive change. See Section 16170 (“antique firearm”).

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

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

Subdivision (g) continues former Section 12085(e)(2) without substantive change.

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

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

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

Comment. Subdivision (a) of Section 16530 continues former Section 12001(a)(1) without substantive change. See also former Sections 12126(e), 12323(a), and 12601(b)(1), and the introductory clause of former Section 12126, all of which referred to the definition in Section 12001.

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

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

§ 16540. “Firearm safety device”

16540. As used in Division 2 (commencing with Section 23620) of Title 4, “firearm safety device” means a device other than a gun safe that locks and is designed to prevent children and unauthorized users from firing a firearm. The device may be installed on a firearm, be incorporated into the design of the firearm, or prevent access to the firearm.

Comment. Section 16540 continues former Section 12087.6(a) without substantive change.
See Sections 16520 ("firearm"), 16610 ("gun safe").

§ 16550. “Firearm transaction record”
16550. As used in this part, “firearm transaction record” is a record containing
the same information referred to in subdivision (a) of Section 478.124, Section
478.124a, and subdivision (e) of Section 478.125 of Title 27 of the Code of
Federal Regulations.
Comment. Section 16550 continues former Section 12071(c)(4)(A) without substantive
change.

§ 16560. “Firing requirement for handguns”
16560. Use of the phrase “firing requirement for handguns” is governed by
Section 31905.
Comment. Section 16560 is new. It is intended to help persons locate the definition of “firing
requirement for handguns.”

§ 16570. “Flechette dart”
16570. As used in this part, “flechette dart” means a dart, capable of being fired
from a firearm, that measures approximately one inch in length, with tail fins that
take up approximately five-sixteenths of an inch of the body.
Comment. Section 16570 continues former Section 12020(c)(6) without substantive change.
See Section 16520 ("firearm").

§ 16575. “Former Article 4 of Chapter 1 provisions”
16575. (a) Except as stated in subdivision (c), the following provisions were
formerly included in Article 4 (commencing with Section 12070) of Chapter 1 of
Title 2 of Part 4, which was entitled “Licenses to Sell Firearms”:
(1) Section 16130.
(2) Subdivision (b) of Section 16170, to the extent that it continues subdivision
(e) of former Section 12085.
(3) Section 16400.
(4) Section 16450, to the extent that it continues subdivision (a) of former
Section 12086.
(5) Subdivisions (b) and (d) of Section 16520, to the extent that they continue
subdivision (e) of former Section 12085.
(6) Subdivision (g) of Section 16520.
(7) Section 16550.
(8) Section 16620.
(9) Section 16720.
(10) Section 16730.
(11) Section 16740, to the extent that it continues subdivision (b) of former
Section 12079.
(12) Section 16800.
(13) Section 16810.
(14) Section 16960.
(15) Section 16990.
(16) Section 17110.
(17) Section 17310.
(18) Division 6 (commencing with Section 26500) of Title 4.
(19) Chapter 2 (commencing with Section 29030) of Division 7 of Title 4.
(20) Chapter 2 (commencing with Section 29500) of Division 8 of Title 4.
(21) Section 29010.
(22) Section 30105.
(23) Sections 30150 to 30165, inclusive.
(24) Sections 31705 to 31830, inclusive.
(25) Section 32315.
(26) Section 34205.
(27) Sections 34350 to 34370, inclusive.

(b) Except as stated in subdivision (c), the provisions listed in subdivision (a) may be referred to as “former Article 4 of Chapter 1 provisions.”
(c) Subdivision (a) does not include any section that is first codified in one of the specified numerical ranges after the effective date of the Deadly Weapons Recodification Act of 2012.

Comment. Section 16575 is new. It provides a convenient means of referring to former Sections 12070-12086.

For a disposition table showing where each provision in former Sections 12070-12086 was recodified, see Nonsubstantive Reorganization of Deadly Weapon Statutes, __ Cal. L. Revision Comm’n Reports __ (2009).

§ 16580. “Former Chapter 1 provisions”

16580. (a) Except as stated in subdivision (c), the following provisions were formerly included in Chapter 1 (commencing with Section 12000) of Title 2 of Part 4, which was entitled “Firearms”:
(1) Sections 12001 to 12022.95, inclusive.
(2) Sections 16120 to 16140, inclusive.
(3) Subdivision (b) of Section 16170, to the extent it continues former Sections 12001, 12078, 12085, and 12088.8.
(4) Subdivision (c) of Section 16170.
(5) Section 16190.
(6) Sections 16220 to 16240, inclusive.
(7) Section 16250, to the extent it continues to former Section 12001.
(8) Section 16260.
(9) Sections 16320 to 16340, inclusive.
(10) Section 16360.
(11) Sections 16400 and 16410.
(12) Section 16430.
(13) Section 16450, to the extent it continues former Section 12086.
(14) Subdivision (b) of Section 16460.
Section 16470.

(16) Section 16490.

(17) Subdivision (a) of Section 16520, to the extent it continues former Section 12001.

(18) Subdivisions (b) to (g), inclusive, of Section 16520.

(19) Sections 16530 to 16550, inclusive.

(20) Section 16570.

(21) Sections 16600 to 16640, inclusive.

(22) Sections 16670 to 16690, inclusive.

(23) Sections 16720 to 16760, inclusive.

(24) Sections 16800 and 16810.

(25) Sections 16830 to 16870, inclusive.

(26) Sections 16920 to 16960, inclusive.

(27) Sections 16990 and 17000.

(28) Sections 17020 to 17070, inclusive.

(29) Section 17090, to the extent it continues former Section 12020.

(30) Section 17110.

(31) Section 17125.

(32) Section 17160.

(33) Sections 17170 to 17200, inclusive.

(34) Sections 17270 to 17290, inclusive.

(35) Section 17310.

(36) Sections 17330 to 17505, inclusive.

(37) Sections 17515 to 18500, inclusive.

(38) Sections 19100 to 19290, inclusive.

(39) Sections 20200 to 21390, inclusive.

(40) Sections 21590 to 22490, inclusive.

(41) Sections 23500 to 30290, inclusive.

(42) Sections 31500 to 31590, inclusive.

(43) Sections 31705 to 31830, inclusive.

(44) Sections 32310 to 32450, inclusive.

(45) Sections 32900 to 33320, inclusive.

(46) Sections 33600 to 34370, inclusive.

(b) Except as stated in subdivision (c), the provisions listed in subdivision (a) may be referred to as “former Chapter 1 provisions.”

(c) Subdivision (a) does not include any section that is first codified in one of the specified numerical ranges after the effective date of the Deadly Weapons Recodification Act of 2012.

Comment. Section 16580 is new. It provides a convenient means of referring to former Sections 12000-12101.

For a disposition table showing where each provision in former Sections 12000-12101 was recodified, see Nonsubstantive Reorganization of Deadly Weapon Statutes, __ Cal. L. Revision Comm’n Reports __ (2009).
§ 16585. “Former Section 12078 provisions”
16585. (a) Except as stated in subdivision (e), the following provisions were
included in former Section 12078, as that section read in Section 20 of Chapter
698 of the Statutes of 2008:
1 (1) Subdivision (b) of Section 16170, as it pertains to former Section 12078.
2 (2) Section 16720.
3 (3) Subdivision (a) of Section 16730, as it pertains to former Section 12078.
4 (4) Subdivision (b) of Section 16730.
5 (5) Section 16990.
6 (6) Sections 26600 to 26615, inclusive.
7 (7) Sections 26950 to 27140, inclusive.
8 (8) Sections 27400 to 27415, inclusive.
9 (9) Sections 27600 to 28000, inclusive.
10 (10) Sections 28400 to 28415, inclusive.
11 (11) Sections 30150 to 30165, inclusive.
12 (12) Sections 31705 to 31830, inclusive.
13 (13) Sections 34355 to 34370, inclusive.
14 (b) Except as stated in subdivision (e), the provisions listed in subdivision (a)
may be referred to as “former Section 12078 provisions.”
15 (c) Except as stated in subdivision (e), the following provisions were included in
subdivision (a) of former Section 12078, as that section read in Section 20 of
Chapter 698 of the Statutes of 2008:
16 (1) Sections 26600 to 26615, inclusive.
17 (2) Sections 27050 to 27065, inclusive.
18 (3) Sections 27400 to 27415, inclusive.
19 (4) Sections 27600 to 27615, inclusive.
20 (5) Sections 28400 to 28415, inclusive.
21 (6) Sections 30150 to 30165, inclusive.
22 (7) Sections 31705 to 31720, inclusive.
23 (8) Sections 34355 to 34370, inclusive.
24 (d) Except as stated in subdivision (e), the provisions listed in subdivision (c)
may be referred to as “former Section 12078(a) provisions.”
25 (d) Subdivisions (a) and (c) do not include any section that is first codified in
one of the specified numerical ranges after the effective date of the Deadly

Comment. Section 16585 is new. It provides a convenient means of referring to the provisions
that comprised former Section 12078.

For a disposition table showing where each provision in former Section 12078 was recodified,
see Nonsubstantive Recodification of Deadly Weapon Statutes, __ Cal. L. Revision Comm’n
Reports __ (2009).

§ 16590. “Generally prohibited weapon”
16590. As used in this part, “generally prohibited weapon” means any of the
following:
(a) An air gauge knife, as prohibited by Section 20310.
(b) Ammunition that contains or consists of a flechette dart, as prohibited by Section 30210.
(c) A ballistic knife, as prohibited by Section 21110.
(d) A belt buckle knife, as prohibited by Section 20410.
(e) A bullet containing or carrying an explosive agent, as prohibited by Section 30210.
(f) A camouflaging firearm container, as prohibited by Section 24310.
(g) A cane gun, as prohibited by Section 24410.
(h) A cane sword, as prohibited by Section 20510.
(i) A concealed dirk or dagger, as prohibited by Section 21310.
(j) A concealed explosive substance, other than fixed ammunition, as prohibited by Section 19100.
(k) A firearm that is not immediately recognizable as a firearm, as prohibited by Section 24510.
(l) A large-capacity magazine, as prohibited by Section 32310.
(m) A leaded cane or an instrument or weapon of the kind commonly known as a billy, blackjack, sandbag, sandclub, sap, or slungshot, as prohibited by Section 22210.
(n) A lipstick case knife, as prohibited by Section 20610.
(o) Metal knuckles, as prohibited by Section 21810.
(p) A metal military practice handgrenade or a metal replica handgrenade, as prohibited by Section 19200.
(q) A multiburst trigger activator, as prohibited by Section 32900.
(r) A nunchaku, as prohibited by Section 22010.
(s) A shobi-zue, as prohibited by Section 20710.
(t) A short-barreled rifle or short-barreled shotgun, as prohibited by Section 33215.
(u) A shuriken, as prohibited by Section 22410.
(v) An unconventional pistol, as prohibited by Section 31500.
(w) An undetectable firearm, as prohibited by Section 24610.
(x) A wallet gun, as prohibited by Section 24710.
(y) A writing pen knife, as prohibited by Section 20910.
(z) A zip gun, as prohibited by Section 33600.

Comment. Section 16590 is new. It defines the term “generally prohibited weapon” for drafting convenience. Each of the items listed in this section was formerly listed in subdivision (a) of former Section 12020. See Sections 16140 (“air gauge knife”), 16220 (“ballistic knife”), 16260 (“belt buckle knife”), 16320 (“camouflaging firearm container”), 16330 (“cane gun”), 16340 (“cane sword”), 16470 (“dirk” or “dagger”), 16510 (“explosive”), 16520 (“firearm”), 16570 (“flechette dart”), 16740 (“large-capacity magazine”), 16760 (“leaded cane”), 16830 (“lipstick case knife”), 16920 (“metal knuckles”), 16930 (“multiburst trigger activator”), 16940 (“nunchaku”), 17160 (“shobi-zue”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”), 17200 (“shuriken”), 17270 (“unconventional pistol”), 17280 (“undetectable firearm”), 17330 (“wallet gun”), 17350 (“writing pen knife”), 17360 (“zip gun”).
§ 16600. “Great bodily injury”
16600. As used in Chapter 2 (commencing with Section 25100) of Division 4 of
Title 4, “great bodily injury” means a significant or substantial physical injury.

Comment. Section 16600 continues former Section 12035(a)(4) without substantive change.
To make the provision more easily understandable, the definition of “great bodily injury” in
Section 12022.7 is repeated in Section 16600, rather than incorporated by reference as it was in
the past. Case law construing the definition in Section 12022.7 is relevant in construing Section
16600.

§ 16610. “Gun safe”
16610. As used in this part, “gun safe” means a locking container that fully
contains and secures one or more firearms, and that meets the standards for gun
safes adopted pursuant to Section 23650.

Comment. Section 16610 continues former Section 12087.6(b) without substantive change.
See Section 16520 (“firearm”).

§ 16620. “Gun Show Trader”
16620. As used in this part, “Gun Show Trader” means a person described in
Section 26525.

Comment. Section 16620 continues the second paragraph of former Section 12070(b)(5)
without substantive change.

§ 16630. “Gunsmith”
16630. As used in this part, “gunsmith” means any person who is licensed as a
dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the
United States Code and the regulations issued pursuant thereto, who is engaged
primarily in the business of repairing firearms, or making or fitting special barrels,
stocks, or trigger mechanisms to firearms, or the agent or employee of that person.

Comment. Section 16630 continues former Section 12001(r) without substantive change.
See Section 16520 (“firearm”).

§ 16640. “Handgun”
16640. (a) As used in this part, “handgun” means any pistol, revolver, or firearm
capable of being concealed upon the person.

(b) Nothing shall prevent a device defined as a “handgun” from also being found
to be a short-barreled rifle or a short-barreled shotgun.

Comment. Subdivision (a) of Section 16640 continues former Section 12001(a)(2) without
substantive change. See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed
upon the person,” “pistol,” and “revolver”).

With respect to a “handgun,” subdivision (b) continues former Section 12001(f) without
substantive change. See also Section 16530(b), which continues former Section 12001(f) with
respect to a “firearm capable of being concealed upon the person,” “pistol,” and “revolver.”

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
§ 16650. “Handgun ammunition”

16650. As used in this part, “handgun ammunition” means ammunition principally for use in pistols, revolvers, and other firearms capable of being concealed upon the person, notwithstanding that the ammunition may also be used in some rifles.

Comment. Section 16650 continues former Section 12323(a) without substantive change. See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

§ 16660. “Handgun ammunition designed primarily to penetrate metal or armor”

16660. As used in this part, “handgun ammunition designed primarily to penetrate metal or armor” means any ammunition, except a shotgun shell or ammunition primarily designed for use in a rifle, that is designed primarily to penetrate a body vest or body shield, and has either of the following characteristics:

(a) Has projectile or projectile core constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper, or depleted uranium, or any equivalent material of similar density or hardness.

(b) Is primarily manufactured or designed, by virtue of its shape, cross-sectional density, or any coating applied thereto, including, but not limited to, ammunition commonly known as “KTW ammunition,” to breach or penetrate a body vest or body shield when fired from a pistol, revolver, or other firearm capable of being concealed upon the person.

Comment. Section 16660 continues former Section 12323(b) without substantive change. See Sections 16290 (“body vest” or “body shield”), 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16650 (“handgun ammunition”).

§ 16670. “Handgun safety certificate”

16670. As used in this part, “handgun safety certificate” means a certificate issued by the Department of Justice pursuant to Sections 31610 to 31700, inclusive, or pursuant to former Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4, as that article was operative on or after January 1, 2003.

Comment. Section 16670 continues former Section 12001(q) without substantive change. See Section 16640 (“handgun”).

§ 16680. “Hard plastic knuckles” or “hard wooden knuckles”

16680. As used in this part, “hard plastic knuckles” or “hard wooden knuckles” means any device or instrument made wholly or partially of plastic or of wood, composite, or paper materials that is not metal knuckles, that is worn for purposes of offense or defense in or on the hand, and that either protects the wearer’s hand while striking a blow or increases the force of impact from the blow or injury to
the individual receiving the blow. The plastic, wood, composite, or paper products contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs that would contact the individual receiving a blow.

Comment. Section 16680 continues the second and third sentences of former Section 12020.1 without substantive change.

§ 16690. “Honorably retired”

16690. As used in Sections 25650 and 26020, Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4, and Article 3 (commencing with Section 25900) of Chapter 3 of Division 5 of Title 4, “honorably retired” includes any peace officer who has qualified for, and has accepted, a service or disability retirement. As used in those provisions, “honorably retired” does not include an officer who has agreed to a service retirement in lieu of termination.

Comment. Section 16690 continues the fourth and fifth sentences of former Section 12027(a)(1)(A) without substantive change.

§ 16700. “Imitation firearm”

16700. (a) As used in this part, “imitation firearm” means any BB device, toy gun, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm.

(b) As used in Section 20165, “imitation firearm” does not include any of the following:

(1) A nonfiring collector’s replica that is historically significant, and is offered for sale in conjunction with a wall plaque or presentation case.

(2) A BB device.

(3) A device where the entire exterior surface of the device is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, as provided by federal regulations governing imitation firearms, or where the entire device is constructed of transparent or translucent materials which permits unmistakable observation of the device’s complete contents, as provided by federal regulations governing imitation firearms.

Comment. Subdivision (a) of Section 16700 continues former Section 12550(c) without substantive change.

Subdivision (b) continues former Section 12555(c) without substantive change.

See Sections 16250 (“BB device”), 16520 (“firearm”).

§ 16720. “Immediate family member”

16720. As used in this part, “immediate family member” means either of the following relationships:

(a) Parent and child.
(b) Grandparent and grandchild.

Comment. Section 16720 continues former Section 12078(c)(3) without substantive change.

§ 16730. “Infrequent”

16730. (a) As used in Section 31815 and in Division 6 (commencing with Section 26500) of Title 4, “infrequent” means:

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

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

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

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

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

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

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

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

§ 16740. “Large-capacity magazine”

16740. As used in this part, “large-capacity magazine” means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include any of the following:

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

(b) A .22 caliber tube ammunition feeding device.

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

Comment. Section 16740 continues former Sections 12020(c)(25) and 12079(b) without substantive change.

§ 16750. “Lawful possession of the firearm”

16750. (a) As used in Section 25400, “lawful possession of the firearm” means that the person who has possession or custody of the firearm either lawfully owns
the firearm or has the permission of the lawful owner or a person who otherwise
has apparent authority to possess or have custody of the firearm. A person who
takes a firearm without the permission of the lawful owner or without the
permission of a person who has lawful custody of the firearm does not have lawful
possession of the firearm.

(b) As used in Article 2 (commencing with Section 25850), Article 3
(commencing with Section 25900), and Article 4 (commencing with Section
26000) of Chapter 3 of Division 5 of Title 4, “lawful possession of the firearm”
means that the person who has possession or custody of the firearm either lawfully
acquired and lawfully owns the firearm or has the permission of the lawful owner
or person who otherwise has apparent authority to possess or have custody of the
firearm. A person who takes a firearm without the permission of the lawful owner
or without the permission of a person who has lawful custody of the firearm does
not have lawful possession of the firearm.

Comment. Subdivision (a) of Section 16750 continues former Section 12025(g) without
substantive change.

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

See Section 16520 (“firearm”).

§ 16760. “Leaded cane”
16760. As used in this part, a “leaded cane” means a staff, crutch, stick, rod,
pole, or similar device, unnaturally weighted with lead.

Comment. Section 16760 continues former Section 12020(c)(17) without substantive change.

§ 16770. “Less lethal ammunition”
16770. As used in this part, “less lethal ammunition” means any ammunition
that satisfies both of the following requirements:
(a) It is designed to be used in any less lethal weapon or any other kind of
weapon (including, but not limited to, any firearm, pistol, revolver, shotgun, rifle,
or spring, compressed air, or compressed gas weapon).
(b) When used in a less lethal weapon or other weapon, it is designed to
immobilize, incapacitate, or stun a human being through the infliction of any less
than lethal impairment of physical condition, function, or senses, including
physical pain or discomfort.

Comment. Section 16770 continues former Section 12601(c) without substantive change.

See Sections 16520 (“firearm”), 16780 (“less lethal weapon”), 17010 (“pistol”), 17080
(“revolver”).

§ 16780. “Less lethal weapon”
16780. As used in this part,
(a) “Less lethal weapon” means any device that is designed to or that has been
converted to expel or propel less lethal ammunition by any action, mechanism, or
process for the purpose of incapacitating, immobilizing, or stunning a human
being through the infliction of any less than lethal impairment of physical
condition, function, or senses, including physical pain or discomfort. It is not necessary that a weapon leave any lasting or permanent incapacitation, discomfort, pain, or other injury or disability in order to qualify as a less lethal weapon.

(b) Less lethal weapon includes the frame or receiver of any weapon described in subdivision (a), but does not include any of the following unless the part or weapon has been converted as described in subdivision (a):

1. Pistol, revolver, or firearm.
2. Machinegun.
3. Rifle or shotgun using fixed ammunition consisting of standard primer and powder and not capable of being concealed upon the person.
4. A pistol, rifle, or shotgun that is a firearm having a barrel less than 0.18 inches in diameter and that is designed to expel a projectile by any mechanical means or by compressed air or gas.
5. When used as designed or intended by the manufacturer, any weapon that is commonly regarded as a toy gun, and that as a toy gun is incapable of inflicting any impairment of physical condition, function, or senses.
6. A destructive device.
7. A tear gas weapon.
8. A bow or crossbow designed to shoot arrows.
9. A device commonly known as a slingshot.
10. A device designed for the firing of stud cartridges, explosive rivets, or similar industrial ammunition.
11. A device designed for signaling, illumination, or safety.
12. An assault weapon.

Comment. Section 16780 continues former Section 12601(a)-(b) without substantive change. See Sections 16460 (“destructive device”), 16520 (“firearm”), 16880 (“machinegun”), 17010 (“pistol”), 17080 (“revolver”), 17250 (“tear gas weapon”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”).

§ 16790. “Licensed gun dealer”

16790. As used in Article 5 (commencing with Section 30900) and Article 7 (commencing with Section 31050) of Chapter 2 of Division 10 of Title 4, “licensed gun dealer” means a person who is licensed pursuant to Sections 26700 to 26915, inclusive, and who has a permit to sell assault weapons or .50 BMG rifles pursuant to Section 31005.

Comment. Section 16790 continues former Section 12290(c) without substantive change. See also former Section 12285(b)-(c), which used the same definition of “licensed gun dealer.” See Sections 16110 (“.50 BMG rifle”), 16970 (“person”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”). See also Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).
§ 16800. “Licensed gun show producer”
16800. As used in this part, “licensed gun show producer” means a person who has been issued a certificate of eligibility by the Department of Justice pursuant to Section 27200. No regulations shall be required to implement this section.
Comment. Section 16800 continues former Section 12071.1(c) without substantive change.

§ 16810. “Licensed premises,” “licensee’s business premises,” and “licensee’s place of business”
16810. As used in Section 17110 and in Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4, “licensed premises,” “licensee’s business premises,” or “licensee’s place of business” means the building designated in the license.
Comment. Section 16810 continues former Section 12071(c)(3) without substantive change.

§ 16820. “Licensee”
16820. (a) For purposes of the provisions listed in Section 16580, use of the term “licensee” is governed by Section 26700.
(b) For purposes of Chapter 2 (commencing with Section 29030) of Division 7 of Title 4, use of the term “licensee” is governed by Section 29030.
Comment. Subdivision (a) of Section 16820 is new. It is intended to help persons locate the definition of “licensee” that relates to firearms dealing and applies for purposes of the specified provisions.
Subdivision (b) is new. It is intended to help persons locate the definition of “licensee” that relates to firearms manufacturing and applies for purposes of key provisions relating to such manufacturing.
See also Section 16790 (“licensed gun dealer”).

§ 16822. “Licensee’s business premises”
16822. Use of the term “licensee’s business premises” is governed by Section 16810.
Comment. Section 16822 is new. It is intended to help persons locate the definition of “licensee’s business premises, which is the same as the definition of “licensed premises” in Section 16810.

§ 16824. “Licensee’s place of business”
16824. Use of the term “licensee’s place of business” is governed by Section 16810.
Comment. Section 16824 is new. It is intended to help persons locate the definition of “licensee’s place of business, which is the same as the definition of “licensed premises” in Section 16810.

§ 16830. “Lipstick case knife”
16830. As used in this part, a “lipstick case knife” means a knife enclosed within and made an integral part of a lipstick case.
Comment. Section 16830 continues former Section 12020(c)(14) without substantive change.
§ 16840. “Loaded” and “loaded firearm”

16840. (a) As used in Section 25800, a firearm shall be deemed to be “loaded” whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(b) As used in Chapter 2 (commencing with Section 25100) of Division 4 of Title 4, in subparagraph (A) of paragraph (6) of subdivision (c) of Section 25400, and in Sections 25850 to 26060, inclusive,

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

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

Comment. Subdivision (a) of Section 16840 continues former Section 12001(j) without substantive change. Subdivision (b) continues former Sections 12031(g) and 12035(a)(2) without substantive change. See also former Section 12025(b)(6)(A), which used the same definition of “loaded.” See Section 16520 (“firearm”).

§ 16850. “Locked container”

16850. As used in Sections 17740, 23925, 25105, 25205, and 25610, and in Article 2 (commencing with Section 25500) of Chapter 2 of Division 5 of Title 4, “locked container” means a secure container that is fully enclosed and locked by a padlock, keylock, combination lock, or similar locking device. The term “locked container” does not include the utility or glove compartment of a motor vehicle.

Comment. Section 16850 continues former Sections 12026.2(d), 12035(a)(5), and 12036(a)(4) without substantive change. See also former Sections 12020(b)(17)(E) and 12094(b)(4)(E), which used the same definition of “locked container.” Section 16850 also continues the combined effect of subdivision (c) and the last phrase of paragraph (a)(1) (“other than the utility or glove compartment”) of former Section 12026.1 without substantive change. See Section 16520 (“firearm”).

§ 16860. “Locking device” for firearm

16860. As used in Sections 16850, 25105, and 25205, “locking device” means a device that is designed to prevent a firearm from functioning and, when applied to the firearm, renders the firearm inoperable.

Comment. Section 16860 continues former Sections 12035(a)(1) and 12036(a)(1) without substantive change. See Section 16520 (“firearm”).

§ 16870. “Long-gun safe”

16870. As used in this part, “long-gun safe” means a locking container designed to fully contain and secure a rifle or shotgun, which has a locking system consisting of either a mechanical combination lock or an electronic combination
lock that has at least 1,000 possible unique combinations consisting of a minimum of three numbers, letters, or symbols per combination, and is not listed on the roster maintained pursuant to Section 23655.

**Comment.** Section 16870 continues former Section 12087.6(c) without substantive change. See also former Section 12071(b)(20)(G)(ii)(II), which used the same definition of “long-gun safe.”

See Sections 17090 (“rifle”), 17190 (“shotgun”).

§ 16880. “Machinegun”

16880. (a) As used in this part, “machinegun” means any weapon that shoots, is designed to shoot, or can readily be restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.

(b) The term “machinegun” also includes the frame or receiver of any weapon described in subdivision (a), any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if those parts are in the possession or under the control of a person.

(c) The term “machinegun” also includes any weapon deemed by the federal Bureau of Alcohol, Tobacco, and Firearms as readily convertible to a machinegun under Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code.

**Comment.** Section 16880 continues former Section 12200 without substantive change. See also former Sections 12001(n)(12), 12072(f)(1)(A), 12278(a), and 12601(b)(2), which used the same definition of “machinegun.”

§ 16890. “Magazine”

16890. As used in Section 30515, “magazine” means any ammunition feeding device.

**Comment.** Section 16890 continues former Section 12276.1(d)(1) without substantive change.

§ 16900. “Magazine disconnect mechanism”

16900. As used in this part, “magazine disconnect mechanism” means a mechanism that prevents a semiautomatic pistol that has a detachable magazine from operating to strike the primer of ammunition in the firing chamber when a detachable magazine is not inserted in the semiautomatic pistol.

**Comment.** Section 16900 continues former Section 12126(d) without substantive change. See also former Section 12130(d)(1)-(3), which used the same definition of “magazine disconnect mechanism.”

See Sections 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 17140 (“semiautomatic pistol”).

§ 16920. “Metal knuckles”

16920. As used in this part, “metal knuckles” means any device or instrument made wholly or partially of metal that is worn for purposes of offense or defense
in or on the hand and that either protects the wearer’s hand while striking a blow
or increases the force of impact from the blow or injury to the individual receiving
the blow. The metal contained in the device may help support the hand or fist,
provide a shield to protect it, or consist of projections or studs which would
contact the individual receiving a blow.

Comment. Section 16920 continues former Section 12020(c)(7) without substantive change.
See also former Sections 12020.1 and 12029, which referred to former Section 12020.

§ 16930. “Multiburst trigger activator”

16930. As used in this part, a “multiburst trigger activator” means either of the
following:
(a) A device designed or redesigned to be attached to a semiautomatic firearm,
which allows the firearm to discharge two or more shots in a burst by activating
the device.
(b) A manual or power-driven trigger activating device constructed and designed
so that when attached to a semiautomatic firearm it increases the rate of fire of that
firearm.

Comment. Section 16930 continues former Section 12020(c)(23) without substantive change.
See Section 16520 ("firearm").

§ 16940. “Nunchaku”

16940. As used in this part, “nunchaku” means an instrument consisting of two
or more sticks, clubs, bars or rods to be used as handles, connected by a rope,
cord, wire, or chain, in the design of a weapon used in connection with the practice
of a system of self-defense such as karate.

Comment. Section 16940 continues former Section 12020(c)(3) without substantive change.
See also former Section 12029, which referred to former Section 12020.

§ 16960. “Operation of law”

16960. As used in Article 1 (commencing with Section 26500) of Chapter 1 of
Division 1 of Title 4, “operation of law” includes, but is not limited to, any of the
following:
(a) The executor or administrator of an estate, if the estate includes a firearm.
(b) A secured creditor or an agent or employee of a secured creditor when a
firearm is possessed as collateral for, or as a result of, a default under a security
agreement under the Commercial Code.
(c) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the
Code of Civil Procedure.
(d) A receiver performing the functions of a receiver, if the receivership estate
includes a firearm.
(e) A trustee in bankruptcy performing the duties of a trustee, if the bankruptcy
estate includes a firearm.
(f) An assignee for the benefit of creditors performing the functions of an
assignee, if the assignment includes a firearm.
(g) A transmutation of property between spouses pursuant to Section 850 of the Family Code.

(h) A firearm received by the family of a police officer or deputy sheriff from a local agency pursuant to Section 50081 of the Government Code.

(i) The transfer of a firearm by a law enforcement agency to the person who found the firearm where the delivery is to the person as the finder of the firearm pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code.

Comment. Section 16960 continues former Section 12070(c)(2) without substantive change.

§ 16965. “Passenger’s or driver’s area”

16965. As used in this part, “passenger’s or driver’s area” means that part of a motor vehicle which is designed to carry the driver and passengers, including any interior compartment or space therein.

Comment. Section 16965 continues the third paragraph of former Section 653k without substantive change.

§ 16970. “Person”

16970. As used in Sections 16790 and 17505 and in Chapter 2 (commencing with Section 30500) of Division 10 of Title 4, “person” means an individual, partnership, corporation, limited liability company, association, or any other group or entity, regardless of how it was created.

Comment. Section 16970 continues former Section 12277 without substantive change. See also former Section 12020.5, which used the same definition of “person.” See Section 7 (“the word ‘person’ includes a corporation as well as a natural person”).

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

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

Comment. Section 16980 is new. It is intended to help persons locate the definition of “person licensed pursuant to Sections 26700 to 26915, inclusive.” See also Section 16790 (“licensed gun dealer”).

§ 16990. “Person taking title or possession of a firearm by operation of law”

16990. As used in any provision listed in Section 16585, the phrase “a person taking title or possession of a firearm by operation of law” includes, but is not limited to, any of the following instances in which an individual receives title to, or possession of, a firearm:

(a) The executor or administrator of an estate, if the estate includes a firearm.

(b) A secured creditor or an agent or employee of a secured creditor when the firearm is possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(c) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.
(d) A receiver performing the functions of a receiver, if the receivership estate includes a firearm.
(e) A trustee in bankruptcy performing the duties of a trustee, if the bankruptcy estate includes a firearm.
(f) An assignee for the benefit of creditors performing the functions of an assignee, if the assignment includes a firearm.
(g) A transmutation of property consisting of a firearm pursuant to Section 850 of the Family Code.
(h) A firearm passing to a surviving spouse pursuant to Chapter 1 (commencing with Section 13500) of Part 2 of Division 8 of the Probate Code.
(i) A firearm received by the family of a police officer or deputy sheriff from a local agency pursuant to Section 50081 of the Government Code.
(j) The transfer of a firearm by a law enforcement agency to the person who found the firearm where the delivery is to the person as the finder of the firearm pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code.

Comment. Section 16990 continues former Section 12078(u)(2) without substantive change.

§ 17000. “Personal handgun importer”

17000. (a) As used in this part, “personal handgun importer” means an individual who meets all of the following criteria:

(1) The individual is not a person licensed pursuant to Sections 26700 to 26915, inclusive.
(2) The individual is not a licensed manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.
(3) The individual is not a licensed importer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.
(4) The individual is the owner of a handgun.
(5) The individual acquired that handgun outside of California.
(6) The individual moved into this state on or after January 1, 1998, as a resident of this state.
(7) The individual intends to possess that handgun within this state on or after January 1, 1998.
(8) The handgun was not delivered to the individual by a person licensed pursuant to Sections 26700 to 26915, inclusive, who delivered that firearm following the procedures set forth in Section 27540 and Sections 26700 to 26915, inclusive.
(9) The individual, while a resident of this state, had not previously reported ownership of that handgun to the Department of Justice in a manner prescribed by the department that included information concerning the individual and a description of the firearm.
(10) The handgun is not a firearm that is prohibited by any provision listed in Section 16590.
(11) The handgun is not an assault weapon.
(12) The handgun is not a machinegun.
(13) The person is 18 years of age or older.
(b) For purposes of paragraph (6) of subdivision (a):
(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the Vehicle Code.
(2) In the case of a member of the Armed Forces of the United States, residency shall be deemed to be established when the individual was discharged from active service in this state.

Comment. Subdivision (a) of Section 17000 continues former Section 12001(n) without substantive change. For guidance on what constitutes an assault weapon, see Sections 30510 (“assault weapon”) and 30515 (further clarification of “assault weapon”). For guidance on what constitutes a machinegun, see Section 16880 (“machinegun”). Subdivision (b) continues former Section 12001(o) without substantive change. See Sections 16520 (“firearm”), 16640 (“handgun”).

§ 17010. “Pistol”
17010. Use of the term “pistol” is governed by Section 16530.

Comment. Section 17010 is new. It is intended to help persons locate key rules relating to use of the term “pistol.”

§ 17020. “Principal place of employment or business”
17020. For purposes of this part, a city or county may be considered an applicant’s “principal place of employment or business” only if the applicant is physically present in the jurisdiction during a substantial part of the applicant’s working hours for purposes of that employment or business.

Comment. Section 17020 continues former Section 12050(a)(3) without substantive change.

§ 17030. “Prohibited area”
17030. As used in this part, “prohibited area” means any place where it is unlawful to discharge a weapon.

Comment. Section 17030 continues former Section 12031(f) without substantive change.

§ 17070. “Responsible adult”
17070. As used in this part, “responsible adult” means a person at least 21 years of age who is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

Comment. Section 17070 continues former Section 12101(e) without substantive change.

§ 17080. “Revolver”
17080. Use of the term “revolver” is governed by Section 16530.
Comment. Section 17080 is new. It is intended to help persons locate key rules relating to use of the term “revolver.”

§ 17090. “Rifle”
17090. As used in Sections 16530, 16640, 16650, 16660, 16870, and 17170, Sections 17720 to 17730, inclusive, Section 17740, subdivision (f) of Section 27555, Article 2 (commencing with Section 30300) of Chapter 1 of Division 10 of Title 4, and Article 1 (commencing with Section 33210) of Chapter 8 of Division 10 of Title 4, “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

Comment. Section 17090 continues former Sections 12020(c)(20) and 12323(d) without substantive change. See also former Sections 12001(f), 12001.5, 12029, 12072(f)(1)(A), and 12087.6(c), which referred to former Section 12020.

§ 17110. “Secure facility” for firearm storage by dealer
17110. As used in Section 26890, “secure facility” means a building that meets all of the following specifications:
(a) All perimeter doorways shall meet one of the following:
   (1) A windowless steel security door equipped with both a dead bolt and a doorknob lock.
   (2) A windowed metal door that is equipped with both a dead bolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least 1/2-inch diameter or metal grating of at least 9 gauge affixed to the exterior or interior of the door.
   (3) A metal grate that is padlocked and affixed to the licensee’s premises independent of the door and doorframe.
(b) All windows are covered with steel bars.
(c) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.
(d) Any metal grates have spaces no larger than six inches wide measured in any direction.
(e) Any metal screens have spaces no larger than three inches wide measured in any direction.
(f) All steel bars shall be no further than six inches apart.

Comment. Section 17110 continues former Section 12071(c)(2) without substantive change. See also Sections 29141 (“secure facility” for firearm storage by manufacturer), 29142 (special definition of “secure facility” for firearm storage by manufacturer producing fewer than 500 firearms per calendar year).
§ 17111. “Secure facility” for firearm storage by manufacturer

17111. For purposes of Chapter 2 (commencing with Section 29030) of Division 7 of Title 4, use of the term “secure facility” is governed by Sections 29141 and 29142.

Comment. Section 17111 is new. It is intended to help persons locate the standard definition of “secure facility” that applies to firearm storage by a manufacturer, and the special definition of “secure facility” that applies to firearm storage by a manufacturer producing fewer than 500 firearms per calendar year.

§ 17125. “Security Exemplar”

17125. As used in this part, “Security Exemplar” has the same meaning as in Section 922 of Title 18 of the United States Code.

Comment. With respect to the definition of “Security Exemplar,” Section 17125 continues the first paragraph of former Section 12020(c)(22)(C) without substantive change.

§ 17140. “Semiautomatic pistol”

17140. As used in Sections 16900 and 31910, “semiautomatic pistol” means a pistol with an operating mode that uses the energy of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh cartridge with each single pull of the trigger.

Comment. Section 17140 continues former Section 12126(e) without substantive change.

See Sections 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 17010 (“pistol”).

§ 17160. “Shobi-zue”

17160. As used in this part, a “shobi-zue” means a staff, crutch, stick, rod, or pole concealing a knife or blade within it, which may be exposed by a flip of the wrist or by a mechanical action.

Comment. Section 17160 continues former Section 12020(c)(16) without substantive change.

§ 17170. “Short-barreled rifle”

17170. As used in Sections 16530 and 16640, Sections 17720 to 17730, inclusive, Section 17740, Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4, and Article 1 (commencing with Section 33210) of Chapter 8 of Division 10 of Title 4, “short-barreled rifle” means any of the following:

(a) A rifle having a barrel or barrels of less than 16 inches in length.
(b) A rifle with an overall length of less than 26 inches.
(c) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.
(d) Any device that may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subdivisions (a) to (c), inclusive.
(e) Any part, or combination of parts, designed and intended to convert a device into a device defined in subdivisions (a) to (c), inclusive, or any combination of parts from which a device defined in subdivisions (a) to (c), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

Comment. Section 17170 continues former Section 12020(c)(2) without substantive change. See also former Sections 12001(f), 12001.5, 12029, and 12072(f)(1)(A), which used the same definition of “short-barreled rifle.” See Section 17090 (“rifle”).

§ 17180. “Short-barreled shotgun”

17180. As used in Sections 16530 and 16640, Sections 17720 to 17730, inclusive, Section 17740, Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4, and Article 1 (commencing with Section 33210) of Chapter 8 of Division 10 of Title 4, “short-barreled shotgun” means any of the following:

(a) A firearm that is designed or redesigned to fire a fixed shotgun shell and has a barrel or barrels of less than 18 inches in length.
(b) A firearm that has an overall length of less than 26 inches and that is designed or redesigned to fire a fixed shotgun shell.
(c) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.
(d) Any device that may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subdivisions (a) to (c), inclusive.
(e) Any part, or combination of parts, designed and intended to convert a device into a device defined in subdivisions (a) to (c), inclusive, or any combination of parts from which a device defined in subdivisions (a) to (c), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

Comment. Section 17180 continues former Section 12020(c)(1) without substantive change. See also former Sections 12001(f), 12001.5, 12029, and 12072(f)(1)(A), which used the same definition of “short-barreled shotgun.” See Sections 16520 (“firearm”), 17190 (“shotgun”).

§ 17190. “Shotgun”

17190. As used in Sections 16530, 16640, 16870, and 17180, Sections 17720 to 17730, inclusive, Section 17740, subdivision (f) of Section 27555, and Article 1 (commencing with Section 33210) of Chapter 8 of Division 10 of Title 4, “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.
Comment. Section 17190 continues former Section 12020(c)(21) without substantive change. See also former Sections 12001(f), 12001.5, 12029, 12072(f)(1)(A), and 12087.6(c), which referred to former Section 12020.

§ 17200. “Shuriken”
17200. As used in this part, a “shuriken” means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape, for use as a weapon for throwing.

Comment. Section 17200 continues former Section 12020(c)(11) without substantive change.

§ 17210. “Silencer”
17210. As used in Chapter 9 (commencing with Section 33410) of Division 10 of Title 4, “silencer” means any device or attachment of any kind designed, used, or intended for use in silencing, diminishing, or muffling the report of a firearm. The term “silencer” also includes any combination of parts, designed or redesigned, and intended for use in assembling a silencer or fabricating a silencer and any part intended only for use in assembly or fabrication of a silencer.

Comment. Section 17210 continues former Section 12500 without substantive change.

§ 17220. “SKS rifle”
17220. Use of the term “SKS rifle” is governed by Section 30710.

Comment. Section 17220 is new. It is intended to help persons locate the definition of “SKS rifle.”

☞ Staff Note. As discussed at pages 20-21 of the attachment to Memorandum 2009-4, the staff recommends that the definition of “SKS rifle” be moved to the article on SKS rifles (proposed Sections 30710-30735). The staff further recommends that a guidepost provision be included in the “Definitions” portion of new Part 6, as shown above.

§ 17230. “Stun gun”
17230. As used in this part, “stun gun” includes any item, except a taser, used or intended to be used as either an offensive or defensive weapon capable of temporarily immobilizing a person by the infliction of an electrical charge.

Comment. Section 17230 continues former Section 12650 without substantive change.

§ 17235. “Switchblade knife”
17235. As used in this part, “switchblade knife” means a knife having the appearance of a pocketknife and includes a spring-blade knife, snap-blade knife, gravity knife, or any other similar type knife, the blade or blades of which are two or more inches in length and which can be released automatically by a flick of a button, pressure on the handle, flip of the wrist or other mechanical device, or is released by the weight of the blade or by any type of mechanism whatsoever. “Switchblade knife” does not include a knife that opens with one hand utilizing thumb pressure applied solely to the blade of the knife or a thumb stud attached to
the blade, provided that the knife has a detent or other mechanism that provides
resistance that must be overcome in opening the blade, or that biases the blade
back toward its closed position.

Comment. Section 17235 continues the second paragraph of former Section 653k without
substantive change.

§ 17240. “Tear gas”
17240. (a) As used in this part, “tear gas” applies to and includes any liquid,
gaseous or solid substance intended to produce temporary physical discomfort or
permanent injury through being vaporized or otherwise dispersed in the air.
(b) Notwithstanding subdivision (a), “tear gas” does not apply to, and does not
include, any substance registered as an economic poison as provided in Chapter 2
(commencing with Section 12751) of Division 7 of the Food and Agricultural
Code, provided that the substance is not intended to be used to produce discomfort
or injury to human beings.

Comment. Section 17240 continues former Section 12401 without substantive change.

§ 17250. “Tear gas weapon”
17250. As used in this part, “tear gas weapon” applies to and includes:
(a) Any shell, cartridge, or bomb capable of being discharged or exploded, when
the discharge or explosion will cause or permit the release or emission of tear gas.
(b) Any revolver, pistol, fountain pen gun, billy, or other form of device,
portable or fixed, intended for the projection or release of tear gas, except those
regularly manufactured and sold for use with firearm ammunition.

Comment. Section 17250 continues former Section 12402 without substantive change. See
also former Section 12601(b)(7), which used the same definition of “tear gas weapon.”

§ 17270. “Unconventional pistol”
17270. As used in this part, an “unconventional pistol” means a firearm with
both of the following characteristics:
(a) It does not have a rifled bore.
(b) It has a barrel or barrels of less than 18 inches in length or has an overall
length of less than 26 inches.

Comment. Section 17270 continues former Section 12020(c)(12) without substantive change.
See Sections 16520 (“firearm”), 17010 (“pistol”).

§ 17280. “Undetectable firearm”
17280. As used in this part, “undetectable firearm” means any weapon that
meets either of the following requirements:
(a) After removal of grips, stocks, and magazines, the weapon is not as
detectable as the Security Exemplar, by a walk-through metal detector calibrated
and operated to detect the Security Exemplar.
(b) Any major component of the weapon, as defined in Section 922 of Title 18
of the United States Code, when subjected to inspection by the types of X-ray
machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

Comment. Section 17280 continues former Section 12020(c)(22)(A)-(B) without substantive change. With respect to the definition of “major component,” Section 17280 also continues former Section 12020(c)(22)(C) without substantive change.

See Sections 16520(a) & (f) (“firearm”), 17125 (“Security Exemplar”).

§ 17290. “Undetectable knife”

17290. As used in this part, “undetectable knife” means any knife or other instrument, with or without a handguard, that satisfies all of the following requirements:

(a) It is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.
(b) It is commercially manufactured to be used as a weapon.
(c) It is not detectable by a metal detector or magnetometer, either handheld or otherwise, which is set at standard calibration.

Comment. Section 17290 continues the second sentence of former Section 12001.1(a) without substantive change.

§ 17300. “Unsafe handgun”

17300. Use of the phrase “unsafe handgun” is governed by Section 31910.

Comment. Section 17300 is new. It is intended to help persons locate the definition of “unsafe handgun.”

§ 17310. “Used firearm”

17310. As used in this part, “used firearm” means a firearm that has been sold previously at retail and is more than three years old.

Comment. Section 17310 continues the fourth paragraph of former Section 12070(b)(5) without substantive change.

See Section 16520 (“firearm”).

§ 17320. “Violent felony”

17320. For purposes of Section 31360 only, “violent felony” refers to the specific crimes listed in subdivision (c) of Section 667.5, and to crimes defined under the applicable laws of the United States or any other state, government, or country that are reasonably equivalent to the crimes listed in subdivision (c) of Section 667.5.

Comment. Section 17320 continues former Section 12370(e) without substantive change.

§ 17330. “Wallet gun”

17330. As used in this part, “wallet gun” means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.
Comment. Section 17330 continues former Section 12020(c)(4) without substantive change.
See Section 16520 (“firearm”).

§ 17340. “Wholesaler”

17340. (a) As used in this part, “wholesaler” means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Sections 26700 to 26915, inclusive, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

(b) “Wholesaler” shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Sections 26700 to 26915, inclusive, and the regulations issued pursuant thereto. A wholesaler also does not include a person dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

Comment. Section 17340 continues former Section 12001(h) without substantive change.
See Sections 16520 (“firearm”), 16630 (“gunsmith”).

§ 17350. “Writing pen knife”

17350. As used in this part, “writing pen knife” means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

Comment. Section 17350 continues former Section 12020(c)(19) without substantive change.

§ 17360. “Zip gun”

17360. As used in this part, “zip gun” means any weapon or device that meets all of the following criteria:

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

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

(c) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and Subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.
(d) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

Comment. Section 17360 continues former Section 12020(c)(10) without substantive change. See Section 16520 (“firearm”).

**TITLE 2. WEAPONS GENERALLY**

**DIVISION 1. MISCELLANEOUS RULES RELATING TO WEAPONS GENERALLY**

§ 17500. Bearing deadly weapon with intent to assault

17500. Every person having upon the person any deadly weapon, with intent to assault another, is guilty of a misdemeanor.

Comment. Section 17500 continues former Section 12024 without substantive change.

§ 17505. Advertising sale of prohibited weapon or device

17505. It shall be unlawful for any person, as defined in Section 16970, to advertise the sale of any weapon or device, the possession of which is prohibited by Section 18710, 20110, 30315, 30320, 32625, or 33410, by Article 2 (commencing with Section 30600) of Chapter 2 of Division 10 of Title 4, or by any provision listed in Section 16590, in any newspaper, magazine, circular, form letter, or open publication that is published, distributed, or circulated in this state, or on any billboard, card, label, or other advertising medium, or by means of any other advertising device.

Comment. Section 17505 continues former Section 12020.5 without substantive change.

§ 17510. Picketing with deadly weapon

17510. (a) Any person who does any of the following acts while engaged in picketing, or other informational activities in a public place relating to a concerted refusal to work, is guilty of a misdemeanor:

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

(2) Carries a loaded firearm upon the person or within any vehicle that is under the person’s control or direction.

(3) Carries a deadly weapon.

(b) This section shall not be construed to authorize or ratify any picketing or other informational activities not otherwise authorized by law.

(c) The following provisions shall not be construed to authorize any conduct described in paragraph (1) of subdivision (a):

(1) Article 2 (commencing with Section 25450) of Chapter 2 of Division 5.

(2) Sections 25615 to 25655, inclusive.
(d) Sections 25900 to 26020, inclusive, shall not be construed to authorize any conduct described in paragraph (2) of subdivision (a).

Comment. Subdivision (a) of Section 17510 continues former Section 12590(a)(1)-(3) without substantive change.

With respect to the acts enumerated in subdivision (a), subdivision (b) continues former Section 12590(b) without substantive change. See also Section 830.95(b), which continues former Section 12590(b) with respect to picketing in the uniform of a peace officer.

Subdivisions (c) and (d) continue former Section 12590(c) without substantive change.

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

§ 17515. Officer carrying equipment authorized for enforcement of law or ordinance

17515. Nothing in any provision listed in Section 16580 prohibits a police officer, special police officer, peace officer, or law enforcement officer from carrying any equipment authorized for the enforcement of law or ordinance in any city or county.

Comment. With respect to “any equipment authorized for the enforcement of law or ordinance in any city or county,” Section 17515 continues former Section 12002(a) without substantive change. The remainder of former Section 12002(a) is continued in Section 22295(a) without substantive change.

DIVISION 2. GENERALLY PROHIBITED WEAPONS

CHAPTER 1. EXEMPTIONS

§ 17700. Exemption for antique firearm

17700. The provisions listed in Section 16590 do not apply to any antique firearm.

Comment. Section 17700 continues the first sentence of former Section 12020(b)(5) without substantive change. See Section 16170 (“antique firearm”).

§ 17705. Exemption for firearm or ammunition constituting curio or relic

17705. (a) The provisions listed in Section 16590 do not apply to any firearm or ammunition that is a curio or relic as defined in Section 478.11 of Title 27 of the Code of Federal Regulations and that is in the possession of a person permitted to possess the items under Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(b) Any person prohibited by Chapter 1 (commencing with Section 29610), Chapter 2 (commencing with Section 29800), or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of this part, or Section 8100 or 8103 of the Welfare and Institutions Code, from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable under Chapter 1 (commencing with Section 29610), Chapter 2
(commencing with Section 29800), or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of this part, or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this section is in violation of the applicable provision listed in Section 16590.

Comment. Section 17705 continues former Section 12020(b)(7) without substantive change. See Section 16520 (“firearm”).

§ 17710. Exemption for “any other weapon” in possession of person permitted to possess it under federal Gun Control Act of 1968

17710. (a) The provisions listed in Section 16590 do not apply to “any other weapon” as defined in subsection (e) of Section 5845 of Title 26 of the United States Code, which is in the possession of a person permitted to possess the weapons under the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto.

(b) Any person prohibited by Chapter 1 (commencing with Section 29610), Chapter 2 (commencing with Section 29800), or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of this part, or Section 8100 or 8103 of the Welfare and Institutions Code, from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable under Chapter 1 (commencing with Section 29610), Chapter 2 (commencing with Section 29800), or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of this part, or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this section is in violation of the applicable provision listed in Section 16590.

(c) The exemption provided by this section does not apply to a pen gun.

Comment. Section 17710 continues former Section 12020(b)(8) without substantive change.

§ 17715. Exemption for historical society, museum, or institutional collection

17715. The provisions listed in Section 16590 do not apply to any instrument or device that is possessed by a federal, state, or local historical society, museum, or institutional collection that is open to the public if all of the following conditions are satisfied:

(a) The instrument or device is properly housed.

(b) The instrument or device is secured from unauthorized handling.

(c) If the instrument or device is a firearm, it is unloaded.

Comment. Section 17715 continues former Section 12020(b)(9) without substantive change. See Section 16520 (“firearm”).

§ 17720. Exemption for motion picture, television, video production, or entertainment event

17720. The provisions listed in Section 16590 do not apply to any instrument or device, other than a short-barreled rifle or a short-barreled shotgun, which is
possessed or used during the course of a motion picture, television, or video
production or entertainment event by an authorized participant therein in the
course of making that production or event or by an authorized employee or agent
of the entity producing that production or event.

Comment. Section 17720 continues former Section 12020(b)(10) without substantive change.

§ 17725. Exemption for person who sells to historical society, museum, or institutional
collection, or for purposes of entertainment event

17725. The provisions listed in Section 16590 do not apply to any instrument or
device, other than a short-barreled rifle or a short-barreled shotgun, which is sold
by, manufactured by, exposed or kept for sale by, possessed by, imported by, or
lent by a person who is in the business of selling instruments or devices listed in
Section 16590 solely to the entities referred to in Sections 17715 and 17720 when
engaging in transactions with those entities.

Comment. Section 17725 continues former Section 12020(b)(11) without substantive change.

§ 17730. Exemption for law enforcement or person who sells to law enforcement

17730. The provisions listed in Section 16590 do not apply to any of the
following:
(a) The sale to, possession of, or purchase of any weapon, device, or
ammunition, other than a short-barreled rifle or a short-barreled shotgun, by any
federal, state, county, city and county, or city agency that is charged with the
enforcement of any law for use in the discharge of its official duties.
(b) The possession of any weapon, device, or ammunition, other than a short-
barreled rifle or short-barreled shotgun, by any peace officer of any federal, state,
county, city and county, or city agency that is charged with the enforcement of any
law, when the officer is on duty and the use is authorized by the agency and is
within the course and scope of the officer’s duties.
(c) Any weapon, device, or ammunition, other than a short-barreled rifle or a
short-barreled shotgun, that is sold by, manufactured by, exposed or kept for sale
by, possessed by, imported by, or lent by, any person who is in the business of
selling weapons, devices, and ammunition listed in Section 16590 solely to the
entities referred to in subdivision (a) when engaging in transactions with those
entities.

Comment. Subdivisions (a) and (b) of Section 17730 continue former Section 12020(b)(12)
without substantive change.
Subdivision (c) continues former Section 12020(b)(13) without substantive change.
§ 17735. Exemption for transportation of non-firearm to law enforcement for disposition according to law

17735. The provisions listed in Section 16590 do not apply to any instrument, ammunition, weapon, or device that is not a firearm and is found and possessed by a person who meets all of the following:

(a) The person is not prohibited from possessing firearms or ammunition under subdivision (a) of Section 30305 or Chapter 2 (commencing with Section 29800) or 3 (commencing with Section 29900) of Division 9 of Title 4 of this part, or Section 8100 or 8103 of the Welfare and Institutions Code.

(b) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport it to a law enforcement agency for that agency’s disposition according to law.

(c) If the person is transporting the item, the person is transporting it to a law enforcement agency for disposition according to law.

Comment. Section 17735 continues former Section 12020(b)(16) without substantive change. See Section 16520 (“firearm”).

§ 17740. Exemption for transportation of firearm to law enforcement for disposition according to law

17740. The provisions listed in Section 16590 do not apply to any firearm, other than a short-barreled rifle or short-barreled shotgun, which is found and possessed by a person who meets all of the following:

(a) The person is not prohibited from possessing firearms or ammunition under subdivision (a) of Section 30305 or Chapter 2 (commencing with Section 29800) or 3 (commencing with Section 29900) of Division 9 of Title 4 of this part, or Section 8100 or 8103 of the Welfare and Institutions Code.

(b) The person possessed the firearm no longer than was necessary to deliver or transport it to a law enforcement agency for that agency’s disposition according to law.

(c) If the person is transporting the firearm, the person is transporting it to a law enforcement agency for disposition according to law.

(d) Before transporting the firearm to a law enforcement agency, the person has given prior notice to that law enforcement agency that the person is transporting the firearm to that law enforcement agency for disposition according to law.

(e) The firearm is transported in a locked container as defined in Section 16850.

Comment. Section 17740 continues former Section 12020(b)(17) without substantive change. See Sections 16520 (“firearm”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”).

§ 17745. Exemption for possession by forensic laboratory

17745. The provisions listed in Section 16590 do not apply to the possession of any weapon, device, or ammunition by a forensic laboratory or by any authorized agent or employee thereof in the course and scope of the person’s authorized activities.
Comment. Section 17745 continues former Section 12020(b)(18) without substantive change.

CHAPTER 2. MISCELLANEOUS PROVISIONS

§ 17800. Distinct and separate offense

17800. For purposes of the provisions listed in Section 16590, a violation as to each firearm, weapon, or device enumerated in any of those provisions shall constitute a distinct and separate offense.

Comment. Section 17800 continues former Section 12001(l) without substantive change.

See Section 16520 (“firearm”).

DIVISION 3. SURRENDER, DISPOSAL, AND ENJOINING OF WEAPONS CONSTITUTING A NUISANCE

§ 18000. Surrender of specified weapons constituting nuisance

18000. (a) Any weapon described in Section 19190, 21390, 21590, or 25700, or, upon conviction of the defendant or upon a juvenile court finding that an offense that would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, any weapon described in Section 29300, shall be surrendered to one of the following:

(1) The sheriff of a county.

(2) The chief of police or other head of a municipal police department of any city or city and county.

(3) The chief of police of any campus of the University of California or the California State University.

(4) The Commissioner of the California Highway Patrol.

(b) For purposes of this section, the Commissioner of the California Highway Patrol shall receive only weapons that were confiscated by a member of the California Highway Patrol.

(c) A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

Comment. Subdivision (a) of Section 18000 continues the first sentence of former Section 12028(c) without substantive change.

Subdivision (b) continues the second sentence of former Section 12028(c) without substantive change.

In combination with Section 29300(b), subdivision (c) continues the second sentence of former Section 12028(b)(1) without substantive change.

For guidance on disposal of weapons surrendered pursuant to this section, see Section 18005 (disposal of weapons constituting nuisance). For additional guidance on surrender of deadly weapons, see Sections 18010 (treatment of other weapons constituting nuisance), 18250-18500 (seizure of firearm or other deadly weapon at scene of domestic violence), 33800 (receipt for firearm taken into custody by law enforcement officer).

See Section 16520 (“firearm”).
§ 18005. Disposal of weapons constituting nuisance

18005. (a) An officer to whom weapons are surrendered under Section 18000, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officer in charge of them considers to have value with respect to sporting, recreational, or collection purposes, for sale at public auction to persons licensed pursuant to Sections 26700 to 26915, inclusive, to engage in businesses involving any weapon purchased.

(b) If any weapon has been stolen and is thereafter recovered from the thief or the thief’s transferee, or is used in a manner as to constitute a nuisance under Section 19190, 21390, 21590, or 29300, or subdivision (a) of Section 25700 without the prior knowledge of its lawful owner that it would be so used, it shall not be offered for sale under subdivision (a) but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner’s identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4.

(c) If, under this section, a weapon is not of the type that can be sold to the public, generally, or is not sold under subdivision (b), the weapon, in the month of July, next succeeding, or sooner, if necessary to conserve local resources, including space and utilization of personnel who maintain files and security of those weapons, shall be destroyed so that it can no longer be used as a weapon subject to surrender under Section 18000, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of it is necessary or proper to the ends of justice.

(d) No stolen weapon shall be sold or destroyed pursuant to subdivision (b) or (c) unless reasonable notice is given to its lawful owner, if the lawful owner’s identity and address can be reasonably ascertained.

Comment. Subdivision (a) of Section 18005 continues the third sentence of former Section 12028(c) without substantive change.

Subdivision (b) continues the fourth sentence of former Section 12028(c) without substantive change.

Subdivision (c) continues former Section 12028(d) without substantive change.

Subdivision (d) continues former Section 12028(f) without substantive change.

For additional guidance on disposal of weapons taken into custody by a court or law enforcement agency, see Sections 18010 (treatment of other weapons constituting nuisance), 18250-18500 (seizure of firearm or other deadly weapon at scene of domestic violence), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

§ 18010. Treatment of other weapons constituting nuisance

18010. (a) The Attorney General, district attorney, or city attorney may bring an action to enjoin the manufacture of, importation of, keeping for sale of, offering or exposing for sale, giving, lending, or possession of, any item that constitutes a nuisance under any of the following provisions:
(1) Section 19290, relating to metal handgrenades.
(2) Section 20390, relating to an air gauge knife.
(3) Section 20490, relating to a belt buckle knife.
(4) Section 20590, relating to a cane sword.
(5) Section 20690, relating to a lipstick case knife.
(6) Section 20790, relating to a shobi-zue.
(7) Section 20990, relating to a writing pen knife.
(8) Section 21190, relating to a ballistic knife.
(9) Section 21890, relating to metal knuckles.
(10) Section 22090, relating to a nunchaku.
(11) Section 22290, relating to a blackjack, billy, leaded cane, sandclub, sandbag, sap, and slungshot.
(12) Section 22490, relating to a shuriken.
(13) Section 24390, relating to a camouflaging firearm container.
(14) Section 24490, relating to a cane gun.
(15) Section 24590, relating to a firearm not immediately recognizable as a firearm.
(16) Section 24690, relating to an undetectable firearm.
(17) Section 24790, relating to a wallet gun.
(18) Section 30290, relating to flechette dart ammunition and to a bullet with an explosive agent.
(19) Section 31590, relating to an unconventional pistol.
(20) Section 32390, relating to a large-capacity magazine.
(21) Section 32990, relating to a multiburst trigger activator.
(22) Section 33290, relating to a short-barreled rifle or a short-barreled shotgun.
(23) Section 33690, relating to a zip gun.
(b) These weapons shall be subject to confiscation and summary destruction whenever found within the state.
(c) These weapons shall be destroyed in the same manner described in Section 18005, except that upon the certification of a judge or of the district attorney that the ends of justice will be served thereby, the weapon shall be preserved until the necessity for its use ceases.

Comment. Subdivision (a) of Section 18010 continues the end of the first sentence of former Section 12029 without substantive change.
Subdivision (b) continues the second sentence of former Section 12029 without substantive change.
Subdivision (c) continues the third sentence of former Section 12029 without substantive change.
For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18250-18500 (seizure of firearm or other deadly weapon at scene of domestic violence), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).
DIVISION 4. SEIZURE OF FIREARM OR OTHER DEADLY WEAPON AT SCENE OF DOMESTIC VIOLENCE

CHAPTER 1. SEIZURE AND SUBSEQUENT PROCEDURES

§ 18250. Seizure of firearm or other deadly weapon at scene of domestic violence

18250. If any of the following persons is at the scene of a domestic violence incident involving a threat to human life or a physical assault, that person shall take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present:

(a) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1.

(b) A peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2.

(c) A member of the University of California Police Department, as defined in subdivision (b) of Section 830.2.

(d) An officer listed in Section 830.6, while acting in the course and scope of the officer’s employment as a peace officer.

(e) A member of a California State University Police Department, as defined in subdivision (c) of Section 830.2.

(f) A peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2.

(g) A peace officer, as defined in subdivision (d) of Section 830.31.

(h) A peace officer, as defined in subdivisions (a) and (b) of Section 830.32.

(i) A peace officer, as defined in Section 830.5.

Comment. Section 18250 continues the first sentence of former Section 12028.5(b) without substantive change.

For what constitutes a domestic violence incident, see Sections 16120 (“abuse”), 16490 (“domestic violence”). For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).
§ 18255. Receipt for weapon

18255. (a) Upon taking custody of a firearm or other deadly weapon pursuant to this division, the officer shall give the owner or person who possessed the firearm a receipt.

(b) The receipt shall describe the firearm or other deadly weapon and list any identification or serial number on the firearm.

(c) The receipt shall indicate where the firearm or other deadly weapon can be recovered, the time limit for recovery as required by this division, and the date after which the owner or possessor can recover the firearm or other deadly weapon.

Comment. Subdivision (a) of Section 18255 continues the second sentence of former Section 12028.5(b) without substantive change.

Subdivision (b) continues the third sentence of former Section 12028.5(b) without substantive change.

Subdivision (c) continues the fourth sentence of former Section 12028.5(b) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”). See also Section 16520 (“firearm”).

See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

§ 18260. Delivery of deadly weapon seized by peace officer for community college or school district

18260. Any peace officer, as defined in subdivisions (a) and (b) of Section 830.32, who takes custody of a firearm or deadly weapon pursuant to this division, shall deliver the firearm within 24 hours to the city police department or county sheriff’s office in the jurisdiction where the college or school is located.

Comment. Section 18260 continues former Section 12028.5(c) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”). See also Section 16520 (“firearm”).

See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).
§ 18265. Holding period

18265. (a) No firearm or other deadly weapon taken into custody pursuant to this division shall be held less than 48 hours.

(b) Except as provided in 18400, if a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident or is not retained because it was illegally possessed, the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure, or as soon thereafter as possible, but no later than five business days after the owner or person who was in lawful possession demonstrates compliance with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4.

(c) In any civil action or proceeding for the return of firearms or ammunition or other deadly weapon seized by any state or local law enforcement agency and not returned within five business days after the initial seizure, except as provided in Section 18270, the court shall allow reasonable attorney’s fees to the prevailing party.

Comment. Subdivision (a) of Section 18265 continues the fifth sentence of former Section 12028.5(b) without substantive change.

Subdivision (b) continues the sixth sentence of former Section 12028.5(b) without substantive change.

Subdivision (c) continues the seventh sentence of former Section 12028.5(b) without substantive change.

For what constitutes a domestic violence incident, see Sections 16120 (“abuse”), 16490 (“domestic violence”). For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

§ 18270. Return of stolen weapon

18270. If a firearm or other deadly weapon has been stolen and has been taken into custody pursuant to this division, it shall be restored to the lawful owner upon satisfaction of all of the following conditions:

(a) Its use for evidence has been served.

(b) The owner identifies the firearm or other deadly weapon and provides proof of ownership.

(c) The law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4.

Comment. Section 18270 continues former Section 12028.5(d) without substantive change.
For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

§ 18275. Sale or destruction of deadly weapon held longer than one year

18275. (a) Any firearm or other deadly weapon that has been taken into custody and held by any of the following law enforcement authorities for longer than 12 months, and has not been recovered by the owner or person who had lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in Section 18005:

(1) A police, university police, or sheriff’s department.
(2) A marshal’s office.
(3) A peace officer of the Department of the California Highway Patrol, as defined in subdivision (a) of Section 830.2.
(4) A peace officer of the Department of Parks and Recreation, as defined in subdivision (f) of Section 830.2.
(5) A peace officer, as defined in subdivision (d) of Section 830.31.
(6) A peace officer, as defined in Section 830.5.

(b) If a firearm or other deadly weapon is not recovered within 12 months due to an extended hearing process as provided in Section 18420, it is not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

Comment. Section 18275 continues former Section 12028.5(e) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18500 (no liability for act in good faith under this division). For procedures applicable when a law enforcement agency has reasonable cause to believe that return of a weapon would endanger the victim of a domestic violence incident or a person who reported the incident, see Sections 18400-18420.

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).
CHAPTER 2. PROCEDURE WHERE AGENCY BELIEVES RETURN OF WEAPON WOULD CREATE DANGER

§ 18400. Petition to determine whether weapon should be returned

18400. (a) When a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon seized under this division would be likely to result in endangering the victim or the person who reported the assault or threat, the agency shall so advise the owner of the firearm or other deadly weapon, and within 60 days of the date of seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned.

(b) The law enforcement agency may make an ex parte application stating good cause for an order extending the time to file a petition.

(c) Including any extension of time granted in response to an ex parte request, a petition must be filed within 90 days of the date of seizure of the firearm or other deadly weapon.

Comment. Section 18400 continues former Section 12028.5(f) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18405 (notice of petition), 18410 (hearing on petition), 18415 (order of default), 18420 (petition for second hearing).

See also Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division).

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

§ 18405. Notice of petition

18405. (a) If a petition is filed under Section 18400, the law enforcement agency shall inform the owner or person who had lawful possession of the firearm or other deadly weapon, at that person’s last known address, by registered mail, return receipt requested, that the person has 30 days from the date of receipt of the notice to respond to the court clerk to confirm the person’s desire for a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon.

(b) For purposes of this section, the person’s last known address shall be presumed to be the address provided to the law enforcement officer by that person at the time of the family violence incident.

(c) In the event the person whose firearm or other deadly weapon was seized does not reside at the last address provided to the agency, the agency shall make a diligent, good faith effort to learn the whereabouts of the person and to comply with these notification requirements.
Comment. Section 18405 continues former Section 12028.5(g) without substantive change. For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18400 (petition to determine whether weapon should be returned), 18410 (hearing on petition), 18415 (order of default), 18420 (petition for second hearing).

See also Sections 16120 (“abuse”), 16490 (“domestic violence”), 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division).

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

§ 18410. Hearing on petition
18410. (a) If the person who receives a petition under Section 18405 requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request.

(b) The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing.

(c) Unless it is shown by a preponderance of the evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney’s fees to the prevailing party.

Comment. Section 18410 continues former Section 12028.5(h) without substantive change. For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

 See Sections 18400 (petition to determine whether weapon should be returned), 18405 (notice of petition), 18415 (order of default), 18420 (petition for second hearing).

See also Sections 16120 (“abuse”), 16490 (“domestic violence”), 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division).

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

§ 18415. Order of default
18415. If the person who receives a petition under Section 18405 does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in Section 18005.

Comment. Section 18415 continues former Section 12028.5(i) without substantive change.
For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18400 (petition to determine whether weapon should be returned), 18405 (notice of petition), 18410 (hearing on petition), 18420 (petition for second hearing).

See also Sections 16120 (“abuse”), 16490 (“domestic violence”), 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division).

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

§ 18420. Petition for second hearing

18420. (a) If, at a hearing under Section 18410, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing.

(b) If there is a petition for a second hearing, unless it is shown by clear and convincing evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney’s fees to the prevailing party.

(c) If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be disposed of as provided in Section 18005.

Comment. Section 18420 continues former Section 12028.5(j) without substantive change.

For what constitutes a deadly weapon, see Section 16430 (“deadly weapon”); see also Section 16520 (“firearm”).

See Sections 18400 (petition to determine whether weapon should be returned), 18405 (notice of petition), 18410 (hearing on petition), 18415 (order of default).

See also Sections 18250 (seizure of firearm or other deadly weapon at scene of domestic violence), 18255 (receipt for weapon), 18260 (delivery of deadly weapon seized by peace officer for community college or school district), 18265 (holding period), 18270 (return of stolen weapon), 18275 (sale or destruction of deadly weapon held longer than one year), 18500 (no liability for act in good faith under this division).

For additional guidance on surrender and disposal of weapons, see Sections 18000 (surrender of specified weapons constituting nuisance), 18005 (disposal of weapons constituting nuisance), 18010 (treatment of other weapons constituting nuisance), 33800-34010 (firearm in custody of court or law enforcement agency or similar situation).

CHAPTER 3. LIABILITY

§ 18500. No liability for act in good faith under this division

18500. The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this division.
Comment. Section 18500 continues former Section 12028.5(k) without substantive change.

DIVISION 5. DESTRUCTIVE DEVICES, EXPLOSIVES, AND SIMILAR WEAPONS

CHAPTER 1. DESTRUCTIVE DEVICES AND EXPLOSIVES GENERALLY

Article 1. Prohibited Acts

§ 18710. Unlawful possession of destructive device other than fixed ammunition greater than .60 caliber

18710. (a) Except as provided by this chapter, any person, firm, or corporation who, within this state, possesses any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, is guilty of a public offense.

(b) A person, firm, or corporation who is convicted of an offense under subdivision (a) shall be punished by imprisonment in the county jail for a term not to exceed one year, or in state prison, or by a fine not to exceed ten thousand dollars ($10,000), or by both this fine and imprisonment.

Comment. Section 18710 continues former Section 12303 without substantive change.

See Section 16460 (“destructive device”).

§ 18715. Reckless or malicious possession of destructive device or explosive in public place

18715. (a) Every person who recklessly or maliciously has in possession any destructive device or any explosive in any of the following places is guilty of a felony:

(1) On a public street or highway.

(2) In or near any theater, hall, school, college, church, hotel, or other public building.

(3) In or near any private habitation.

(4) In, on, or near any aircraft, railway passenger train, car, cable road, cable car, or vessel engaged in carrying passengers for hire.

(5) In, on, or near any other public place ordinarily passed by human beings.

(b) An offense under subdivision (a) is punishable by imprisonment in the state prison for a period of two, four, or six years.

Comment. Section 18715 continues former Section 12303.2 without substantive change.

See Sections 16460 (“destructive device”), 16510 (“explosive”).

§ 18720. Possession of materials with intent to create destructive device or explosive

18720. Every person who possesses any substance, material, or any combination of substances or materials, with the intent to make any destructive device or any explosive without first obtaining a valid permit to make that destructive device or explosive, is guilty of a felony, and is punishable by imprisonment in the state prison for two, three, or four years.
Comment. Section 18720 continues former Section 12312 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

§ 18725. Destructive device or explosive on vessel, aircraft, or other vehicle
18725. Every person who willfully does any of the following is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years:
  (a) Carries any destructive device or any explosive on any vessel, aircraft, car, or other vehicle that transports passengers for hire.
  (b) While on board any vessel, aircraft, car, or other vehicle that transports passengers for hire, places or carries any destructive device or any explosive in any hand baggage, roll, or other container.
  (c) Places any destructive device or any explosive in any baggage that is later checked with any common carrier.

Comment. Section 18725 continues former Section 12303.1 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

§ 18730. Sale or transportation of destructive device other than fixed ammunition greater than .60 caliber
18730. Except as provided by this chapter, any person, firm, or corporation who, within this state, sells, offers for sale, or knowingly transports any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, is guilty of a felony and is punishable by imprisonment in the state prison for two, three, or four years.

Comment. Section 18730 continues former Section 12303.6 without substantive change. See Section 16460 (“destructive device”).

§ 18735. Sale, possession, or transport of fixed ammunition greater than .60 caliber
18735. (a) Except as provided by this chapter, any person, firm, or corporation who, within this state, sells, offers for sale, possesses or knowingly transports any fixed ammunition of a caliber greater than .60 caliber is guilty of a public offense.
  (b) Upon conviction of an offense under subdivision (a), a person, firm, or corporation shall be punished by imprisonment in the county jail for a term not to exceed six months or by a fine not to exceed one thousand dollars ($1,000), or by both this fine and imprisonment.
  (c) A second or subsequent conviction shall be punished by imprisonment in the county jail for a term not to exceed one year, or by imprisonment in the state prison, or by a fine not to exceed three thousand dollars ($3,000), or by both this fine and imprisonment.

Comment. Section 18735 continues former Section 12304 without substantive change. A conviction under former Section 12304 counts as a prior conviction in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction).
§ 18740. Use or attempted use of destructive device or explosive with intent to cause fear or harm

18740. Every person who possesses, explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to injure, intimidate, or terrify any person, or with intent to wrongfully injure or destroy any property, is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

Comment. Section 18740 continues former Section 12303.3 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

§ 18745. Use or attempted use of destructive device or explosive with intent to commit murder

18745. Every person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to commit murder is guilty of a felony, and shall be punished by imprisonment in the state prison for life with the possibility of parole.

Comment. Section 18745 continues former Section 12308 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

§ 18750. Willful and malicious use of destructive device or explosive resulting in bodily injury

18750. Every person who willfully and maliciously explodes or ignites any destructive device or any explosive that causes bodily injury to a person is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of five, seven, or nine years.

Comment. Section 18750 continues former Section 12309 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

§ 18755. Willful and malicious use of destructive device or explosive resulting in death, mayhem, or great bodily injury

18755. (a) Every person who willfully and maliciously explodes or ignites any destructive device or any explosive that causes the death of any person is guilty of a felony, and shall be punished by imprisonment in the state prison for life without the possibility of parole.

(b) Every person who willfully and maliciously explodes or ignites any destructive device or any explosive that causes mayhem or great bodily injury to any person is guilty of a felony, and shall be punished by imprisonment in the state prison for life.

Comment. Section 18755 continues former Section 12310 without substantive change. See Sections 16460 (“destructive device”), 16510 (“explosive”).

§ 18780. No probation or suspension of sentence

18780. A person convicted of a violation of this chapter shall not be granted probation, and the execution of the sentence imposed upon that person shall not be suspended by the court.
Comment. Section 18780 continues former Section 12311 without substantive change.

Article 2. Exemptions

§ 18800. Use of destructive device or explosive by law enforcement, military, or firefighter

18800. (a) Nothing in this chapter prohibits the sale to, purchase by, or possession, transportation, storage, or use of, a destructive device or explosive by any of the following:

1. Any peace officer listed in Section 830.1 or 830.2, or any peace officer in the Department of Justice authorized by the Attorney General, while on duty and acting within the scope and course of employment.

2. Any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of employment.

(b) Nothing in this chapter prohibits the sale to, or the purchase, possession, transportation, storage, or use by any person who is a regularly employed and paid officer, employee, or member of a fire department or fire protection or firefighting agency of the federal government, the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state, while on duty and acting within the scope and course of employment, of any equipment used by that department or agency in the course of fire suppression.

Comment. Section 18800 continues former Section 12302 without substantive change.

See Sections 16460 (“destructive device”), 16510 (“explosive”).

Article 3. Permit and Inspection

§ 18900. Permit for destructive device

18900. (a) Every dealer, manufacturer, importer, and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, shall obtain a permit for the conduct of that business from the Department of Justice.

(b) Any person, firm, or corporation not mentioned in subdivision (a) shall obtain a permit from the Department of Justice in order to possess or transport any destructive device. No permit shall be issued to any person who meets any of the following criteria:

1. Has been convicted of any felony.

2. Is addicted to the use of any narcotic drug.

3. Is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(c) An application for a permit shall comply with all of the following:

1. It shall be filed in writing.

2. It shall be signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation.
(3) It shall state the name, business in which engaged, business address, and a full description of the use to which the destructive devices are to be put.

d) Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

Comment. Subdivision (a) of Section 18900 continues former Section 12305(a) without substantive change.

Subdivision (b) continues former Section 12305(b) without substantive change.

Subdivision (c) continues former Section 12305(c) without substantive change.

Subdivision (d) continues former Section 12305(d) without substantive change.

See Section 16460 (“destructive device”).

§ 18905. Permit fees and renewal process

18905. (a) Each applicant for a permit under this article shall pay at the time of filing the application a fee not to exceed the application processing costs of the Department of Justice.

(b) A permit granted under this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice.

(c) After the department establishes fees sufficient in amount to cover processing costs, the amount of the fees shall only increase at a rate not to exceed the legislatively approved cost-of-living adjustment for the department.

Comment. Section 18905 continues former Section 12305(e) without substantive change.

§ 18910. Inspection by Department of Justice

18910. (a) Except as provided in subdivision (b), the Department of Justice shall, for every person, firm, or corporation to whom a permit is issued under this article, annually conduct an inspection for security and safe storage purposes, and to reconcile the inventory of destructive devices.

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

Comment. Section 18910 continues former Section 12305(f)-(g) without substantive change.

See Section 16460 (“destructive device”).

Article 4. Destructive Device Constituting Nuisance

§ 19000. Destructive device constituting nuisance

19000. (a) Possession of any destructive device in violation of this chapter is a public nuisance.

(b) The Attorney General or district attorney of any city, county, or city and county may bring an action in the superior court to enjoin the possession of any destructive device.
(c) Any destructive device found to be in violation of this chapter shall be surrendered to the Department of Justice, or to the sheriff or chief of police, if the sheriff or chief of police has elected to perform the services required by this section. The department, sheriff, or chief of police shall destroy the destructive device so as to render it unusable and unrepairable as a destructive device, except upon the filing of a certificate with the department by a judge or district attorney stating that the preservation of the destructive device is necessary to serve the ends of justice.

Comment. Section 19000 continues former Section 12307 without substantive change.

See Section 16460 ("destructive device").

CHAPTER 2. EXPLOSIVE SUBSTANCE OTHER THAN FIXED AMMUNITION

§ 19100. Carrying concealed explosive substance other than fixed ammunition

19100. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2, any person in this state who carries concealed upon the person any explosive substance, other than fixed ammunition, is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. Section 19100 continues former Section 12020(a)(3) without substantive change. For circumstances in which this section is inapplicable, see Sections 16590 ("generally prohibited weapon"), 17700-17745 (exemptions relating to generally prohibited weapons).

See also Sections 17800 (distinct and separate offense), 19190 (concealed explosive substance constituting nuisance).

§ 19190. Concealed explosive substance constituting nuisance

19190. The unlawful concealed carrying upon the person of any explosive substance other than fixed ammunition, as provided in Section 19100, is a nuisance and is subject to Sections 18000 and 18005.

Comment. With respect to an explosive substance other than fixed ammunition, Section 19190 continues former Section 12028(a) without substantive change.

CHAPTER 3. HANDBRENAS

§ 19200. Prohibition on manufacture, import, sale, gift, loan, or possession of metal military practice handgrenade or metal replica handgrenade

19200. (a) Except as provided in Section 19205 and Chapter 1 (commencing with Section 17700) of Division 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any metal military practice handgrenade or metal replica handgrenade is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

(b) Notwithstanding subdivision (a), a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an
infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1).

Comment. With respect to a metal military practice handgrenade or metal replica handgrenade, subdivision (a) of Section 19200 continues former Section 12020(a)(1) without substantive change.

Subdivision (b) continues the first sentence of the second paragraph of former Section 12020(a)(4) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons), 19205 (toy or permanently inoperative handgrenade).

See also Sections 17800 (distinct and separate offense), 19290 (metal military practice handgrenade or metal replica handgrenade constituting nuisance).

§ 19205. Toy or permanently inoperative handgrenade

19205. Section 19200 does not apply to any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio, memorabilia, or display item, that is filled with a permanent inert substance, or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

Comment. Section 19205 continues former Section 12020(b)(15) without substantive change.

For additional circumstances in which Section 19200 is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

§ 19290. Metal military practice handgrenade or metal replica handgrenade constituting nuisance

19290. Except as provided in Section 19205 and in Chapter 1 (commencing with Section 17700) of Division 2, any metal military practice handgrenade or metal replica handgrenade is a nuisance and is subject to Section 18010.

Comment. With respect to a metal military practice handgrenade or metal replica handgrenade, Section 19290 continues the first part of the first sentence of former Section 12029 without substantive change.

DIVISION 6. LESS LETHAL WEAPONS

§ 19400. Less lethal weapon or ammunition for official use by peace officer or custodial officer

19400. A person who is a peace officer or a custodial officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, may, if authorized by and under the terms and conditions as are specified by the person’s employing agency, purchase, possess, or transport any less lethal weapon or ammunition for any less lethal weapon, for official use in the discharge of the person’s duties.

Comment. Section 19400 continues former Section 12600 without substantive change.

See Section 16780 (“less lethal weapon”).
§ 19405. Punishment for sale of less lethal weapon to person under age 18

19405. Any person who sells a less lethal weapon, as defined in Section 12601, to a person under the age of 18 years is guilty of a misdemeanor, punishable by imprisonment in the county jail for up to six months or by a fine of not more than one thousand dollars ($1,000), or by both that imprisonment and fine.

Comment. Section 19405 continues former Section 12655 without substantive change.

See Section 16780 ("less lethal weapon").

TITLE 3. WEAPONS AND DEVICES
OTHER THAN FIREARMS

DIVISION 1. BB DEVICES

§ 19910. Sale of BB device to minor

19910. Every person who sells any BB device to a minor is guilty of a misdemeanor.

Comment. Section 19910 continues former Section 12551 without substantive change.

See Section 16250 ("BB device").

§ 19915. Furnishing BB device to minor without parental permission

19915. (a) Every person who furnishes any BB device to any minor, without the express or implied permission of a parent or legal guardian of the minor, is guilty of a misdemeanor.

(b) As used in this section, “furnishes” means any of the following:
(1) A loan.
(2) A transfer that does not involve a sale.

Comment. Section 19915 continues former Section 12552 without substantive change.

See Section 16250 ("BB device").

DIVISION 2. BLOWGUNS

§ 20010. Unlawful acts relating to blowguns or blowgun ammunition

20010. Any person who knowingly manufactures, sells, offers for sale, possesses, or uses a blowgun or blowgun ammunition in this state is guilty of a misdemeanor.

Comment. Section 20010 continues former Section 12582 without substantive change.

For circumstances in which this section is inapplicable, see Section 20015 (use of blowgun or blowgun ammunition by veterinarian or animal control professional).

See Sections 16270 ("blowgun"), 16280 ("blowgun ammunition").
§ 20015. Use of blowgun or blowgun ammunition by veterinarian or animal control professional

20015. Nothing in this division shall prohibit the sale to, purchase by, possession of, or use of any blowgun or blowgun ammunition by zookeepers, animal control officers, Department of Fish and Game personnel, humane officers whose names are maintained in the county record of humane officers pursuant to Section 14502 of the Corporations Code, or veterinarians in the course and scope of their business in order to administer medicine to animals.

Comment. Section 20015 continues former Section 12583 without substantive change.

See Sections 16270 (“blowgun”), 16280 (“blowgun ammunition”).

DIVISION 3. BOOBYTRAP

§ 20110. Boobytrap

20110. (a) Except as provided in Chapter 1 (commencing with Section 18710) of Division 5 of Title 2, any person who assembles, maintains, places, or causes to be placed a boobytrap device is guilty of a felony punishable by imprisonment in the state prison for two, three, or five years.

(b) Possession of any device with the intent to use the device as a boobytrap is punishable by imprisonment in state prison, or in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both that fine and imprisonment.

Comment. Section 20110 continues subdivisions (a) and (b) of former Section 12355 without substantive change.

See Section 16310 (“boobytrap”).

DIVISION 4. IMITATION FIREARMS

§ 20150. Consequences of making imitation firearm or specified device look more like firearm

20150. (a) Any person who changes, alters, removes, or obliterates any coloration or markings that are required by any applicable state or federal law or regulation, for any imitation firearm, or any device described in subdivision (b) of Section 16700, in a way that makes the imitation firearm or device look more like a firearm, is guilty of a misdemeanor.

(b) This section does not apply to a manufacturer, importer, or distributor of imitation firearms.

(c) This section does not apply to lawful use in theatrical productions, including motion pictures, television, and stage productions.

Comment. Section 20150 continues former Section 12553(a) without substantive change.

See Sections 16520 (“firearm”), 16700 (“imitation firearm”).
§ 20155. Failure to comply with federal law or regulation on marking of toy, look-alike, or imitation firearm

20155. Any manufacturer, importer, or distributor of imitation firearms that fails to comply with any applicable federal law or regulation governing the marking of a toy, look-alike, or imitation firearm, as defined by federal law or regulation, is guilty of a misdemeanor.

Comment. Section 20155 continues former Section 12553(b) without substantive change.

See Section 16700 (“imitation firearm”).

§ 20160. Advisory requirement for imitation firearm

20160. (a) Any imitation firearm manufactured after July 1, 2005, shall, at the time of offer for sale in this state, be accompanied by a conspicuous advisory in writing as part of the packaging, but not necessarily affixed to the imitation firearm, to the effect that the product may be mistaken for a firearm by law enforcement officers or others, that altering the coloration or markings required by state or federal law or regulations so as to make the product look more like a firearm is dangerous, and may be a crime, and that brandishing or displaying the product in public may cause confusion and may be a crime.

(b) Any manufacturer, importer, or distributor that fails to comply with this advisory for any imitation firearm manufactured after July 1, 2005, shall be liable for a civil fine for each action brought by a city attorney or district attorney of not more than one thousand dollars ($1,000) for the first action, five thousand dollars ($5,000) for the second action, and ten thousand dollars ($10,000) for the third action and each subsequent action.

Comment. Section 20160 continues former Section 12554 without substantive change.

In applying subdivision (b), an action under former Section 12554 counts as a prior action under this section. See Section 16010 & Comment (continuation of existing law); see also Section 16015 (determining existence of prior conviction).

See Sections 16520 (“firearm”), 16700 (“imitation firearm”).

§ 20165. Unlawful commercial activities relating to imitation firearms

20165. (a) Any person who, for commercial purposes, purchases, sells, manufactures, ships, transports, distributes, or receives, by mail order or in any other manner, an imitation firearm, except as authorized by this section, is liable for a civil fine in an action brought by the city attorney or the district attorney of not more than ten thousand dollars ($10,000) for each violation.

(b) The manufacture, purchase, sale, shipping, transport, distribution, or receipt, by mail or in any other manner, of an imitation firearm is authorized if the device is manufactured, purchased, sold, shipped, transported, distributed, or received for any of the following purposes:

(1) Solely for export in interstate or foreign commerce.

(2) Solely for lawful use in theatrical productions, including motion picture, television, and stage productions.

(3) For use in a certified or regulated sporting event or competition.
(4) For use in military or civil defense activities, or ceremonial activities.
(5) For public displays authorized by public or private schools.

Comment. Section 20165 continues former Section 12555(a)-(b) without substantive change. See Section 16700 (“imitation firearm”), which includes special guidance for interpreting that term in the context of this section.

§ 20170. Display of imitation firearm in public place

20170. (a) No person may openly display or expose any imitation firearm in a public place.
(b) As used in this section, “public place” means an area open to the public and includes any of the following:
(1) A street.
(2) A sidewalk.
(3) A bridge.
(4) An alley.
(5) A plaza.
(6) A park.
(7) A driveway.
(8) A front yard.
(9) A parking lot.
(10) An automobile, whether moving or not.
(11) A building open to the general public, including one that serves food or drink, or provides entertainment.
(12) A doorway or entrance to a building or dwelling.
(13) A public school.
(14) A public or private college or university.

Comment. Subdivision (a) of Section 20170 continues former Section 12556(a) without substantive change. For circumstances in which this section is inapplicable, see Section 20175 (exemptions). For consequences of violating this section, see Section 20180 (punishment). Subdivision (b) continues former Section 12556(e) without substantive change. See Section 16700 (“imitation firearm”).

§ 20175. Exemptions

20175. Section 20170 does not apply in any of the following circumstances:
(a) The imitation firearm is packaged or concealed so that it is not subject to public viewing.
(b) The imitation firearm is displayed or exposed in the course of commerce, including a commercial film or video production, or for service, repair, or restoration of the imitation firearm.
(c) The imitation firearm is used in a theatrical production, a motion picture, video, television, or stage production.
(d) The imitation firearm is used in conjunction with a certified or regulated sporting event or competition.
(e) The imitation firearm is used in conjunction with lawful hunting, or a lawful pest control activity.

(f) The imitation firearm is used or possessed at a certified or regulated public or private shooting range.

(g) The imitation firearm is used at a fair, exhibition, exposition, or other similar activity for which a permit has been obtained from a local or state government.

(h) The imitation firearm is used in a military, civil defense, or civic activity, including a flag ceremony, color guard, parade, award presentation, historical reenactment, or memorial.

(i) The imitation firearm is used for a public display authorized by a public or private school or a display that is part of a museum collection.

(j) The imitation firearm is used in a parade, ceremony, or other similar activity for which a permit has been obtained from a local or state government.

(k) The imitation firearm is displayed on a wall plaque or in a presentation case.

(l) The imitation firearm is used in an area where the discharge of a firearm is lawful.

(m) The entire exterior surface of the imitation firearm is white, bright red, bright orange, bright yellow, bright green, bright blue, bright pink, or bright purple, either singly or as the predominant color in combination with other colors in any pattern, or the entire device is constructed of transparent or translucent material that permits unmistakable observation of the device’s complete contents. Merely having an orange tip as provided in federal law and regulations does not satisfy this requirement. The entire surface must be colored or transparent or translucent.

Comment. Section 20175 continues former Section 12556(d) without substantive change.

See Section 16700 (“imitation firearm”).

§ 20180. Punishment

20180. (a) Except as provided in subdivision (b), violation of Section 20170 is an infraction punishable by a fine of one hundred dollars ($100) for the first offense, and three hundred dollars ($300) for a second offense.

(b) A third or subsequent violation of Section 20170 is punishable as a misdemeanor.

(c) Nothing in Sections 20170, 20175, or this section shall be construed to preclude prosecution for a violation of Section 171b, 171.5, or 626.10.

Comment. Subdivision (a) of Section 20180 continues former Section 12556(b) without substantive change.

Subdivision (b) continues former Section 12556(c) without substantive change.

Subdivision (c) continues former Section 12556 (f) without substantive change.

A violation of the predecessor of Section 20170 (former Section 12556(a)) counts as a prior offense in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction).
DIVISION 5. KNIVES AND SIMILAR WEAPONS

CHAPTER 1. GENERAL PROVISIONS

§ 20200. Circumstances in which knife is not deemed “concealed”
20200. A knife carried in a sheath that is worn openly suspended from the waist of the wearer is not concealed within the meaning of Section 16140, 16340, 17350, or 21310.

Comment. Section 20200 continues former Section 12020(d) without substantive change.

CHAPTER 2. DISGUISED OR MISLEADING APPEARANCE

Article 1. Air Gauge Knife

§ 20310. Prohibition on manufacture, import, sale, gift, loan, or possession of air gauge knife
20310. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any air gauge knife is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to an air gauge knife, Section 20310 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 16140 (“air gauge knife”). See also Sections 17800 (distinct and separate offense), 20390 (air gauge knife constituting nuisance).

§ 20390. Air gauge knife constituting nuisance
20390. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any air gauge knife is a nuisance and is subject to Section 18010.

Comment. With respect to an air gauge knife, Section 20390 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16140 (“air gauge knife”).

Article 2. Belt Buckle Knife

§ 20410. Prohibition on manufacture, import, sale, gift, loan, or possession of belt buckle knife
20410. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale,
or who gives, lends, or possesses any belt buckle knife is punishable by
imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to a belt buckle knife, Section 20410 continues former Section
12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally
prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).
See Section 16260 (“belt buckle knife”). See also Sections 17800 (distinct and separate
offense), 20490 (belt buckle knife constituting nuisance).

§ 20490. Belt buckle knife constituting nuisance

20490. Except as provided in Chapter 1 (commencing with Section 17700) of
Division 2 of Title 2, any belt buckle knife is a nuisance and is subject to Section
18010.

Comment. With respect to a belt buckle knife, Section 20490 continues the first part of the
first sentence of former Section 12029 without substantive change.

See Section 16260 (“belt buckle knife”).

Article 3. Cane Sword

§ 20510. Prohibition on manufacture, import, sale, gift, loan, or possession of cane sword

20510. Except as provided in Chapter 1 (commencing with Section 17700) of
Division 2 of Title 2, any person in this state who manufactures or causes to be
manufactured, imports into the state, keeps for sale, or offers or exposes for sale,
or who gives, lends, or possesses any cane sword is punishable by imprisonment
in a county jail not exceeding one year or in the state prison.

Comment. With respect to a cane sword, Section 20510 continues former Section 12020(a)(1)
without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally
prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).
See Section 16340 (“cane sword”). See also Sections 17800 (distinct and separate offense),
20590 (cane sword constituting nuisance).

§ 20590. Cane sword constituting nuisance

20590. Except as provided in Chapter 1 (commencing with Section 17700) of
Division 2 of Title 2, any cane sword is a nuisance and is subject to Section 18010.

Comment. With respect to a cane sword, Section 20590 continues the first part of the first
sentence of former Section 12029 without substantive change.

See Section 16340 (“cane sword”).

Article 4. Lipstick Case Knife

§ 20610. Prohibition on manufacture, import, sale, gift, loan, or possession of lipstick case
knife

20610. Except as provided in Chapter 1 (commencing with Section 17700) of
Division 2 of Title 2, any person in this state who manufactures or causes to be
manufactured, imports into the state, keeps for sale, or offers or exposes for sale,
or who gives, lends, or possesses any lipstick case knife is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a lipstick case knife, Section 20610 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 16830 (“lipstick case knife”). See also Sections 17800 (distinct and separate offense), 20690 (lipstick case knife constituting nuisance).

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§ 20690. Lipstick case knife constituting nuisance

20690. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any lipstick case knife is a nuisance and is subject to Section 18010.

**Comment.** With respect to a lipstick case knife, Section 20690 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16830 (“lipstick case knife”).

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Article 5. Shobi-zue

§ 20710. Prohibition on manufacture, import, sale, gift, loan, or possession of shobi-zue

20710. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any shobi-zue is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

**Comment.** With respect to a shobi-zue, Section 20710 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 17160 (“shobi-zue”). See also Sections 17800 (distinct and separate offense), 20790 (shobi-zue constituting nuisance).

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§ 20790. Shobi-zue constituting nuisance

20790. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any shobi-zue is a nuisance and is subject to Section 18010.

**Comment.** With respect to a shobi-zue, Section 20790 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 17160 (“shobi-zue”).

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Article 6. Undetectable Knife

§ 20810. Restrictions relating to undetectable knife

20810. (a) Any person in this state who commercially manufactures or causes to be commercially manufactured, or who knowingly imports into the state for commercial sale, or who knowingly exports out of this state for commercial, dealer, wholesaler, or distributor sale, or who keeps for commercial sale, or offers
or exposes for commercial, dealer, wholesaler, or distributor sale, any undetectable
knife is guilty of a misdemeanor.

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

Comment. Subdivision (a) of Section 20810 continues the first sentence of former Section
12001.1(a) without change.
Subdivision (b) continues former Section 12001.1(b) without change.
For circumstances in which this section is inapplicable, see Sections 20815 (undetectable knife
for law enforcement or military entity), 20820 (undetectable knife for historical society, museum,
or institutional collection open to public).
See Section 17290 (“undetectable knife”).

§ 20815. Undetectable knife for law enforcement or military entity
20815. Section 20810 does not apply to the manufacture or importation of any
undetectable knife for sale to a law enforcement or military entity with a valid
agency, department, or unit purchase order, nor does Section 20810 apply to the
subsequent sale of any undetectable knife to a law enforcement or military entity.

Comment. Section 20815 continues former Section 12001.1(c) without substantive change.
See Section 17290 (“undetectable knife”).

§ 20820. Undetectable knife for historical society, museum, or institutional collection open
to public
20820. Section 20810 does not apply to the manufacture or importation of any
undetectable knife for sale to a federal, state, or local historical society, museum,
or institutional collection that is open to the public, provided that the undetectable
knife is properly housed and secured from unauthorized handling, nor does
Section 20810 apply to the subsequent sale of the knife to any of these entities.

Comment. Section 20820 continues former Section 12001.1(d) without substantive change.
See Section 17290 (“undetectable knife”).

Article 7. Writing Pen Knife

§ 20910. Prohibition on manufacture, import, sale, gift, loan, or possession of writing pen
knife
20910. Except as provided in Chapter 1 (commencing with Section 17700) of
Division 2 of Title 2, any person in this state who manufactures or causes to be
manufactured, imports into the state, keeps for sale, or offers or exposes for sale,
or who gives, lends, or possesses any writing pen knife is punishable by
imprisonment in a county jail not exceeding one year or in the state prison.
Comment. With respect to a writing pen knife, Section 20910 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 17350 (“writing pen knife”). See also Sections 17800 (distinct and separate offense), 20990 (writing pen knife constituting nuisance).

§ 20990. Writing pen knife constituting nuisance

20990. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any writing pen knife is a nuisance and is subject to Section 18010.

Comment. With respect to a writing pen knife, Section 20990 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 17350 (“writing pen knife”).

CHAPTER 3. BALLISTIC KNIFE

§ 21110. Prohibition on manufacture, import, sale, gift, loan, or possession of ballistic knife

21110. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any ballistic knife is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to a ballistic knife, Section 21110 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 16220 (“ballistic knife”). See also Sections 17800 (distinct and separate offense), 21190 (ballistic knife constituting nuisance).

§ 21190. Ballistic knife constituting nuisance

21190. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any ballistic knife is a nuisance and is subject to Section 18010.

Comment. With respect to a ballistic knife, Section 21190 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16220 (“ballistic knife”).

CHAPTER 4. DIRK OR DAGGER

§ 21310. Carrying concealed dirk or dagger

21310. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who carries concealed upon the person any dirk or dagger is punishable by imprisonment in a county jail not exceeding one year or in the state prison.
Comment. Section 21310 continues the first paragraph of former Section 12020(a)(4) without substantive change.
For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons), 20200 (circumstances in which knife is not deemed “concealed”).
See Section 16470 (“dirk” or “dagger”). See also Sections 17800 (distinct and separate offense), 21390 (concealed dirk or dagger constituting nuisance).

§ 21390. Concealed dirk or dagger constituting nuisance
21390. The unlawful concealed carrying upon the person of any dirk or dagger, as provided in Section 21310, is a nuisance and is subject to Sections 18000 and 18005.
Comment. With respect to a dirk or dagger, Section 21390 continues former Section 12028(a) without substantive change.
See Section 16470 (“dirk” or “dagger”).

CHAPTER 5. SWITCHBLADE KNIFE

§ 21510. Restrictions relating to switchblade knife
21510. Every person who does any of the following with a switchblade knife having a blade two or more inches in length is guilty of a misdemeanor:
(a) Possesses the knife in the passenger’s or driver’s area of any motor vehicle in any public place or place open to the public.
(b) Carries the knife upon the person.
(c) Sells, offers for sale, exposes for sale, loans, transfers, or gives the knife to any other person.
Comment. Section 21510 continues the first paragraph of former Section 653k without substantive change.
See Sections 16965 (“passenger’s or driver’s area”), 17235 (“switchblade knife”).

§ 21590. Switchblade knife constituting nuisance
21590. The unlawful possession or carrying of any switchblade knife, as provided in Section 21510, is a nuisance and is subject to Sections 18000 and 18005.
Comment. With respect to a switchblade knife, Section 21590 continues former Section 12028(a) without substantive change.
See Section 17235 (“switchblade knife”).
DIVISION 6. KNUCKLES

CHAPTER 1. HARD PLASTIC KNUCKLES OR HARD WOODEN KNUCKLES

§ 21710. Restrictions relating to hard plastic knuckles and hard wooden knuckles
21710. Any person in this state who commercially manufactures or causes to be commercially manufactured, or who knowingly imports into the state for commercial sale, keeps for commercial sale, or offers or exposes for commercial sale, any hard plastic knuckles or hard wooden knuckles is guilty of a misdemeanor.

Comment. Section 21710 continues the first sentence of former Section 12020.1 without substantive change.

See Section 16680 (“hard plastic knuckles”), 16680 (“hard wooden knuckles”).

CHAPTER 2. METAL KNUCKLES

§ 21810. Prohibition on manufacture, import, sale, gift, loan, or possession of metal knuckles
21810. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any metal knuckles is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to metal knuckles, Section 21810 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 16920 (“metal knuckles”). See also Sections 17800 (distinct and separate offense), 21890 (metal knuckles constituting nuisance).

§ 21890. Metal knuckles constituting nuisance
21890. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, metal knuckles are a nuisance and are subject to Section 18010.

Comment. With respect to metal knuckles, Section 21890 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16920 (“metal knuckles”).

DIVISION 7. NUNCHAKU

§ 22010. Prohibition on manufacture, import, sale, gift, loan, or possession of nunchaku
22010. Except as provided in Section 22015 and Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures
or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any nunchaku is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to a nunchaku, Section 22010 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons), 22015 (nunchaku for school teaching arts of self-defense).

See Section 16940 (“nunchaku”). See also Sections 17800 (distinct and separate offense), 22090 (nunchaku constituting nuisance).

§ 22015. Nunchaku for school teaching arts of self-defense

22015. Section 22010 does not apply to either of the following:
(a) The possession of a nunchaku on the premises of a school that holds a regulatory or business license and teaches the arts of self-defense.
(b) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school that holds a regulatory or business license and teaches the arts of self-defense.

Comment. Subdivision (a) of Section 22015 continues former Section 12020(b)(3) without substantive change.
Subdivision (b) continues former Section 12020(b)(4) without substantive change.
For additional circumstances in which Section 16910 is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).
See Section 16940 (“nunchaku”).

§ 22090. Nunchaku constituting nuisance

22090. Except as provided in Section 22015 and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any nunchaku is a nuisance and is subject to Section 18010.

Comment. With respect to a nunchaku, Section 22090 continues the first part of the first sentence of former Section 12029 without substantive change.
See Section 16940 (“nunchaku”).

DIVISION 8. SAPS AND SIMILAR WEAPONS

§ 22210. Prohibition on manufacture, import, sale, gift, loan, or possession of leaded cane, blackjack, slungshot, billy, sandclub, sap, or sandbag

22210. Except as provided in Section 22215 and Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any leaded cane, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag, is punishable by imprisonment in a county jail not exceeding one year or in the state prison.
Comment. With respect to a leaded cane or “any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag,” Section 22210 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 16760 (“leaded cane”). See also Sections 17800 (distinct and separate offense), 22290 (leaded cane, blackjack, slungshot, billy, sandclub, sap, or sandbag constituting nuisance).

§ 22215. Exemption relating to wooden clubs or batons for special police officers or uniformed security guards

22215. Section 22210 does not apply to the manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 22295 by entities that are in the business of selling wooden clubs or batons to special police officers and uniformed security guards when engaging in transactions with those persons.

Comment. Section 22215 continues former Section 12020(b)(14) without substantive change.

For additional circumstances in which Section 22210 is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

§ 22290. Leaded cane, blackjack, slungshot, billy, sandclub, sap, or sandbag constituting nuisance

22290. Except as provided in Section 22210 and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any leaded cane or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag is a nuisance and is subject to Section 18010.

Comment. With respect to a leaded cane or “any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag,” Section 22290 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16760 (“leaded cane”).

§ 22295. Wooden club or baton for law enforcement purposes

§ 22295. (a) Nothing in any provision listed in Section 16580 prohibits any police officer, special police officer, peace officer, or law enforcement officer from carrying any wooden club or baton.

(b) Nothing in any provision listed in Section 16580 prohibits a uniformed security guard, regularly employed and compensated by a person engaged in any lawful business, while actually employed and engaged in protecting and preserving property or life within the scope of employment, from carrying any wooden club or baton if the uniformed security guard has satisfactorily completed a course of instruction certified by the Department of Consumer Affairs in the carrying and use of the club or baton. The training institution certified by the Department of Consumer Affairs to present this course, whether public or private, is authorized to charge a fee covering the cost of the training.
(c) The Department of Consumer Affairs, in cooperation with the Commission on Peace Officer Standards and Training, shall develop standards for a course in the carrying and use of a club or baton.

(d) Any uniformed security guard who successfully completes a course of instruction under this section is entitled to receive a permit to carry and use a club or baton within the scope of employment, issued by the Department of Consumer Affairs. The department may authorize a certified training institution to issue permits to carry and use a club or baton. A fee in the amount provided by law shall be charged by the Department of Consumer Affairs to offset the costs incurred by the department in course certification, quality control activities associated with the course, and issuance of the permit.

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

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

(g) Nothing in any provision listed in Section 16580 prohibits an animal control officer, as described in Section 830.9, or an illegal dumping enforcement officer, as described in Section 830.7, from carrying any wooden club or baton if the animal control officer or illegal dumping enforcement officer has satisfactorily completed a course of instruction certified by the Department of Consumer Affairs in the carrying and use of the club or baton. The training institution certified by the Department of Consumer Affairs to present this course, whether public or private, is authorized to charge a fee covering the cost of the training.

Comment. With respect to a wooden club or baton, subdivision (a) of Section 22295 continues former Section 12002(a) without substantive change. The remainder of former Section 12002(a) is continued in Section 17515 without substantive change.

Subdivisions (b)-(g) continue former Section 12002(b)-(g) without substantive change.

DIVISION 9. SHURIKEN

§ 22410. Prohibition on manufacture, import, sale, gift, loan, or possession of shuriken

22410. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any shuriken is punishable by imprisonment in a county jail not exceeding one year or in the state prison.
Comment. With respect to a shuriken, Section 22410 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 ("generally prohibited weapon"), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 17200 ("shuriken"). See also Sections 17800 (distinct and separate offense), 22490 (shuriken constituting nuisance).

§ 22490. Shuriken constituting nuisance

22490. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any shuriken is a nuisance and is subject to Section 18010.

Comment. With respect to a shuriken, Section 22490 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 17200 ("shuriken").

DIVISION 10. STUN GUN

§ 22610. Unlawful acts relating to stun gun

22610. Notwithstanding any other provision of law, any person may purchase, possess, or use a stun gun, subject to the following requirements:

(a) No person convicted of a felony or any crime involving an assault under the laws of the United States, the State of California, or any other state, government, or country, or convicted of misuse of a stun gun under Section 244.5, shall purchase, possess, or use any stun gun.

(b) No person addicted to any narcotic drug shall purchase, possess, or use a stun gun.

(c)(1) No person shall sell or furnish any stun gun to a minor unless the minor is at least 16 years of age and has the written consent of the minor’s parent or legal guardian.

(2) Violation of this subdivision shall be a public offense punishable by a fifty dollar ($50) fine for the first offense. Any subsequent violation of this subdivision is a misdemeanor.

(d) No minor shall possess any stun gun unless the minor is at least 16 years of age and has the written consent of the minor’s parent or legal guardian.

Comment. Section 22610 continues former Section 12651 without substantive change.

A violation of the predecessor of subdivision (c) (former Section 12651(c)) counts as a prior conviction in determining the appropriate punishment for a violation of that subdivision. See Section 16015 (determining existence of prior conviction).

See Section 17230 ("stun gun"). See also Section 22620 (violation punishable as misdemeanor).

§ 22615. Serial number and name of manufacturer

22615. Each stun gun sold shall contain both of the following:

(a) The name of the manufacturer stamped on the stun gun.

(b) The serial number applied by the manufacturer.

Comment. Section 22615 continues former Section 12652 without substantive change.
See Section 17230 ("stun gun"). See also Section 22620 (violation punishable as misdemeanor).

§ 22620. Violation punishable as misdemeanor

22620. Unless otherwise specified, any violation of this division is a misdemeanor.

Comment. Section 22620 continues former Section 12653 without substantive change.

§ 22625. Instruction booklet for stun gun

22625. (a) Each stun gun sold in this state shall be accompanied by an instruction booklet.
(b) Violation of this section shall be a public offense punishable by a fifty dollar ($50) fine for each weapon sold without the booklet.

Comment. Section 22625 continues former Section 12654 without substantive change.

See Section 17230 ("stun gun").

DIVISION 11. TEAR GAS AND TEAR GAS WEAPONS

CHAPTER I. GENERAL PROVISIONS

§ 22810. Lawful and unlawful acts relating to tear gas and tear gas weapons

22810. Notwithstanding any other provision of law, any person may purchase, possess, or use tear gas or any tear gas weapon for the projection or release of tear gas if the tear gas or tear gas weapon is used solely for self-defense purposes, subject to the following requirements:
(a) No person convicted of a felony or any crime involving an assault under the laws of the United States, the State of California, or any other state, government, or country, or convicted of misuse of tear gas under subdivision (g), shall purchase, possess, or use tear gas or any tear gas weapon.
(b) No person addicted to any narcotic drug shall purchase, possess, or use tear gas or any tear gas weapon.
(c) No person shall sell or furnish any tear gas or tear gas weapon to a minor.
(d) No minor shall purchase, possess, or use tear gas or any tear gas weapon.
(e)(1) No person shall purchase, possess, or use any tear gas weapon that expels a projectile, or that expels the tear gas by any method other than an aerosol spray, or that contains more than 2.5 ounces net weight of aerosol spray.
(2) Every tear gas container and tear gas weapon that may be lawfully purchased, possessed, and used pursuant to this section shall have a label that states: “WARNING: The use of this substance or device for any purpose other than self-defense is a crime under the law. The contents are dangerous — use with care.”
(3) After January 1, 1984, every tear gas container and tear gas weapon that may be lawfully purchased, possessed, and used pursuant to this section shall have a
label that discloses the date on which the useful life of the tear gas weapon expires.

(4) Every tear gas container and tear gas weapon that may be lawfully purchased pursuant to this section shall be accompanied at the time of purchase by printed instructions for use.

(f) Effective March 1, 1994, every tear gas container and tear gas weapon that may be lawfully purchased, possessed, and used pursuant to this section shall be accompanied by an insert including directions for use, first aid information, safety and storage information, and explanation of the legal ramifications of improper use of the tear gas container or tear gas product.

(g)(1) Except as provided in paragraph (2), any person who uses tear gas or any tear gas weapon except in self-defense is guilty of a public offense and is punishable by imprisonment in a state prison for 16 months, or two or three years or in a county jail not to exceed one year or by a fine not to exceed one thousand dollars ($1,000), or by both the fine and imprisonment.

(2) If the use is against a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, engaged in the performance of official duties and the person committing the offense knows or reasonably should know that the victim is a peace officer, the offense is punishable by imprisonment in a state prison for 16 months or two or three years or by a fine of one thousand dollars ($1,000), or by both the fine and imprisonment.

Comment. Section 22810 continues former Section 12403.7 without substantive change.

See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

§ 22815. Minor age 16 or older

22815. (a) Notwithstanding subdivision (d) of Section 22810, a minor who has attained the age of 16 years may purchase and possess tear gas or a tear gas weapon pursuant to this division if the minor is accompanied by a parent or guardian, or has the written consent of a parent or guardian.

(b) Notwithstanding subdivision (c) of Section 22810, a person may sell or furnish tear gas or a tear gas weapon to a minor who has attained the age of 16 years and who is accompanied by a parent or guardian, or who presents a statement of consent signed by the minor’s parent or guardian.

(c) Any civil liability of a minor arising out of the minor’s use of tear gas or a tear gas weapon other than for self-defense is imposed upon the person, parent, or guardian who signed the statement of consent specified in subdivision (b). That person, parent, or guardian shall be jointly and severally liable with the minor for any damages proximately resulting from the negligent or wrongful act or omission of the minor in the use of the tear gas or a tear gas weapon.

Comment. Section 22815 continues former Section 12403.8 without substantive change.

An erroneous cross-reference to former Section 12403.7(a)(4) has been replaced with a cross-reference to Section 22810(d), which continues the substance of former Section 12403.7(d). An erroneous cross-reference to former Section 12403.7(a)(3) has been replaced with a cross-reference to Section 22810(c), which continues the substance of former Section 12403.7(c).
See Sections 17240 ("tear gas"), 17250 ("tear gas weapon").

§ 22820. Peace officer trained in use of tear gas
22820. Nothing in this division prohibits any person who is a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, from purchasing, possessing, transporting, or using any tear gas or tear gas weapon if the person has satisfactorily completed a course of instruction approved by the Commission on Peace Officer Standards and Training in the use of tear gas.

Comment. Section 22820 continues former Section 12403 without substantive change.
See Sections 17240 ("tear gas"), 17250 ("tear gas weapon").

§ 22825. Custodial officer of county
22825. A custodial officer of a county may carry a tear gas weapon pursuant to Section 22820 only while on duty. A custodial officer of a county may carry a tear gas weapon while off duty only in accordance with all other laws.

Comment. Section 22825 continues former Section 12403.9 without substantive change.
See Sections 17240 ("tear gas"), 17250 ("tear gas weapon").

§ 22830. Member of military or federal law enforcement officer
22830. Nothing in this division prohibits any member of the military or naval forces of this state or of the United States or any federal law enforcement officer from purchasing, possessing, or transporting any tear gas or tear gas weapon for official use in the discharge of duties.

Comment. Section 22830 continues former Section 12403.1 without substantive change.
See Sections 17240 ("tear gas"), 17250 ("tear gas weapon").

§ 22835. Private investigator or private patrol operator or employee
22835. Notwithstanding any other provision of law, a person holding a license as a private investigator pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code, or private patrol operator pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, or a uniformed patrolperson employee of a private patrol operator, may purchase, possess, or transport any tear gas weapon, if it is used solely for defensive purposes in the course of the activity for which the license was issued and if the person has satisfactorily completed a course of instruction approved by the Department of Consumer Affairs in the use of tear gas.

Comment. Section 22835 continues former Section 12403.5 without substantive change.
An erroneous cross-reference to “Chapter 11 (commencing with Section 7500), Division 3 of the Business and Professions Code” has been corrected by replacing it with cross-references to “Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code” and “Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code.”
See Sections 17240 ("tear gas"), 17250 ("tear gas weapon").
§ 22840. Tear gas or tear gas weapons in prison, jail, or similar institution

22840. Nothing in this division authorizes the possession of tear gas or a tear gas weapon in any institution described in Section 4574, or within the grounds belonging or adjacent to any institution described in Section 4574, except where authorized by the person in charge of the institution.

Comment. Section 22840 continues former Section 12404 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

CHAPTER 2. UNLAWFUL POSSESSION, SALE, OR TRANSPORTATION

§ 22900. Unlawful sale, possession, or transportation of tear gas or tear gas weapon

22900. Any person, firm, or corporation who within this state knowingly sells or offers for sale, possesses, or transports any tear gas or tear gas weapon, except as permitted under the provisions of this division, is guilty of a public offense and upon conviction thereof shall be punishable by imprisonment in the county jail for not exceeding one year or by a fine not to exceed two thousand dollars ($2,000), or by both.

Comment. Section 22900 continues former Section 12420 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

§ 22905. Affixation of serial number and name of manufacturer

22905. Each tear gas weapon sold, transported or possessed under the authority of this division shall bear the name of the manufacturer and a serial number applied by the manufacturer.

Comment. Section 22905 continues former Section 12421 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

§ 22910. Obliteration of serial number, name of manufacturer, or other identification mark

22910. (a) Any person who changes, alters, removes or obliterates the name of the manufacturer, the serial number, or any other mark of identification on any tear gas weapon is guilty of a public offense and, upon conviction, shall be punished by imprisonment in the state prison or by a fine of not more than two thousand dollars ($2,000) or by both.

(b) Possession of any such weapon upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed, or obliterated the same.

Comment. Subdivision (a) of Section 22910 continues the first paragraph of former Section 12422 without substantive change. Subdivision (b) continues the second paragraph of former Section 12422 without change. Continuation of this material is not intended to reflect any determination regarding its constitutionality. See Section 16025. For a case discussing the constitutionality of a similar provision, see In re Christopher K., 91 Cal. App. 4th 853, 110 Cal. Rptr. 914 (2001). See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).
CHAPTER 3. PERMITS

§ 23000. Permit issued by Department of Justice
23000. The Department of Justice may issue a permit for the possession and transportation of tear gas or a tear gas weapon that is not intended or certified for personal self-defense purposes, upon proof that good cause exists for issuance of the permit to the applicant. The permit may also allow the applicant to install, maintain, and operate a protective system involving the use of tear gas or a tear gas weapon in any place that is accurately and completely described in the permit application.

Comment. Section 23000 continues former Section 12423 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

§ 23005. Permit application
23005. (a) An application for a permit shall satisfy all of the following requirements:
(1) It shall be filed in writing.
(2) It shall be signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation.
(3) It shall state the applicant’s name, business in which engaged, business address, and a full description of the place or vehicle in which the tear gas or tear gas weapon is to be transported, kept, installed, or maintained.
(b) If the tear gas or tear gas weapon is to be used in connection with, or to constitute, a protective system, the application shall also contain the name of the person who is to install the protective system.
(c) Applications and permits shall be uniform throughout the state upon forms prescribed by the Department of Justice.

Comment. Section 23005 continues the first three paragraphs of former Section 12424 without substantive change. See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

§ 23010. Permit fees and renewal process
23010. (a) Each applicant for a permit shall pay, at the time of filing the application, a fee determined by the Department of Justice, not to exceed the application processing costs of the Department of Justice.
(b) A permit granted pursuant to this chapter may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee, not to exceed the application processing costs of the Department of Justice.
(c) After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department’s budget.
Comment. Section 23010 continues the fourth paragraph of former Section 12424 without substantive change.

See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

§ 23015. Permit for bank or other financial institution

23015. (a) Notwithstanding Section 23000, a bank, a savings and loan association, a credit union, or an industrial loan company that maintains more than one office or branch may make a single annual application for a permit.

(b) In addition to the requirements set forth in this chapter, an application under this section shall separately state the business address and a full description of each office or branch in which the tear gas or tear gas weapon is to be kept, installed, or maintained. Any location addition or deletion as to an office or branch shall be reported to the department within 60 days of the change.

(c) A single permit issued under this section shall allow for the possession, operation, and maintenance of tear gas at each office or branch named in the application, including any location change.

Comment. Section 20315 continues former Section 12424.5 without substantive change.

See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

§ 23020. Storage of permit

23020. Every person, firm or corporation to whom a permit is issued shall either carry the permit upon the person or keep it in the place described in the permit. The permit shall be open to inspection by any peace officer or other person designated by the authority issuing the permit.

Comment. Section 23020 continues former Section 12425 without substantive change.

§ 23025. Revocation or suspension of permit

23025. A permit issued in accordance with this chapter may be revoked or suspended by the issuing authority at any time when it appears that the need for the possession or transportation of the tear gas or tear gas weapon or protective system involving the use thereof, has ceased, or that the holder of the permit has engaged in an unlawful business or occupation or has wrongfully made use of the tear gas or tear gas weapon or the permit issued.

Comment. Section 23025 continues former Section 12426 without substantive change.

See Sections 17240 (“tear gas”), 17250 (“tear gas weapon”).

TITLE 4. FIREARMS

DIVISION 1. PRELIMINARY PROVISIONS

§ 23500. Dangerous Weapons Control Law

23500. The provisions listed in Section 16580 shall be known and may be cited as “The Dangerous Weapons Control Law.”
Comment. Section 23500 continues former Section 12000 without substantive change.

§ 23505. Severability
23505. If any section, subsection, sentence, clause, or phrase of any provision listed in Section 16580 is for any reason held unconstitutional, that decision does not affect the validity of any other provision listed in Section 16580. The Legislature hereby declares that it would have passed the provisions listed in Section 16580 and each section, subsection, sentence, clause, and phrase of it, irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Comment. Section 23505 continues former Section 12003 without substantive change. See also Section 12003, to the same effect as this provision.

§ 23510. Distinct and separate offense despite reference to “any firearm”
23510. For purposes of Sections 25400 and 26500, Sections 27500 to 27590, inclusive, Section 28100, Sections 29610 to 29750, inclusive, Sections 29800 to 29905, inclusive, and Sections 31610 to 31700, inclusive, of this code, and any provision listed in subdivision (a) of Section 16585 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term “any firearm” may be used in those sections, each firearm or the frame or receiver of each firearm constitutes a distinct and separate offense under those sections.

Comment. Section 23510 continues former Section 12001(k) without substantive change. See Section 16520 (“firearm”).

§ 23515. Violent use of firearm
23515. As used in the provisions listed in Section 16580, an offense that involves the violent use of a firearm includes any of the following:
(a) A violation of paragraph (2) or (3) of subdivision (a) of Section 245 or a violation of subdivision (d) of Section 245.
(b) A violation of Section 246.
(c) A violation of paragraph (2) of subdivision (a) of Section 417.
(d) A violation of subdivision (c) of Section 417.

Comment. Section 23515 continues former Section 12001.6 without substantive change. See Section 16520 (“firearm”).

§ 23520. Fingerprint requirement
23520. Each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate pursuant to this part shall include two copies of the applicant’s fingerprints on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted to the United States Federal Bureau of Investigation.

Comment. Section 23520 continues former Section 12001(m) without substantive change. See Section 16520 (“firearm”).
DIVISION 2. FIREARM SAFETY DEVICES, GUN SAFES, AND
RELATED WARNINGS

23620. This division and Sections 16540, 16610, and 16870 shall be known and
may be cited as the “Aroner-Scott-Hayden Firearms Safety Act of 1999.”
Comment. Section 23620 continues former Section 12087 without substantive change.

§ 23625. Legislative findings
23625. The Legislature makes the following findings:
(a) In the years 1987 to 1996, nearly 2,200 children in the United States under
the age of 15 years died in unintentional shootings. In 1996 alone, 138 children
were shot and killed unintentionally. Thus, more than 11 children every month, or
one child every three days, were shot or killed unintentionally in firearms-related
incidents.
(b) The United States leads the industrialized world in the rates of children and
youth lost to unintentional, firearms-related deaths. A 1997 study from the federal
Centers for Disease Control and Prevention reveals that for unintentional firearm-
related deaths for children under the age of 15, the rate in the United States was
nine times higher than in 25 other industrialized countries combined.
(c) While the number of unintentional deaths from firearms is an unacceptable
toll on America’s children, nearly eight times that number are treated in U.S.
hospital emergency rooms each year for nonfatal unintentional gunshot wounds.
(d) A study of unintentional firearm deaths among children in California found
that unintentional gunshot wounds most often involve handguns.
(e) A study in the December 1995 issue of the Archives of Pediatric and
Adolescent Medicine found that children as young as three years old are strong
enough to fire most commercially available handguns. The study revealed that 25
percent of three to four year olds and 70 percent of five to six year olds had
sufficient finger strength to fire 59 (92 percent) of the 64 commonly available
handguns referenced in the study.
(f) The Government Accounting Office (GAO), in its March 1991 study,
“Accidental Shootings: Many Deaths and Injuries Caused by Firearms Could be
Prevented,” estimates that 31 percent of accidental deaths caused by firearms
might be prevented by the addition of two safety devices: a child-resistant safety
device that automatically engages and a device that indicates whether the gun is
loaded. According to the study results, of the 107 unintentional firearms-related
fatalities the GAO examined for the calendar years 1988 and 1989, 8 percent could
have been prevented had the firearm been equipped with a child-resistant safety
device. This 8 percent represents instances in which children under the age of six
unintentionally shot and killed themselves or other persons.
Currently, firearms are the only products manufactured in the United States that are not subject to minimum safety standards.

A 1997 public opinion poll conducted by the National Opinion Research Center at the University of Chicago in conjunction with the Johns Hopkins Center for Gun Policy and Research found that 74 percent of Americans support safety regulation of the firearms industry.

Some currently available trigger locks and other similar devices are inadequate to prevent the accidental discharge of the firearms to which they are attached, or to prevent children from gaining access to the firearm.

Comment. Section 23625 continues former Section 12087.5 without substantive change.

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

§ 23630. Limitations on application

23630. (a) This division does not apply to the commerce of any antique firearm.

(b) (1) This division does not apply to the commerce of any firearm intended to be used by a salaried, full-time peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, for purposes of law enforcement.

(2) Nothing in this division precludes a local government, local agency, or state law enforcement agency from requiring its peace officers to store their firearms in gun safes or attach firearm safety devices to those firearms.

Comment. In combination with Section 16170(b) (“antique firearm”), Section 23630 continues former Section 12088.8 without substantive change.

See Sections 16520 (“firearm”), 16540 (“firearm safety device”), 16610 (“gun safe”).

§ 23635. Firearm safety device requirement, warning requirement for noncomplying long-gun safe, and warning described in Section 23640

23635. (a) Any firearm sold or transferred in this state by a licensed firearms dealer, including a private transfer through a dealer, and any firearm manufactured in this state, shall include or be accompanied by a firearm safety device that is listed on the Department of Justice’s roster of approved firearm safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm, or to the physical characteristics of the firearm that match those listed on the roster for use with the device.

(b) The sale or transfer of a firearm shall be exempt from subdivision (a) if both of the following apply:

(1) The purchaser or transferee owns a gun safe that meets the standards set forth in Section 23650. Gun safes shall not be required to be tested, and therefore may meet the standards without appearing on the Department of Justice roster.

(2) The purchaser or transferee presents an original receipt for purchase of the gun safe, or other proof of purchase or ownership of the gun safe as authorized by the Attorney General, to the firearms dealer. The dealer shall maintain a copy of this receipt or proof of purchase with the dealer’s record of sales of firearms.
(c) The sale or transfer of a firearm shall be exempt from subdivision (a) if all of
the following apply:

(1) The purchaser or transferee purchases an approved safety device no more
than 30 days prior to the day the purchaser or transferee takes possession of the
firearm.

(2) The purchaser or transferee presents the approved safety device to the
firearms dealer when picking up the firearm.

(3) The purchaser or transferee presents an original receipt to the firearms
dealer, which shows the date of purchase, the name, and the model number of the
safety device.

(4) The firearms dealer verifies that the requirements in paragraphs (1) to (3),
inclusive, have been satisfied.

(5) The firearms dealer maintains a copy of the receipt along with the dealer’s
record of sales of firearms.

(d)(1) Any long-gun safe commercially sold or transferred in this state, or
manufactured in this state for sale in this state, that does not meet the standards for
gun safes adopted pursuant to Section 23650 shall be accompanied by the
following warning:

“WARNING: This gun safe does not meet the safety standards for gun safes
specified in California Penal Code Section 23650. It does not satisfy the
requirements of Penal Code Section 23635, which mandates that all firearms sold
in California be accompanied by a firearm safety device or proof of ownership, as
required by law, of a gun safe that meets the Section 23650 minimum safety
standards developed by the California Attorney General.”

(2) This warning shall be conspicuously displayed in its entirety on the principal
display panel of the gun safe’s package, on any descriptive materials that
accompany the gun safe, and on a label affixed to the front of the gun safe.

(3) This warning shall be displayed in both English and Spanish, in conspicuous
and legible type in contrast by typography, layout, or color with other printed
matter on the package or descriptive materials, in a manner consistent with Part
1500.121 of Title 16 of the Code of Federal Regulations, or successor regulations
thereto.

(e) Any firearm sold or transferred in this state by a licensed firearms dealer,
including a private transfer through a dealer, and any firearm manufactured in this
state, shall be accompanied by warning language or a label as described in Section
23640.

Comment. Subdivision (a) of Section 23635 continues former Section 12088.1(a) without
substantive change.

Subdivision (b) continues former Section 12088.1(d) without substantive change.

Subdivision (c) continues former Section 12088.1(e) without substantive change.

Subdivision (d) continues former Section 12088.1(c) without substantive change.

Subdivision (e) continues former Section 12088.1(b) without substantive change.

See Sections 16520 (“firearm”), 16540 (“firearm safety device”), 16610 (“gun safe”), 16870
(“long-gun safe”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
26915, inclusive”).
§ 23640. Warning label

23640. (a) The packaging of any firearm and any descriptive materials that accompany any firearm sold or transferred in this state, or delivered for sale in this state, by any licensed manufacturer, or licensed dealer, shall bear a label containing the following warning statement:

WARNING

Children are attracted to and can operate firearms that can cause severe injuries or death.

Prevent child access by always keeping guns locked away and unloaded when not in use. If you keep a loaded firearm where a child obtains and improperly uses it, you may be fined or sent to prison.

A yellow triangle containing an exclamation mark shall appear immediately before the word “Warning” on the label.

(b) If the firearm is sold or transferred without accompanying packaging, the warning label or notice shall be affixed to the firearm itself by a method to be prescribed by regulation of the Attorney General.

(c) The warning statement required under subdivisions (a) and (b) shall satisfy both of the following requirements:

(1) It shall be displayed in its entirety on the principal display panel of the firearm’s package, and on any descriptive materials that accompany the firearm.

(2) It shall be displayed in both English and Spanish, in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on that package or descriptive materials, in a manner consistent with Part 1500.121 of Title 16, of the Code of Federal Regulations, or successor regulations thereto.

Comment. Section 23640 continues former Section 12088.3 without substantive change.

§ 23645. Punishment for violation of Section 23635 or 23640

23645. (a) Any violation of Section 23635 or Section 23640 is punishable by a fine of one thousand dollars ($1,000).

(b) On a second violation of any of those sections, a licensed firearm manufacturer shall be ineligible to manufacture, or a licensed firearm dealer shall be ineligible to sell, firearms in this state for 30 days, and shall be punished by a fine of one thousand dollars ($1,000).

(c)(1) On a third violation of any of those sections, a firearm manufacturer shall be permanently ineligible to manufacture firearms in this state.

(2) On a third violation of any of those sections, a licensed firearm dealer shall be permanently ineligible to sell firearms in this state.

Comment. Section 23645 continues former Section 12088.6 without substantive change.
A violation of the predecessor of Section 23635 (former Section 12088.1) or the predecessor of Section 23640 (former Section 12088.3) counts as a prior violation in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction).

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

§ 23650. Minimum safety standard for firearm safety devices and gun safes

23650. (a) The Attorney General shall develop regulations to implement a minimum safety standard for firearm safety devices and gun safes to significantly reduce the risk of firearm-related injuries to children 17 years of age and younger. The final standard shall do all of the following:

(1) Address the risk of injury from unintentional gunshot wounds.

(2) Address the risk of injury from self-inflicted gunshot wounds by unauthorized users.

(3) Include provisions to ensure that all firearm safety devices and gun safes are reusable and of adequate quality and construction to prevent children and unauthorized users from firing the firearm and to ensure that these devices cannot be readily removed from the firearm or that the firearm cannot be readily removed from the gun safe except by an authorized user utilizing the key, combination, or other method of access intended by the manufacturer of the device.

(4) Include additional provisions as appropriate.

(b) The Attorney General may consult, for the purposes of guidance in development of the standards, test protocols such as those described in Title 16 (commencing with Part 1700) of the Code of Federal Regulations, relating to poison prevention packaging standards. These protocols may be consulted to provide suggestions for potential methods to utilize in developing standards and shall serve as guidance only. The Attorney General shall also give appropriate consideration to the use of devices that are not detachable, but are permanently installed and incorporated into the design of a firearm.


Comment. Section 23650 continues former Section 12088.2 without substantive change. See Sections 16520 (“firearm”), 16540 (“firearm safety device”), 16610 (“gun safe”).

§ 23655. Testing of firearm safety devices

23655. (a) The Department of Justice shall certify laboratories to verify compliance with standards for firearm safety devices set forth in Section 23650.

(b) The Department of Justice may charge any laboratory that is seeking certification to test firearm safety devices a fee not exceeding the costs of certification, including costs associated with the development and approval of regulations and standards pursuant to Section 23650.
(c) The certified laboratory shall, at the manufacturer’s or dealer’s expense, test a firearm safety device and submit a copy of the final test report directly to the Department of Justice, along with the firearm safety device. The department shall notify the manufacturer or dealer of its receipt of the final test report and the department’s determination as to whether the firearm safety device tested may be sold in this state.

(d) Commencing on July 1, 2001, the Department of Justice shall compile, publish, and maintain a roster listing all of the firearm safety devices that have been tested by a certified testing laboratory, have been determined to meet the department’s standards for firearm safety devices, and may be sold in this state.

(e) The roster shall list, for each firearm safety device, the manufacturer, model number, and model name.

(f) The department may randomly retest samples obtained from sources other than directly from the manufacturer of the firearm safety device listed on the roster to ensure compliance with the requirements of this division.

(g) Firearm safety devices used for random sample testing and obtained from sources other than the manufacturer shall be in new, unused condition, and still in the manufacturer’s original and unopened package.

Comment. Section 23655 continues former Section 12088 without substantive change. See Sections 16520 (“firearm”), 16540 (“firearm safety device”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 23660. Sale, distribution, or manufacture of unlisted or noncomplying firearm safety device

23660. (a) No person shall keep for commercial sale, offer, or expose for commercial sale, or commercially sell any firearm safety device that is not listed on the roster maintained pursuant to subdivision (d) of Section 23655, or that does not comply with the standards for firearm safety devices adopted pursuant to Section 23650.

(b) No person may distribute as part of an organized firearm safety program, with or without consideration, any firearm safety device that is not listed on the roster maintained pursuant to subdivision (d) of Section 23655, or that does not comply with the standards for firearm safety devices adopted pursuant to Section 23650.

Comment. Subdivision (a) of Section 23660 continues former Section 12088.15(a) without substantive change. Subdivision (b) continues former Section 12088.15(b) without substantive change. See Sections 16520 (“firearm”), 16540 (“firearm safety device”).

§ 23665. Sale or manufacture of noncomplying long-gun safe

23665. (a) No long-gun safe may be manufactured in this state for sale in this state that does not comply with the standards for gun safes adopted pursuant to Section 23650, unless the long-gun safe is labeled by the manufacturer consistent with the requirements of Section 23635.
(b)(1) Any person who keeps for commercial sale, offers, or exposes for commercial sale, or who commercially sells a long-gun safe that does not comply with the standards for gun safes adopted pursuant to Section 23650, and who knows or has reason to know, that the long-gun safe in question does not meet the standards for gun safes adopted pursuant to Section 23650, is in violation of this section, and is punishable as provided in Section 23670, unless the long-gun safe is labeled pursuant to Section 23635.

(2) Any person who keeps for commercial sale, offers, or exposes for commercial sale, or who commercially sells a long-gun safe that does not comply with the standards for gun safes adopted pursuant to Section 23650, and who removes or causes to be removed, from the long-gun safe, the label required pursuant to Section 23635, is in violation of this section, and is punishable as provided in Section 23670.

Comment. Subdivision (a) of Section 23665 continues former Section 12088.15(c) without substantive change.

Subdivision (b) continues former Section 12088.15(d) without substantive change.

See Sections 16610 (“gun safe”), 16870 (“long-gun safe”).

§ 23670. Punishment for violation of Section 23660 or 23665

23670. (a)(1) A violation of Section 23660 or 23665 is punishable by a civil fine of up to five hundred dollars ($500).

(2) A second violation of any of those sections, which occurs within five years of the date of a previous offense, is punishable by a civil fine of up to one thousand dollars ($1,000) and, if the violation is committed by a licensed firearms dealer, the dealer shall be ineligible to sell firearms in this state for 30 days.

(3) A third or subsequent violation that occurs within five years of two or more previous offenses is punishable by a civil fine of up to five thousand dollars ($5,000) and, if the violation is committed by a licensed firearms dealer, the firearms dealer shall be permanently ineligible to sell firearms in this state.

(b) The Attorney General, a district attorney, or a city attorney may bring a civil action for a violation of Section 23660 or 23665.

Comment. Subdivision (a) of Section 23670 continues former Section 12088.15(e) without substantive change.

Subdivision (b) continues former Section 12088.15(f) without substantive change.

A violation of the predecessor of Section 23660 (former Section 12088.15(a)) or the predecessor of Section 23665 (former Section 12088.15(c)-(d)) counts as a prior violation in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction).

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

§ 23675. Effect of compliance

23675. Compliance with the requirements set forth in this division does not relieve any person from liability to any other person as may be imposed pursuant to common law, statutory law, or local ordinance.
Comment. Section 23675 continues former Section 12088.7 without substantive change.

§ 23680. Recall, replacement, or correction of nonconforming device

23680. (a) If at any time the Attorney General determines that a gun safe or firearm safety device subject to the provisions of this division and sold after January 1, 2002, does not conform with the standards required by subdivision (a) of Section 23635 or Section 23650, the Attorney General may order the recall and replacement of the gun safe or firearm safety device, or order that the gun safe or firearm safety device be brought into conformity with those requirements.

(b) If the firearm safety device can be separated and reattached to the firearm without damaging the firearm, the licensed manufacturer or licensed firearms dealer shall immediately provide a conforming replacement as instructed by the Attorney General.

(c) If the firearm safety device cannot be separated from the firearm without damaging the firearm, the Attorney General may order the recall and replacement of the firearm.

Comment. Section 23680 continues former Section 12088.4 without substantive change. See Sections 16520 (“firearm”), 16540 (“firearm safety device”), 16610 (“gun safe”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 23685. Report of incident in which child suffers unintentional or self-inflicted gunshot wound

2365. Each lead law enforcement agency investigating an incident shall report to the State Department of Health Services any information obtained that reasonably supports the conclusion that:

(a) A child 18 years of age or younger suffered an unintentional or self-inflicted gunshot wound inflicted by a firearm that was sold or transferred in this state, or manufactured in this state.

(b) Whether as a result of that incident the child died, suffered serious injury, or was treated for an injury by a medical professional.

Comment. Section 23685 continues former Section 12088.5 without change. See Section 16520 (“firearm”).

§ 23690. Fee

23690. (a)(1) The Department of Justice may require each dealer to charge each firearm purchaser or transferee a fee not to exceed one dollar ($1) for each firearm transaction.

(2) The fee shall be for the purpose of supporting department program costs related to this act, including the establishment, maintenance, and upgrading of related database systems and public rosters.

(b)(1) There is hereby created within the General Fund the Firearm Safety Account.
(2) Revenue from the fee imposed by subdivision (a) shall be deposited into the
Firearm Safety Account and shall be available for expenditure by the Department
of Justice upon appropriation by the Legislature.
(3) Expenditures from the Firearm Safety Account shall be limited to program
expenditures as defined by subdivision (a).

Comment. Section 23690 continues former Section 12088.9 without substantive change.
See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
Sections 26700 to 26915, inclusive”).

DIVISION 3. DISGUISED OR MISLEADING APPEARANCE

CHAPTER 1. MISCELLANEOUS PROVISIONS

§ 23800. Bright orange or bright green firearm
23800. Any person who, for commercial purposes, purchases, sells,
manufactures, ships, transports, distributes, or receives a firearm, where the
coloration of the entire exterior surface of the firearm is bright orange or bright
green, either singly, in combination, or as the predominant color in combination
with other colors in any pattern, is liable for a civil fine in an action brought by the
city attorney of the city, or the district attorney for the county, of not more than ten
thousand dollars ($10,000).

Comment. Section 23800 continues former Section 12020.3 without substantive change.
See Section 16520 (“firearm”).

CHAPTER 2. OBLITERATION OF IDENTIFICATION MARKS

§ 23900. Obliteration of firearm identification marks prohibited
23900. Any person who changes, alters, removes, or obliterates the name of the
maker, model, manufacturer’s number, or other mark of identification, including
any distinguishing number or mark assigned by the Department of Justice, on any
pistol, revolver, or any other firearm, without first having secured written
permission from the department to make that change, alteration, or removal shall
be punished by imprisonment in the state prison.

Comment. Section 23900 continues former Section 12090 without substantive change.
See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
“pistol,” and “revolver”).

§ 23910. Assignment of number or mark when firearm lacks one
23910. The Department of Justice upon request may assign a distinguishing
number or mark of identification to any firearm whenever the firearm lacks a
manufacturer’s number or other mark of identification, or whenever the
manufacturer’s number or other mark of identification or a distinguishing number
or mark assigned by the department has been destroyed or obliterated.
Comment. Section 23910 continues former Section 12092 without substantive change. See Section 16520 ("firearm").

§ 23915. Additional number or identifying indicium

23915. (a) Any person may place or stamp on any pistol, revolver, or other firearm any number or identifying indicium, provided the number or identifying indicium does not change, alter, remove, or obliterate the manufacturer’s name, number, model, or other mark of identification.

(b) This section does not prohibit restoration by the owner of the name of the maker or model, or of the original manufacturer’s number or other mark of identification, when that restoration is authorized by the department.

(c) This section does not prevent any manufacturer from placing in the ordinary course of business the name of the maker, model, manufacturer’s number, or other mark of identification upon a new firearm.

Comment. Section 23915 continues former Section 12093 without substantive change. See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver").

§ 23920. Possession, sale, or purchase of firearm with knowledge of obliteration of identifying number or mark

23920. Except as provided in Section 23925, any person who, with knowledge of any change, alteration, removal, or obliteration described in this section, buys, receives, disposes of, sells, offers for sale, or has in possession any pistol, revolver, or other firearm that has had the name of the maker or model, or the manufacturer’s number or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice, changed, altered, removed, or obliterated, is guilty of a misdemeanor.

Comment. Section 23920 continues former Section 12094(a) without substantive change. For circumstances in which this section is inapplicable, see Section 23925 (exemptions). See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver").

§ 23925. Exemptions

23925. Section 23920 does not apply to any of the following:

(a) The acquisition or possession of a firearm described in Section 23920 by any member of the military forces of this state or of the United States, while on duty and acting within the scope and course of employment.

(b) The acquisition or possession of a firearm described in Section 23920 by any peace officer described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, while on duty and acting within the scope and course of employment.

(c) The acquisition or possession of a firearm described in Section 23920 by any employee of a forensic laboratory, while on duty and acting within the scope and course of employment.

(d) The possession and disposition of a firearm described in Section 23920 by a person who meets all of the following:
The person is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) The person possessed the firearm no longer than was necessary to deliver it to a law enforcement agency for that agency’s disposition according to law.

(3) If the person is transporting the firearm, the person is transporting it to a law enforcement agency in order to deliver it to the agency for the agency’s disposition according to law.

(4) If the person is transporting the firearm to a law enforcement agency, the person has given prior notice to the agency that the person is transporting the firearm to that agency for the agency’s disposition according to law.

(5) The firearm is transported in a locked container as defined in Section 16850.

Comment. Section 23925 continues former Section 12094(b) without substantive change. See Section 16520 (“firearm”).

CHAPTER 3. CAMOUFLAGING FIREARM CONTAINER

§ 24310. Prohibition on manufacture, import, sale, gift, loan, or possession of camouflaging firearm container

24310. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any camouflaging firearm container is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to a camouflaging firearm container, Section 24310 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 16320 (“camouflaging firearm container”). See also Sections 17800 (distinct and separate offense), 24390 (camouflaging firearm container constituting nuisance).

§ 24390. Camouflaging firearm container constituting nuisance

24390. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any camouflaging firearm container is a nuisance and is subject to Section 18010.

Comment. With respect to a camouflaging firearm container, Section 24390 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16320 (“camouflaging firearm container”).

CHAPTER 4. CANE GUN

§ 24410. Prohibition on manufacture, import, sale, gift, loan, or possession of cane gun

24410. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be
manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to a cane gun, Section 24410 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 16330 (“cane gun”). See also Sections 17800 (distinct and separate offense), 24490 (cane gun constituting nuisance).

§ 24490. Cane gun constituting nuisance

24490. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any cane gun is a nuisance and is subject to Section 18010.

Comment. With respect to a cane gun, Section 24490 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16330 (“cane gun”).

CHAPTER 5. FIREARM NOT IMMEDIATELY RECOGNIZABLE AS A FIREARM

§ 24510. Prohibition on manufacture, import, sale, gift, loan, or possession of firearm not immediately recognizable as firearm

24510. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any firearm not immediately recognizable as a firearm is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to a firearm that is not immediately recognizable as a firearm, Section 24510 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 16520 (“firearm”). See also Sections 17800 (distinct and separate offense), 24590 (firearm not immediately recognizable as such constitutes nuisance).

§ 24590. Firearm not immediately recognizable as such constitutes nuisance

24590. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any firearm not immediately recognizable as a firearm is a nuisance and is subject to Section 18010.

Comment. With respect to a firearm that is not immediately recognizable as a firearm, Section 24590 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16520 (“firearm”).
CHAPTER 6. UNDETECTABLE FIREARM AND  
FIREARM DETECTION EQUIPMENT

§ 24610. Prohibition on manufacture, import, sale, gift, loan, or possession of undetectable firearm

24610. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any undetectable firearm is punishable by imprisonment in a county jail not exceeding one year or in the state prison.

Comment. With respect to an undetectable firearm, Section 24610 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 17280 (“undetectable firearm”). See also Sections 17800 (distinct and separate offense), 24690 (undetectable firearm constituting nuisance).

§ 24680. Firearm detection equipment

24680. Any firearm detection equipment newly installed in a nonfederal public building in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, while distinguishing innocuous metal objects likely to be carried on one’s person sufficient for reasonable passage of the public.

Comment. Section 24680 continues the second paragraph of former Section 12020(c)(22)(C) without substantive change.

See Sections 16520 (“firearm”), 17280 (“undetectable firearm”).

§ 24690. Undetectable firearm constituting nuisance

24690. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any undetectable firearm is a nuisance and is subject to Section 18010.

Comment. With respect to an undetectable firearm, Section 24690 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 17280 (“undetectable firearm”).

CHAPTER 7. WALLET GUN

§ 24710. Prohibition on manufacture, import, sale, gift, loan, or possession of wallet gun

24710. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any wallet gun is punishable by imprisonment in a county jail not exceeding one year or in the state prison.
Comment. With respect to a wallet gun, Section 24710 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 17330 (“wallet gun”). See also Sections 17800 (distinct and separate offense), 24790 (wallet gun constituting nuisance).

§ 24790. Wallet gun constituting nuisance

24790. Except as provided in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any wallet gun is a nuisance and is subject to Section 18010.

Comment. With respect to a wallet gun, Section 24790 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 17330 (“wallet gun”).

DIVISION 4. STORAGE OF FIREARMS

CHAPTER 1. PRELIMINARY PROVISIONS

§ 25000. “Child”

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

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

CHAPTER 2. CRIMINAL STORAGE OF FIREARM

§ 25100. Criminal storage of firearm

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

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

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

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

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

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

(2) The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child’s parent or legal guardian.
(3) The child obtains access to the firearm and thereby causes injury, other than
great bodily injury, to the child or any other person, or carries the firearm either to
a public place or in violation of Section 417.

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

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

For a provision requiring a firearms dealer to post a notice with warnings about firearm
storage, see Section 26835.

See Sections 16520 (“firearm”), 16600 (“great bodily injury”), 16840 (“loaded” and “loaded
firearm”), 25000 (“child”).

§ 25105. Exceptions

25105. Section 25100 does not apply whenever any of the following occurs:
(a) The child obtains the firearm as a result of an illegal entry to any premises by
any person.

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

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

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

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

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

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

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

See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”), 16850 (“locked
container”), 25000 (“child”).

§ 25110. Punishment

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

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

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

See Section 25100 (criminal storage of firearm).
§ 25115. Prosecution of parent or guardian

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

Comment. Section 25115 continues former Section 12035(e) without substantive change. See Section 25000 (“child”).

§ 25120. Timing of prosecution of parent or guardian

25120. (a) If a person who allegedly violated Section 25100 is the parent or guardian of a child who was injured or who died as the result of an accidental shooting, no arrest of the person for the alleged violation of Section 25100 shall occur until at least seven days after the date upon which the accidental shooting occurred.

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

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

§ 25125. Impact of attending firearm safety training course

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

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

Comment. Section 25125 continues former Section 12035(g) without substantive change. See Sections 16520 (“firearm”), 25000 (“child”).
§ 25130. Posting of required notice

25130. Every person licensed under Sections 26700 to 26915, inclusive, shall post within the licensed premises the notice required by Section 26835, disclosing the duty imposed by this chapter upon any person who keeps a loaded firearm.

Comment. Section 25130 continues former Section 12035(h) without substantive change.

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

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

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

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

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

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

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

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

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

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

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

(c) A pistol, revolver, or other firearm capable of being concealed upon the person that a child gains access to and carries off-premises in violation of this section shall be deemed “used in the commission of any misdemeanor as provided in this code or any felony” for the purpose of Section 29300 regarding the authority to confiscate firearms and other deadly weapons as a nuisance.

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

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

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

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

For circumstances in which this section does not apply, see Section 25205. For a provision requiring a firearms dealer to post a notice with warnings about firearm storage, see Section 26835.

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

§ 25205. Exceptions

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

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

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

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

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

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

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

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

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

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

§ 25210. Prosecution of parent or guardian

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

Comment. Section 25210 continues former Section 12036(f) without substantive change.

See Section 25000 (“child”).
§ 25215. Timing of prosecution of parent or guardian

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

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

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

§ 25220. Impact of attending firearm safety training course

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

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

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

§ 25225. Posting of required notice

25225. Every person licensed under Sections 26700 to 26915, inclusive, shall post within the licensed premises the notice required by Section 26835, disclosing the duty imposed by this chapter upon any person who keeps any firearm.

Comment. Section 25225 continues former Section 12036(i) without substantive change. See Section 16520 (“firearm”).
DIVISION 5. CARRYING FIREARMS

CHAPTER 1. MISCELLANEOUS RULES RELATING TO CARRYING FIREARMS

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

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

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

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

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

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

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

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

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

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

CHAPTER 2. CARRYING A CONCEALED FIREARM

Article 1. Crime of Carrying a Concealed Firearm

§ 25400. Crime of carrying concealed firearm

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

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

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

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

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

(1) If the person previously has been convicted of any felony, or of any crime
made punishable by a provision listed in Section 16580, as a felony.

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

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

(4) If the person is not in lawful possession of the firearm or the person is within
a class of persons prohibited from possessing or acquiring a firearm pursuant to
Chapter 2 (commencing with Section 29800) or 3 (commencing with Section
29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and
Institutions Code, as a felony.

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

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

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

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

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

(d)(1) Every person convicted under this section who previously has been
convicted of a misdemeanor offense enumerated in Section 23515 shall be
punished by imprisonment in a county jail for at least three months and not
exceeding six months, or, if granted probation, or if the execution or imposition of
sentence is suspended, it shall be a condition thereof that the person be imprisoned
in a county jail for at least three months.
(2) Every person convicted under this section who has previously been convicted of any felony, or of any crime made punishable by a provision listed in Section 16580, if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that the person be imprisoned in a county jail for not less than three months.

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

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

Comment. Subdivision (a) of Section 25400 continues former Section 12025(a) without substantive change. Subdivision (b) continues former Section 12025(f) without substantive change. Subdivision (c) continues former Section 12025(b) without substantive change. Subdivision (d) continues former Section 12025(d) without substantive change. For guidance in applying paragraphs (c)(1) and (d)(2), see Section 16015 (determining existence of prior conviction). Subdivision (e) continues former Section 12025(e) without substantive change. Subdivision (f) continues former Section 12025(c) without substantive change. Former Section 12025(g) is continued in Section 16750 ("lawful possession of the firearm"). Former Section 12025(h) was repealed by its own terms on January 1, 2005, so it is not continued. See 1999 Cal. Stat. ch. 571, § 2.

See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver"), 16750 ("lawful possession of the firearm"), 16840 ("loaded" and "loaded firearm").

Article 2. Peace Officer Exemption

§ 25450. Peace officer exemption

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

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

(b) Any other duly appointed peace officer.

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

(d) Any other honorably retired peace officer who during the course and scope of employment as a peace officer was authorized to, and did, carry a firearm.
(e) Any full-time paid peace officer of another state or the federal government
who is carrying out official duties while in California.
(f) Any person summoned by any of these officers to assist in making arrests or
preserving the peace while the person is actually engaged in assisting that officer.

Comment. Section 25450 continues the first sentence of former Section 12027(a)(1)(A)
without substantive change.
For an exemption relating to honorably retired federal officers and agents, see Section 25650.
For guidance on a retired peace officer carrying a loaded firearm, see Sections 25900-25925.
For guidance on a retired peace officer carrying a concealed and loaded firearm, see Sections
26300-26325.

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

§ 25455. Identification certificate for honorably retired peace officer
25455. (a) Any peace officer described in Section 25450 who has been
honorably retired shall be issued an identification certificate by the law
enforcement agency from which the officer retired.
(b) The issuing agency may charge a fee necessary to cover any reasonable
expenses incurred by the agency in issuing certificates pursuant to this article.
(c) Any officer, except an officer listed in Section 830.1 or 830.2, subdivision
(a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to
January 1, 1981, shall have an endorsement on the identification certificate stating
that the issuing agency approves the officer’s carrying of a concealed firearm.
(d) An honorably retired peace officer listed in Section 830.1 or 830.2,
subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired
prior to January 1, 1981, shall not be required to obtain an endorsement from the
issuing agency to carry a concealed firearm.

Comment. Subdivision (a) of Section 25455 continues the second sentence of former Section
12027(a)(1)(A) without substantive change.
Subdivision (b) continues the third sentence of former Section 12027(a)(1)(A) without
substantive change.
Subdivision (c) continues former Section 12027(a)(1)(B) without substantive change.
Subdivision (d) continues the second sentence of former Section 12027(a)(2) without
substantive change.
For guidance on a retired peace officer carrying a loaded firearm, see Sections 25900-25925.
For guidance on a retired peace officer carrying a concealed and loaded firearm, see Sections
26300-26325.

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

§ 25460. Format of endorsement on identification certificate
25460. (a) Except as provided in subdivision (b), no endorsement or renewal
endorsement issued pursuant to Section 25465 shall be effective unless it is in the
format set forth in subdivision (c).
(b) Any peace officer listed in subdivision (f) of Section 830.2 or in subdivision
(c) of Section 830.5, who retired between January 2, 1981, and on or before
December 31, 1988, and who is authorized to carry a concealed firearm pursuant
to this article, shall not be required to have an endorsement in the format set forth
in subdivision (c) until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to Section 25465.

(c) A certificate issued pursuant to Section 25455 for any person who is not listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5, or for any person retiring after January 1, 1981, shall be in the following format: it shall be on a 2x3 inch card, bear the photograph of the retiree, include the retiree’s name, date of birth, the date that the retiree retired, and the name and address of the agency from which the retiree retired, and have stamped on it the endorsement “CCW Approved” and the date the endorsement is to be renewed. A certificate issued pursuant to Section 25455 shall not be valid as identification for the sale, purchase, or transfer of a firearm.

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

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

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

§ 25465. Renewal of privilege to carry concealed firearm

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

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

See Section 16520 (“firearm”).

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

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

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

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

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

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

§ 25475. Maintaining privilege to carry concealed firearm

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

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

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

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

### Article 3. Conditional Exemptions

**§ 25500. Effect of article**

25500. This article does not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with the provisions listed in Section 16580.

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

**§ 25505. Conditions for exemption to apply**

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

**Comment.** Section 25505 continues former Section 12026.2(b) without substantive change. For another provision on transporting a firearm in a locked container, see Section 25610 (carrying firearm in locked container).

See Sections 16520 ("firearm"), 16850 ("locked container").

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

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

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

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

**Comment.** Subdivision (a) of Section 25510 continues former Section 12026.2(a)(1) without substantive change. Subdivision (b) continues former Section 12026.2(a)(8) without substantive change. For conditions on invoking these exemptions, see Section 25505.
See Section 16520 (“firearm”).

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

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

Comment. Section 25515 continues former Section 12026.2(a)(2) without substantive change.

For conditions on invoking this exemption, see Section 25505. For an exemption relating to transportation of a curio or relic brought into the state by licensed collector, see Section 25580.

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

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

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

Comment. Section 25520 continues former Section 12026.2(a)(3) without substantive change.

For conditions on invoking this exemption, see Section 25505. For another exemption relating to hunting, see Section 25640 (licensed hunters or fishermen).

See Section 16520 (“firearm”).

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

25525. (a) Section 25400 does not apply to, or affect, the transportation of a firearm by any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Chapter 2 (commencing with Section 29800) or 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, directly between any of the following places:

(1) The person’s place of residence.

(2) The person’s place of business.

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

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

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

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

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

See Section 16520 (“firearm”).
§ 25530. Repair, transfer, sale, or loan of firearm
25530. Section 25400 does not apply to, or affect, the transportation of a firearm by a person when going directly to, or coming directly from, a fixed place of business or private residential property for the purpose of the lawful repair or the lawful transfer, sale, or loan of that firearm.

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

§ 25535. Gun show, swap meet, or similar event
25535. Section 25400 does not apply to, or affect, any of the following:
(a) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show, swap meet, or similar event to which the public is invited, for the purpose of displaying that firearm in a lawful manner.
(b) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show or event, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, for the purpose of lawfully transferring, selling, or loaning that firearm in accordance with Section 27545.

Comment. Subdivision (a) of Section 25535 continues former Section 12026.2(a)(7) without substantive change.
Subdivision (b) continues former Section 12026.2(a)(14) without substantive change.
For conditions on invoking these exemptions, see Section 25505.
See Section 16520 (“firearm”).

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

Comment. Section 25540 continues former Section 12026.2(a)(9) without substantive change.
For conditions on invoking this exemption, see Section 25505. For another exemption relating to practicing at a target range, see Section 25635 (member of club or organization for purpose of practicing at established target ranges).
See Section 16520 (“firearm”).

§ 25545. Transportation to place designated by person authorized to issue license to carry firearm
25545. Section 25400 does not apply to, or affect, the transportation of a firearm by a person when going directly to, or coming directly from, a place designated by a person authorized to issue licenses pursuant to Section 26150, 26155, or 26170, when done at the request of the issuing agency so that the issuing agency can determine whether or not a license should be issued to that person to carry that firearm.

Comment. Section 25545 continues former Section 12026.2(a)(10) without substantive change.
For conditions on invoking this exemption, see Section 25505. For an exemption relating to a person with a license to carry a concealed pistol, revolver, or other firearm capable of being concealed upon the person, see Section 25655.

See Section 16520 ("firearm").

§ 25550. Camping

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

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

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

For conditions on invoking this exemption, see Section 25505.

See Section 16520 ("firearm").

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

25555. Section 25400 does not apply to, or affect, the transportation of a firearm by a person in order to comply with Section 27870, 27875, 27915, 27920, or 27925, as it pertains to that firearm.

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

For conditions on invoking this exemption, see Section 25505.

See Section 16520 ("firearm").

§ 25560. Transportation of firearm to utilize Section 28000

25560. Section 25400 does not apply to, or affect, the transportation of a firearm by a person in order to utilize Section 28000 as it pertains to that firearm.

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

For conditions on invoking this exemption, see Section 25505.

See Section 16520 ("firearm").

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

25565. Section 25400 does not apply to, or affect, the transportation of a firearm by a person in order to sell, deliver, or transfer the firearm as specified in Section 27850 or 31725 to an authorized representative of a city, city and county, county, or state or federal government that is acquiring the weapon as part of an authorized, voluntary program in which the entity is buying or receiving weapons from private individuals.
Comment. Section 25565 continues former Section 12026.2(a)(15) without substantive change.
For conditions on invoking this exemption, see Section 25505.
See Section 16520 (“firearm”).

§ 25570. Transportation of firearm by finder to law enforcement agency
25570. Section 25400 does not apply to, or affect, any of the following:
(a) The transportation of a firearm by a person who finds the firearm, if the person is transporting the firearm in order to comply with Article 1 (commencing with Section 2080) of Chapter 4 of Division 3 of the Civil Code as it pertains to that firearm, and, if the person is transporting the firearm to a law enforcement agency, the person gives prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency.
(b) The transportation of a firearm by a person who finds the firearm and is transporting it to a law enforcement agency for disposition according to law, if the person gives prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency for disposition according to law.
Comment. Subdivision (a) of Section 25570 continues former Section 12026.2(a)(16) without substantive change.
Subdivision (b) continues former Section 12026.2(a)(18) without substantive change.
For conditions on invoking these exemptions, see Section 25505.
See Section 16520 (“firearm”).

§ 25575. Compliance with restrictions relating to importation of handgun by personal handgun importer
25575. Section 25400 does not apply to, or affect, the transportation of a firearm by a person in order to comply with Section 27560 as it pertains to that firearm.
Comment. Section 25575 continues former Section 12026.2(a)(17) without substantive change.
For conditions on invoking this exemption, see Section 25505. For an exemption relating to transportation of unloaded handguns by a licensed manufacturer, importer, wholesaler, repairer, or dealer, see Section 25615.
See Section 16520 (“firearm”).

§ 25580. Transportation of curio or relic brought into state by licensed collector
25580. Section 25400 does not apply to, or affect, the transportation of a firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, by a person in order to comply with Section 27565 as it pertains to that firearm.
Comment. Section 25580 continues former Section 12026.2(a)(19) without substantive change.
For conditions on invoking this exemption, see Section 25505. For an exemption relating to a club or organization for lawfully collecting and displaying firearms, see Section 25515.
See Section 16520 (“firearm”).
§ 25585. Transportation of firearm to obtain identification number or mark
25585. Section 25400 does not apply to, or affect, the transportation of a firearm by a person for the purpose of obtaining an identification number or mark assigned to that firearm from the Department of Justice pursuant to Section 23910.

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

For conditions on invoking this exemption, see Section 25505.

See Section 16520 (“firearm”).

Article 4. Other Exemptions

§ 25600. Carrying concealed firearm when in reasonable belief of grave danger to self
25600. (a) A violation of Section 25400 is justifiable when a person who possesses a firearm reasonably believes that person is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person who has been found to pose a threat to the life or safety of the person who possesses the firearm. This section may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person’s life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to a defendant charged with violating Section 25400 or committing another similar offense.

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

Comment. Section 25600 continues former Section 12025.5 without substantive change.

See Section 16520 (“firearm”).

§ 25605. Carrying or possession of firearm at one’s place of residence, place of business, or other private property
25605. (a) Section 25400 shall not apply to or affect any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Chapter 2 (commencing with Section 29800) or 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, who carries, either openly or concealed, anywhere within the citizen’s or legal resident’s place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident, any pistol, revolver, or other firearm capable of being concealed upon the person.

(b) No permit or license to purchase, own, possess, keep, or carry, either openly or concealed, shall be required of any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Chapter 2 (commencing with
Section 29800) or 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, to purchase, own, possess, keep, or carry, either openly or concealed, a pistol, revolver, or other firearm capable of being concealed upon the person within the citizen’s or legal resident’s place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident.

(c) Nothing in this section shall be construed as affecting the application of Sections 25850 to 26055, inclusive.

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

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

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

§ 25610. Carrying firearm in locked container

25610. (a) Section 25400 shall not be construed to prohibit any citizen of the United States over the age of 18 years who resides or is temporarily within this state, and who is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm, from transporting or carrying any pistol, revolver, or other firearm capable of being concealed upon the person, provided that the following applies to the firearm:

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

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

(b) The provisions of this section do not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with the provisions listed in Section 16580.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

For another exemption relating to common carriers, see Section 25645 (transportation of unloaded firearms by person operating licensed common carrier).
§ 25635. Member of club or organization for purpose of practicing at established target ranges

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

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

For another exemption relating to practicing at a target range, see Section 25540 (target range).

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

§ 25640. Licensed hunters or fishermen

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

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

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

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

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

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

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

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

See Section 16520 (“firearm”).

§ 25650. Honorably retired federal officer or agent

25650. (a) Upon approval of the sheriff of the county in which the retiree resides, Section 25400 does not apply to, or affect, any honorably retired federal officer or agent of any federal law enforcement agency, including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and any officer or agent of the Internal Revenue Service who was authorized to carry weapons while on duty, who was assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.
(b) A retired federal officer or agent shall provide the sheriff with certification from the agency from which the officer or agent retired certifying that person’s service in the state, the nature of that person’s retirement, and indicating the agency’s concurrence that the retired federal officer or agent should be accorded the privilege of carrying a concealed firearm.

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

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

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

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

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

See Section 16520 (“firearm”).

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

25655. Section 25400 does not apply to, or affect, the carrying of a pistol, revolver, or other firearm capable of being concealed upon the person by a person who is authorized to carry that weapon in a concealed manner pursuant to Chapter 4 (commencing with Section 26150).

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

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

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

Article 5. Concealed Carrying of Firearm as a Nuisance

§ 25700. Unlawful concealed carrying of handgun as nuisance

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

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

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

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

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

Comment. With respect to unlawful concealed carrying of a handgun, subdivision (a) of Section 25700 continues former Section 12028(a) without substantive change.
With respect to unlawful concealed carrying of a handgun, subdivision (b) continues former Section 12028(e) without substantive change.

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

CHAPTER 3. CARRYING A LOADED FIREARM

Article 1. Armed Criminal Action

§ 25800. Armed criminal action

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

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

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

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

See also Section 16520 (“firearm”).

Article 2. Crime of Carrying a Loaded Firearm in Public

§ 25850. Crime of carrying loaded firearm in public

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

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

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

(1) Where the person previously has been convicted of any felony, or of any crime made punishable by a provision listed in Section 16580, as a felony.

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

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

(4) Where the person is not in lawful possession of the firearm, or is within a class of persons prohibited from possessing or acquiring a firearm pursuant to
Chapter 2 (commencing with Section 29800) or 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, as a felony.

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

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

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

(d)(1) Every person convicted under this section who has previously been convicted of an offense enumerated in Section 23515, or of any crime made punishable under a provision listed in Section 16580, shall serve a term of at least three months in a county jail, or, if granted probation or if the execution or imposition of sentence is suspended, it shall be a condition thereof that the person be imprisoned for a period of at least three months.

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

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

(f) Nothing in this section, or in Article 3 (commencing with Section 25900) or Article 4 (commencing with Section 26000), shall preclude prosecution under Chapter 2 (commencing with Section 29800) or 3 (commencing with Section 29900) of Division 9 of this title, Section 8100 or 8103 of the Welfare and Institutions Code, or any other law with a greater penalty than this section.

(g) Notwithstanding paragraphs (2) and (3) of subdivision (a) of Section 836, a peace officer may make an arrest without a warrant:
(1) When the person arrested has violated this section, although not in the officer’s presence.

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

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

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

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

Subdivision (c) continues former Section 12031(a)(2) without substantive change. Subdivision (d) continues former Section 12031(a)(6) without substantive change. For guidance in applying paragraphs (c)(1) and (d)(1), see Section 16015 (determining existing of prior conviction).

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

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

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

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

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

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

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

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

§ 25900. Peace officer exemption

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

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

(b) Any other duly appointed peace officer.

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

(d) Any other honorably retired peace officer who during the course and scope of employment as a peace officer was authorized to, and did, carry a firearm.
(e) Any full-time paid peace officer of another state or the federal government
who is carrying out official duties while in California.

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

Comment. Section 25900 continues the first sentence of the first paragraph of former Section
12031(b)(1) without substantive change.
For an exemption relating to honorably retired federal officers and agents, see Section 16020.
For guidance on a retired peace officer carrying a concealed firearm, see Sections 25450-25475.
For guidance on a retired peace officer carrying a concealed and loaded firearm, see
Sections 26300-26325.
See Sections 16520 (“firearm”), 16690 (“honorably retired”).

§ 25905. Identification certificate for honorably retired peace officer

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

(b) The issuing agency may charge a fee necessary to cover any reasonable
expenses incurred by the agency in issuing certificates pursuant to Sections 25900,
25910, 25925, and this section.

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

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

Comment. Subdivision (a) of Section 25905 continues the second sentence of the first
paragraph of former Section 12031(b)(1) without substantive change.
Subdivision (b) continues the third sentence of the first paragraph of former Section
12031(b)(1) without substantive change.
Subdivision (c) continues the second paragraph of former Section 12031(b)(1) without
substantive change.
Subdivision (d) continues the second sentence of former Section 12031(b)(2) without
substantive change.
For guidance on a retired peace officer carrying a concealed firearm, see Sections 25450-25475.
For guidance on a retired peace officer carrying a concealed and loaded firearm, see
Sections 26300-26325.
See Sections 16520 (“firearm”), 16690 (“honorably retired”), 16840 (“loaded” and “loaded
firearm”).

§ 25910. Format of endorsement on identification certificate

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

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

Comment. Section 25910 continues the third paragraph of former Section 12031(b)(1) without
substantive change.
See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

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

Comment. Section 25915 continues the first sentence of former Section 12031(b)(2) without
substantive change.
See Sections 16520 (“firearm”), 16840 (“loaded” and “loaded firearm”).

§ 25920. Denial or revocation of privilege to carry loaded firearm
25920. (a) The agency from which a peace officer is honorably retired may,
upon initial retirement of the peace officer, or at any time subsequent thereto, deny
or revoke for good cause the retired officer’s privilege to carry a loaded firearm.
(b) A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of
Section 830.33, or subdivision (c) of Section 830.5 who is retired prior to January
1, 1981, shall have the privilege to carry a loaded firearm denied or revoked by
having the agency from which the officer retired stamp on the officer’s
identification certificate “No CCW privilege.”

Comment. Subdivision (a) of Section 25920 continues the third sentence of former Section
12031(b)(2) without substantive change.
Subdivision (b) continues the fourth sentence of former Section 12031(b)(2) without
substantive change.
See Sections 16360 (“CCW”), 16520 (“firearm”), 16690 (“honorably retired”), 16840
(“loaded” and “loaded firearm”).

§ 25925. Maintaining privilege to carry loaded firearm
25925. (a) An honorably retired peace officer who is listed in subdivision (c) of
Section 830.5 and authorized to carry a loaded firearm by this article shall meet
the training requirements of Section 832 and shall qualify with the firearm at least
annually.
(b) The individual retired peace officer shall be responsible for eligibility to
carry a loaded firearm.
(c) The Department of Justice shall provide subsequent arrest notification
pursuant to Section 11105.2 regarding honorably retired peace officers listed in
subdivision (c) of Section 830.5 to the agency from which the officer has retired.

Comment. Section 25925 continues former Section 12031(b)(3) without substantive change.
See Sections 16520 ("firearm"), 16690 ("honorably retired"), 16840 ("loaded" and "loaded firearm").

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

§ 26000. Members of military on duty

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

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

§ 26005. Target range or shooting club

26005. Section 25850 does not apply to either of the following:
(a) Persons who are using target ranges for the purpose of practice shooting with a firearm.
(b) Members of shooting clubs while hunting on the premises of those clubs.

Comment. Section 26005 continues former Section 12031(b)(5) without substantive change. See Section 16520 ("firearm").

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

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

Comment. Section 26010 continues former Section 12031(b)(6) without substantive change. See Section 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver.")

§ 26015. Armored vehicle guard

26015. Section 25850 does not apply to any armored vehicle guard, as defined in Section 7582.1 of the Business and Professions Code, if either of the following conditions is satisfied:
(a) The guard was hired prior to January 1, 1977, and is acting within the course and scope of employment.
(b) The guard was hired on or after January 1, 1977, has received a firearms qualification card from the Department of Consumer Affairs, and is acting within the course and scope of employment.

Comment. Section 26015 continues former Section 12031(b)(7) without substantive change. An erroneous cross-reference to Business and Professions Code Section 7521 has been corrected.

§ 26020. Honorably retired federal officer or agent

26020. (a) Upon approval of the sheriff of the county in which the retiree resides, Section 25850 does not apply to any honorably retired federal officer or
agent of any federal law enforcement agency, including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and any officer or agent of the Internal Revenue Service who was authorized to carry weapons while on duty, who was assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

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

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

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

Comment. Section 26020 continues former Section 12031(b)(8) without substantive change. For an exemption relating to honorably retired peace officers, see Section 25900 (peace officer exemption). For an honorably retired federal officer or agent carrying a concealed firearm, see Section 25650.

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

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

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

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

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

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

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

(4) They are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.
(b) Animal control officers or zookeepers, regularly compensated in that
capacity by a governmental agency, when carrying weapons while acting in the
course and scope of their employment and when designated by a local ordinance
or, if the governmental agency is not authorized to act by ordinance, by a
resolution, either individually or by class, to carry the weapons.

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

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

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

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

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

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

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

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

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

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

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

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

(8) Alarm company operators licensed pursuant to Chapter 11.6 (commencing
with Section 7590) of Division 3 of the Business and Professions Code, while
acting within the course and scope of their employment.
(9) Uniformed security guards or night watch persons employed by any public agency, while acting within the scope and course of their employment.
(10) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers, or on duty or en route to or from their residences or their places of employment, and security guards and alarm agents en route to or from their residences or employer-required range training.

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

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

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

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

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

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

With respect to licensed private investigators, subdivision (a)(4) continues former Section 12031(d)(3) without substantive change. An erroneous cross-reference to “Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code” has been corrected.

With respect to uniformed employees of licensed private investigators, subdivision (a)(5) continues former Section 12031(d)(6) without substantive change. An erroneous cross-reference to “Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code” has been corrected.

With respect to licensed private patrol operators, subdivision (a)(6) continues former Section 12031(d)(3) without substantive change. An erroneous cross-reference to “Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code” has been corrected.

With respect to uniformed employees of licensed private patrol operators, subdivision (a)(7) continues former Section 12031(d)(6) without substantive change. An erroneous cross-reference to “Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code” has been corrected.

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

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

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

Subdivision (b) continues the second sentence of former Section 12031(d)(5) without substantive change.
Subdivision (c) continues the second sentence of the introductory paragraph of former Section 12031(d) without substantive change.

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

See Section 16520 (“firearm”).

§ 26035. Loaded firearm at one’s place of business or own private property

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

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

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

§ 26040. Hunting

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

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

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

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

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

(b) A violation of Section 25850 is justifiable when a person who possesses a firearm reasonably believes that person is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person who has been found to pose a threat to the life or safety of the person who possesses the firearm. This paragraph may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person’s life or safety. It is not the intent of the Legislature to limit, restrict, or narrow the application of current statutory or judicial authority to apply this or other justifications to a defendant charged with violating Section 25400 or committing another similar offense. Upon trial for violating Section 25850, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that the defendant was in grave danger.
(c) As used in this section, “immediate” means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

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

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

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

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

§ 26050. Making lawful arrest

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

Comment. Section 26050 continues former Section 12031(k) without substantive change.

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

§ 26055. Place of residence, including campsite

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

Comment. Section 26055 continues former Section 12031(l) without substantive change.

See Section 16840 (“loaded” and “loaded firearm”).

§ 26060. Rocket or other emergency or distress signaling device

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

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

Article 5. Loaded Firearm in Motor Vehicle

§ 26100. Loaded firearm in motor vehicle

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

(b) Any driver or owner of any vehicle, whether or not the owner of the vehicle is occupying the vehicle, who knowingly permits any other person to discharge any firearm from the vehicle is punishable by imprisonment in the county jail for not more than one year or in state prison for 16 months or two or three years.
(c) Any person who willfully and maliciously discharges a firearm from a motor
vehicle at another person other than an occupant of a motor vehicle is guilty of a
felony punishable by imprisonment in state prison for three, five, or seven years.
(d) Except as provided in Section 3002 of the Fish and Game Code, any person
who willfully and maliciously discharges a firearm from a motor vehicle is guilty
of a public offense punishable by imprisonment in the county jail for not more
than one year or in the state prison.

Comment. Section 26100 continues former Section 12034 without substantive change.
See Section 16520 ("firearm").

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

§ 26150. Issuance of license by sheriff
26150. (a) When a person applies for a license to carry a pistol, revolver, or
other firearm capable of being concealed upon the person, the sheriff of a county
may issue a license to that person upon proof of all of the following:
(1) The applicant is of good moral character.
(2) Good cause exists for issuance of the license.
(3) The applicant is a resident of the county or a city within the county, or the
applicant’s principal place of employment or business is in the county or a city
within the county and the applicant spends a substantial period of time in that
place of employment or business.
(4) The applicant has completed a course of training as described in Section
26165.
(b) The sheriff may issue a license under subdivision (a) in either of the
following formats:
(1) A license to carry concealed a pistol, revolver, or other firearm capable of
being concealed upon the person.
(2) Where the population of the county is less than 200,000 persons according to
the most recent federal decennial census, a license to carry loaded and exposed in
that county a pistol, revolver, or other firearm capable of being concealed upon the
person.

Comment. Section 26150 continues former Section 12050(a)(1)(A) & (D) without substantive
change.
See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person,"
“pistol,” and “revolver”), 17020 ("principal place of employment or business”).

§ 26155. Issuance of license by head of municipal police department
26155. (a) When a person applies for a license to carry a pistol, revolver, or
other firearm capable of being concealed upon the person, the chief or other head
of a municipal police department of any city or city and county may issue a license
to that person upon proof of all of the following:
(1) The applicant is of good moral character.
(2) Good cause exists for issuance of the license.
(3) The applicant is a resident of that city.
(4) The applicant has completed a course of training as described in Section 26165.

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

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

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

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

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

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

§ 26160. Written policy

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

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

§ 26165. Training course

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

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

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

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

See Section 16520 (“firearm”).

§ 26170. Issuance of license to person deputized or appointed as peace officer
26170. (a) Upon proof of all of the following, the sheriff of a county, or the
chief or other head of a municipal police department of any city or city and
county, may issue to an applicant a license to carry concealed a pistol, revolver, or
other firearm capable of being concealed upon the person:

(1) The applicant is of good moral character.

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

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

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

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

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

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

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

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

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

(c) The standard application form for licenses described in subdivision (a) shall
require information from the applicant including, but not limited to, the name,
occupation, residence and business address of the applicant, the applicant’s age,
height, weight, color of eyes and hair, and reason for desiring a license to carry the
weapon.
(d) Applications for licenses shall be filed in writing, and signed by the
applicant.
(e) Applications for amendments to licenses shall be filed in writing and signed
by the applicant, and shall state what type of amendment is sought pursuant to
Section 26215 and the reason for desiring the amendment.
(f) The forms shall contain a provision whereby the applicant attests to the truth
of statements contained in the application.
(g) An applicant shall not be required to complete any additional application or
form for a license, or to provide any information other than that necessary to
complete the standard application form described in subdivision (a), except to
clarify or interpret information provided by the applicant on the standard
application form.
(h) The standard application form described in subdivision (a) is deemed to be a
local form expressly exempt from the requirements of the Administrative
Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of
Division 3 of Title 2 of the Government Code.
(i) Any license issued upon the application shall set forth the licensee’s name,
occupation, residence and business address, the licensee’s age, height, weight,
color of eyes and hair, and the reason for desiring a license to carry the weapon,
and shall, in addition, contain a description of the weapon or weapons authorized
to be carried, giving the name of the manufacturer, the serial number, and the
caliber. The license issued to the licensee may be laminated.

Comment. Subdivision (a) of Section 26175 continues the first, second, and third sentences of
former Section 12051(a)(3)(A) without substantive change.
Subdivision (b) continues the fourth sentence of former Section 12051(a)(3)(A) without
substantive change.
Subdivision (c) continues the first sentence of former Section 12051(a)(1) without substantive
change.
Subdivision (d) continues the second sentence of former Section 12051(a)(1) without substantial
change.
Subdivision (e) continues former Section 12051(a)(2) without substantive change.
Subdivision (f) continues former Section 12051(a)(3)(B) without substantive change.
Subdivision (g) continues former Section 12051(a)(3)(C) without substantive change.
Subdivision (h) continues former Section 12051(a)(3)(D) without substantive change.
Subdivision (i) continues the third and fourth sentences of former Section 12051(a)(1) without
substantive change.

§ 26180. False statement on application form
26180. (a) Any person who files an application required by Section 26175
knowing that any statement contained therein is false is guilty of a misdemeanor.
(b) Any person who knowingly makes a false statement on the application
regarding any of the following is guilty of a felony:
(1) The denial or revocation of a license, or the denial of an amendment to a
license, issued pursuant to this article.
(2) A criminal conviction.
(3) A finding of not guilty by reason of insanity.
(4) The use of a controlled substance.
(5) A dishonorable discharge from military service.
(6) A commitment to a mental institution.
(7) A renunciation of United States citizenship.

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

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

§ 26185. Fingerprinting and Department of Justice report

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

(2) Upon receipt of the fingerprints and the fee as prescribed in Section 26190, the department shall promptly furnish the forwarding licensing authority a report of all data and information pertaining to any applicant of which there is a record in its office, including information as to whether the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

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

(b) Notwithstanding subdivision (a), if the license applicant has previously applied to the same licensing authority for a license to carry firearms pursuant to this article and the applicant’s fingerprints and fee have been previously forwarded to the Department of Justice, as provided by this section, the licensing authority shall note the previous identification numbers and other data that would provide positive identification in the files of the Department of Justice on the copy of any subsequent license submitted to the department in conformance with Section 26225 and no additional application form or fingerprints shall be required.

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

Comment. Section 26185 continues former Section 12052 without substantive change.

§ 26190. Application fees

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

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

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

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

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

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

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

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

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

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

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

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

(g) Except as authorized pursuant to this section, no requirement, charge,
assessment, fee, or condition that requires the payment of any additional funds by
the applicant may be imposed by any licensing authority as a condition of the
application for a license.
Comment. Subdivision (a) of Section 26190 continues the first, second, and third sentences of the first paragraph of former Section 12054(a) without substantive change.

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

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

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

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

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

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

§ 26195. No license for person prohibited from possessing, receiving, owning, or purchasing firearm

26195. (a) A license under this article shall not be issued if the Department of Justice determines that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b)(1) A license under this article shall be revoked by the local licensing authority if at any time either the local licensing authority is notified by the Department of Justice that a licensee is prohibited from owning or purchasing firearms, or the local licensing authority determines that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) If at any time the Department of Justice determines that a licensee is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the local licensing authority of the determination.

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

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

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

§ 26200. Restrictions or conditions on license

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

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

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

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

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).
§ 26205. Notification of applicant

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

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

§ 26210. Change of licensee’s address

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

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

(c) If the license is one to carry concealed a pistol, revolver, or other firearm capable of being concealed upon the person, then it may not be revoked solely because the licensee changes his or her place of residence to another county if the licensee has not breached any conditions or restrictions set forth in the license or has not become prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. However, any license issued pursuant to Section 26150 or 26155 shall expire 90 days after the licensee moves from the county of issuance if the licensee’s place of residence was the basis for issuance of the license.

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

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

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

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

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

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

§ 26215. Amendment of license

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

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

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

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

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

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

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

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

Comment. Subdivision (a) of Section 26215 continues former Section 12050(f)(1) without substantive change.

Subdivision (b) continues former Section 12050(f)(3) without substantive change.

Subdivision (c) continues former Section 12050(f)(5) without substantive change.

Subdivision (d) continues former Section 12050(f)(6) without substantive change.

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

§ 26220. Duration of license

26220. (a) Except as otherwise provided in this section and in subdivision (c) of Section 26210, a license issued pursuant to Section 26150 or 26155 is valid for any period of time not to exceed two years from the date of the license.

(b) If the licensee’s place of employment or business was the basis for issuance of a license pursuant to Section 26150, the license is valid for any period of time not to exceed 90 days from the date of the license. The license shall be valid only in the county in which the license was originally issued. The licensee shall give a copy of this license to the licensing authority of the city, county, or city and county in which the licensee resides. The licensing authority that originally issued the license shall inform the licensee verbally and in writing in at least 16-point type of this obligation to give a copy of the license to the licensing authority of the city, county, or city and county of residence. Any application to renew or extend the validity of, or reissue, the license may be granted only upon the concurrence of the licensing authority that originally issued the license and the licensing authority of the city, county, or city and county in which the licensee resides.

(c) A license issued pursuant to Section 26150 or 26155 is valid for any period of time not to exceed three years from the date of the license if the license is issued to any of the following individuals:

(1) A judge of a California court of record.

(2) A full-time court commissioner of a California court of record.

(3) A judge of a federal court.

(4) A magistrate of a federal court.
(d) A license issued pursuant to Section 26150 or 26155 is valid for any period of time not to exceed four years from the date of the license if the license is issued to a custodial officer who is an employee of the sheriff as provided in Section 831.5, except that the license shall be invalid upon the conclusion of the person’s employment pursuant to Section 831.5 if the four-year period has not otherwise expired or any other condition imposed pursuant to this article does not limit the validity of the license to a shorter time period.

(e) A license issued pursuant to Section 26170 to a peace officer appointed pursuant to Section 830.6 is valid for any period of time not to exceed four years from the date of the license, except that the license shall be invalid upon the conclusion of the person’s appointment pursuant to Section 830.6 if the four-year period has not otherwise expired or any other condition imposed pursuant to this article does not limit the validity of the license to a shorter time period.

Comment. Subdivision (a) of Section 26220 continues former Section 12050(a)(2)(A)(i) without substantive change.

Subdivision (b) continues former Section 12050(a)(2)(A)(ii) without substantive change.

Subdivision (c) continues former Section 12050(a)(2)(C) without substantive change.

Subdivision (d) continues former Section 12050(a)(2)(D) without substantive change.

Subdivision (e) continues former Section 12050(a)(2)(B) without substantive change.

§ 26225. Duties of licensing authority and Attorney General

26225. (a) A record of the following shall be maintained in the office of the licensing authority:

(1) The denial of a license.

(2) The denial of an amendment to a license.

(3) The issuance of a license.

(4) The amendment of a license.

(5) The revocation of a license.

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

(1) The denial of a license.

(2) The denial of an amendment to a license.

(3) The issuance of a license.

(4) The amendment of a license.

(5) The revocation of a license.

(c)(1) Commencing on or before January 1, 2000, and annually thereafter, each licensing authority shall submit to the Attorney General the total number of licenses issued to peace officers pursuant to Section 26170, and to judges pursuant to Section 26150 or 26155.

(2) The Attorney General shall collect and record the information submitted pursuant to this subdivision by county and licensing authority.

Comment. Section 26225 continues former Section 12053 without substantive change.
CHAPTER 5. RETIRED PEACE OFFICER CARRYING
CONCEALED AND LOADED FIREARM

§ 26300. Requirements for retired peace officer to carry concealed and loaded firearm

26300. (a) Any peace officer listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, is authorized to carry a concealed and loaded firearm if the agency issued the officer an identification certificate and the certificate has not been stamped as specified in Section 25470.

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

(c) Any peace officer not listed in subdivision (a) or (b) who was authorized to, and did, carry a firearm during the course and scope of employment as a peace officer shall have an endorsement on the officer’s identification certificate stating that the issuing agency approves the officer’s carrying of a concealed and loaded firearm.

Comment. Subdivision (a) of Section 26300 continues former Section 12027.1(a)(1)(A)(ii) without substantive change.

Subdivision (b) continues former Section 12027.1(a)(1)(A)(i) without substantive change.

Subdivision (c) continues former Section 12027.1(a)(1)(A)(iii) without substantive change.

Section 26300 and the other provisions in this article provide guidance on a retired peace officer carrying a concealed and loaded firearm. For guidance on a retired peace officer carrying a concealed firearm, see Sections 25450-25475. For guidance on a retired peace officer carrying a loaded firearm, see Sections 25900-25925.

See Section 16520 (“firearm”).

§ 26305. Grounds for revocation or denial of privilege to carry concealed and loaded firearm

26305. (a) No peace officer who is retired after January 1, 1989, because of a psychological disability shall be issued an endorsement to carry a concealed and loaded firearm pursuant to this article.

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

(c) An identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement may be revoked or denied by the issuing agency only upon a showing of good cause. Good cause shall be determined at a hearing, as specified in Section 26320.

Comment. Subdivision (a) of Section 26305 continues former Section 12027.1(e) without substantive change.

Subdivision (b) continues former Section 12027.1(a)(2) without substantive change.

Subdivision (c) continues former Section 12027.1(a)(1)(B) & (b)(1) without substantive change.
§ 26310. Procedure for denial of privilege to carry concealed and loaded firearm

26310. (a) An identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement may be denied prior to a hearing. (b) If a hearing is not conducted prior to the denial of an endorsement, a retired peace officer, within 15 days of the denial, shall have the right to request a hearing. A retired peace officer who fails to request a hearing pursuant to this section shall forfeit the right to a hearing.

Comment. Section 26310 continues former Section 12027.1(b)(3) without substantive change. See Section 16520 (“firearm”).

§ 26315. Procedure for revocation of privilege to carry concealed and loaded firearm

26315. (a) An identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement may be revoked only after a hearing, as specified in Section 26320. (b) Any retired peace officer whose identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement is to be revoked shall receive notice of the hearing. Notice of the hearing shall be served either personally on the retiree or sent by first-class mail, postage prepaid, return receipt requested to the retiree’s last known place of residence. (c) Upon the date the agency receives the signed registered receipt or upon the date the notice is served personally on the retiree, the retiree shall have 15 days to respond to the notification. A retired peace officer who fails to respond to the notice of the hearing shall forfeit the right to respond.

Comment. Section 26315 continues former Section 12027.1(b)(2) without substantive change. See Section 16520 (“firearm”).

§ 26320. Hearing

26320. (a) Any hearing conducted under this article shall be held before a three-member hearing board. One member of the board shall be selected by the agency and one member shall be selected by the retired peace officer or his or her employee organization. The third member shall be selected jointly by the agency and the retired peace officer or his or her employee organization. (b) Any decision by the board shall be binding on the agency and the retired peace officer.

Comment. Section 26320 continues former Section 12027.1(d) without substantive change.

§ 26325. Procedure when privilege to carry concealed and loaded firearm is revoked

26325. (a) A retired peace officer, when notified of the revocation of the privilege to carry a concealed and loaded firearm, after the hearing, or upon forfeiting the right to a hearing, shall immediately surrender to the issuing agency the officer’s identification certificate.
(b) The issuing agency shall reissue a new identification certificate without an endorsement.
(c) Notwithstanding subdivision (b), if the peace officer retired prior to January 1, 1981, and was at the time of retirement a peace officer listed in Section 830.1 or 830.2 or subdivision (c) of Section 830.5, the issuing agency shall stamp on the identification certificate “No CCW privilege.”

Comment. Section 26325 continues former Section 12027.1(c) without substantive change. See Sections 16360 (“CCW”), 16520 (“firearm”).

DIVISION 6. SALE, LEASE, OR TRANSFER OF FIREARMS

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

Article 1. License Requirement and Miscellaneous Exceptions

§ 26500. License requirement
26500. (a) No person shall sell, lease, or transfer firearms unless the person has been issued a license pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.
(b) Any person violating this article is guilty of a misdemeanor.

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

§ 26505. Exception when person liquidates personal firearm collection or acts pursuant to operation of law, court order, or Enforcement of Judgments Law
26505. Section 26500 does not include the sale, lease, or transfer of any firearm by any of the following:
(a) A person acting pursuant to operation of law.
(b) A person acting pursuant to a court order.
(c) A person acting pursuant to the Enforcement of Judgments Law (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure).
(d) A person who liquidates a personal firearm collection to satisfy a court judgment.

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

§ 26510. Exception for person acting pursuant to nuisance law
26510. Section 26500 does not include a person acting pursuant to subdivision (f) of Section 186.22a or Section 18000 or 18005.

Comment. Section 26510 continues former Section 12070(b)(2) without substantive change. An erroneous cross-reference to Section 186.22a(e) has been corrected by replacing it with a cross-reference to Section 186.22a(f).
§ 26515. Exception for person who obtains title to firearm as surviving spouse or by intestate succession or bequest

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

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

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

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

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

26520. (a) Section 26500 does not include the infrequent sale, lease, or transfer of firearms.

(b) As used in this section, “infrequent” has the meaning provided in Section 16730.

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

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

26525. (a) Section 26500 does not include the sale, lease, or transfer of used firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person, at gun shows or events, as specified in Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2, by a person other than a licensee or dealer, provided the person has a valid federal firearms license and a current certificate of eligibility issued by the Department of Justice, as specified in Section 26710, and provided all the sales, leases, or transfers fully comply with Section 27545. However, the person shall not engage in the sale, lease, or transfer of used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at more than 12 gun shows or events in any calendar year and shall not sell, lease, or transfer more than 15 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at any single gun show or event. In no event shall the person sell more than 75 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person in any calendar year.

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

Comment. Subdivision (a) of Section 26525 continues the first paragraph of former Section 12070(b)(5) without substantive change. A person who meets the description in subdivision (a) is known as a Gun Show Trader. See Section 16620 (“Gun Show Trader”). Subdivision (b) continues the third paragraph of former Section 12070(b)(5) without substantive change.
See Sections 16520 ("firearm"), 16530 ("firearm capable of being concealed upon the person," "pistol," and "revolver"), 17310 ("used firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

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

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

Comment. Section 26530 continues former Section 12070(b)(6) without substantive change.

See Section 16520 ("firearm").

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

26535. Section 26500 does not include any sale, delivery, or transfer of firearms that satisfies both of the following conditions:
(a) It is made by an importer or manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.
(b) It is made to a dealer or wholesaler.

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

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

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

26540. Section 26500 does not include deliveries and transfers of firearms made pursuant to Sections 18000 and 18005, pursuant to Division 4 (commencing with Section 18250) of Title 2, or pursuant to Chapter 11 (commencing with Section 34000) of Division 11 of this title.

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

See Section 16520 ("firearm").

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

26545. Section 26500 does not include the loan of a firearm for the purposes of shooting at targets, if either of the following conditions is satisfied:
(a) The loan occurs on the premises of a target facility that holds a business or regulatory license, or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private.
(b) The firearm is at all times kept within the premises of the target range, or on the premises of the club or organization.

Comment. Section 26545 continues former Section 12070(b)(9) without substantive change.

See Section 16520 ("firearm").
§ 26550. Exception for sale, delivery, or transfer by licensed manufacturer, importer, or wholesaler to licensed person residing outside California

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 26570. Exception for sale, delivery, or transfer by licensed nonresident to dealer
26570. Section 26500 does not include any sale, delivery, or transfer of firearms that satisfies all of the following conditions:
   (a) It is made by a person who resides outside this state and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.
   (b) It is made to a dealer.
   (c) It is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

Comment. Section 26570 continues former Section 12070(b)(14) without substantive change. See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

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

Comment. Section 26575 continues former Section 12070(b)(15) without substantive change. See Sections 16520 (“firearm”), 17340 (“wholesaler”).

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

Comment. Section 26580 continues former Section 12070(b)(16) without substantive change. See Section 16580 (“firearm”).

§ 26585. Exception for delivery of unloaded curio or relic by licensed collector to dealer
26585. Section 26500 does not include the delivery of an unloaded firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, if the delivery satisfies all of the following conditions:
   (a) It is made by a person licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.
   (b) It is made by a person with a current certificate of eligibility issued pursuant to Section 26710.
   (c) It is made to a dealer.

Comment. Section 26585 continues former Section 12070(b)(17) without substantive change. See Section 16520 (“firearm”).
§ 26590. Exception for delivery, transfer, or return of firearm made by court or law enforcement agency pursuant to Chapter 2 of Division 11

26590. Section 26500 does not apply to deliveries, transfers, or returns of firearms made by a court or a law enforcement agency pursuant to Chapter 2 (commencing with Section 33850) of Division 11.

Comment. Section 26590 continues former Section 12021.3(i)(3) without substantive change. See Section 16520 ("firearm").

☞ Staff Note. The Commission’s outline for new Part 6 of the Penal Code tentatively placed the entirety of existing Section 12021.3, including the exception stated in paragraph (i)(3), in “Division 11. Firearm in Custody of Court or Law Enforcement Agency or Similar Situation.” As discussed at page 11 of the attachment to Memorandum 2009-8, the staff recommends that the exception stated in paragraph (i)(3) be moved out of Division 11 and consolidated with the other exceptions to Section 26500. Under that approach, the exception would become proposed Section 26590, as shown above.

Article 2. Exceptions Relating to Law Enforcement

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

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

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

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

Comment. Section 26600 continues former Section 12078(a)(2) without substantive change, as that provision applied to former Section 12070 (through its reference to “the preceding provisions of this article”). See Sections 16520 (“firearm”), 16640 (“handgun”).
§ 26605. Exception for loan of firearm to peace officer employee for use in performing official duties

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

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

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

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

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

See Section 16520 (“firearm”).

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

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

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

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

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

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

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

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

Comment. Section 26615 continues former Section 12078(a)(5) without substantive change, as
that provision applied to former Section 12070 (through its reference to “the preceding provisions
of this article”).
See Sections 16520 (“firearm”), 16640 (“handgun”).

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

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

§ 26700. “Dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915,
inclusive”
26700. As used in this division, and in any other provision listed in Section
16580, “dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
26915, inclusive” means a person who satisfies all of the following requirements:
(a) Has a valid federal firearms license.
(b) Has any regulatory or business license, or licenses, required by local
government.
(c) Has a valid seller’s permit issued by the State Board of Equalization.
(d) Has a certificate of eligibility issued by the Department of Justice pursuant to
Section 26710.
(e) Has a license issued in the format prescribed by subdivision (c) of Section
26705.
(f) Is among those recorded in the centralized list specified in Section 26715.

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

§ 26705. Issuance of license to sell firearms at retail
26705. (a) The duly constituted licensing authority of a city, county, or a city
and county shall accept applications for, and may grant licenses permitting,
licensees to sell firearms at retail within the city, county, or city and county. The
duly constituted licensing authority shall inform applicants who are denied
licenses of the reasons for the denial in writing.
(b) No license shall be granted to any applicant who fails to provide a copy of
the applicant’s valid federal firearms license, valid seller’s permit issued by the
State Board of Equalization, and the certificate of eligibility described in Section
26710.
(c) A license granted by the duly constituted licensing authority of any city,
county, or city and county, shall be valid for not more than one year from the date
of issuance and shall be in one of the following forms:
(1) In the form prescribed by the Attorney General.

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

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

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

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

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

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

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

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

See Section 16520 (“firearm”).

§ 26710. Certificate of eligibility

26710. (a) A person may request a certificate of eligibility from the Department of Justice.

(b) The Department of Justice shall examine its records and records available to the department in the National Instant Criminal Background Check System in order to determine if the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(c) The department shall issue a certificate to an applicant if the department’s records indicate that the applicant is not a person who is prohibited by state or federal law from possessing firearms.

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

Comment. Subdivisions (a)-(c) of Section 26710 continue former Section 12071(a)(4) without substantive change.

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

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

See Section 16520 (“firearm”).

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

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

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

(2) The department shall remove from the centralized list any person whose federal firearms license has expired or has been revoked.
(3) Upon removal of a dealer from this list, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the dealer’s business is located.

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

   (1) For law enforcement purposes.

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

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

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

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

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

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

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

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

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

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

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

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

See Section 16520 (“firearm”).

§ 26720. Inspections by Department of Justice

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

(b) The department may assess an annual fee, not to exceed one hundred fifteen dollars ($115), to cover the reasonable cost of maintaining the list described in Section 26715, including the cost of inspections.
(c) Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department’s fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

Comment. Section 26720 continues former Section 12071(f) without substantive change. For exceptions to this provision, see Article 5 (commencing with Section 27050) and Article 6 (commencing with Section 27100).

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

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

26725. The Department of Justice shall maintain and make available upon request information concerning all of the following:
(a) The number of inspections conducted and the amount of fees collected pursuant to Section 26720.
(b) A listing of exempted jurisdictions, as defined in Section 26720.
(c) The number of dealers removed from the centralized list defined in 26715.
(d) The number of dealers found to have violated a provision listed in Section 16575 with knowledge or gross negligence.

Comment. Section 26725 continues former Section 12071(g) without substantive change. For exceptions to this provision, see Article 5 (commencing with Section 27050) and Article 6 (commencing with Section 27100).

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

Article 2. Grounds for Forfeiture of License

§ 26800. Forfeiture of license

26800. A license under this chapter is subject to forfeiture for a breach of any of the prohibitions and requirements of this article, except those stated in the following provisions:
(a) Subdivision (c) of Section 26890.
(b) Subdivision (d) of Section 26890.
(c) Subdivision (b) of Section 26900.

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

§ 26805. Place of conducting business

26805. (a) Except as provided in subdivisions (b) and (c), the business of a licensee shall be conducted only in the buildings designated in the license.
(b)(1) A person licensed pursuant to Sections 26700 and 26705 may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at any gun show or event, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun
show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subdivision shall be entitled to conduct business as authorized herein at any gun show or event in the state, without regard to the jurisdiction within this state that issued the license pursuant to Sections 26700 and 26705, provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subdivision (a) of Section 26815, and (ii) all applicable local laws, regulations, and fees, if any.

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

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

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

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

(1) The building designated in the license.

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

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

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

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

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

§ 26810. Display of license

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

Comment. Section 26810 continues former Section 12071(b)(2) without substantive change. For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

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

§ 26815. Waiting period and other delivery restrictions

26815. No firearm shall be delivered:
(a) Within 10 days of the application to purchase, or, after notice by the
department pursuant to Section 28220, within 10 days of the submission to the
department of any correction to the application, or within 10 days of the
submission to the department of any fee required pursuant to Section 28220,
whichever is later.
(b) Unless unloaded and securely wrapped or unloaded and in a locked
container.
(c) Unless the purchaser, transferee, or person being loaned the firearm presents
clear evidence of the person’s identity and age to the dealer.
(d) Whenever the dealer is notified by the Department of Justice that the person
is prohibited by state or federal law from processing, owning, purchasing, or
possessing a firearm. The dealer shall make available to the person in the prohibited
class a prohibited notice and transfer form, provided by the department, stating
that the person is prohibited from owning or possessing a firearm, and that the
person may obtain from the department the reason for the prohibition.

Comment. Section 26815 continues former Section 12071(b)(3) without substantive change.
For exceptions to this provision, see Article 3 (commencing with Section 26950), Article 4
(commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6
(commencing with Section 27100).
For the consequences of violating this section, see Section 26800 (forfeiture of license).
See Sections 16190 (“application to purchase”), 16400 (“clear evidence of the person’s identity
and age”), 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
Sections 26700 to 26915, inclusive”).

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

Comment. Section 26820 continues former Section 12071(b)(4) without substantive change.
For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5
(commencing with Section 27050), and Article 6 (commencing with Section 27100).
For the consequences of violating this section, see Section 26800 (forfeiture of license).
See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and
“revolver”).

§ 26825. Prompt and proper processing of private party firearms transactions
26825. A licensee shall agree to and shall act properly and promptly in
processing firearms transactions pursuant to Chapter 5 (commencing with Section
28050).

Comment. Section 26825 continues former Section 12071(b)(5) without substantive change.
For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5
(commencing with Section 27050), and Article 6 (commencing with Section 27100).
For the consequences of violating this section, see Section 26800 (forfeiture of license).
See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
Sections 26700 to 26915, inclusive”).
§ 26830. Compliance with specified laws

26830. A licensee shall comply with all of the following:
(a) Section 27500.
(b) Section 27505.
(c) Section 27510.
(d) Section 27515.
(e) Section 27520.
(f) Section 27525.
(g) Section 27530.
(h) Section 27535.
(i) Section 27555.
(j) Section 28100.
(k) Article 2 (commencing with Section 28150) of Chapter 6.
(l) Article 3 (commencing with Section 28200) of Chapter 6.
(m) Section 30300.

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

§ 26835. Posting of warnings

26835. A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:
(a) “IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”
(b) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”
(c) “IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY
BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS ($5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE.”

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

(e) “FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

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

Comment. Section 26835 continues former Section 12071(b)(7) without substantive change. For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

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

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

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

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

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

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

Subdivision (b) continues former Section 12071(b)(8)(B) without change.
§ 26845. No handgun delivery without proof of California residency

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

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

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

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

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

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

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

§ 26850. Safe handling demonstration with handgun

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

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

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

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

(3) If the handgun is a single-action revolver, the steps listed in Section 26859.

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

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

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

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

(g) Department-certified instructors who may administer the safe handling demonstration shall meet the requirements set forth in subdivision (b) of Section 31635.

(h) The persons who are exempt from the requirements of subdivision (a) of Section 31615, pursuant to Section 31700, are also exempt from performing the safe handling demonstration.

Comment. Subdivisions (a) and (b) of Section 26850, in combination with Sections 26853, 26856, and 26859, continue former Section 12071(b)(8)(D) without substantive change. Subdivision (c) continues former Section 12071(b)(8)(E) without substantive change. Subdivision (d) continues former Section 12071(b)(8)(F) without substantive change. Subdivision (e) continues former Section 12071(b)(8)(G) without substantive change. Subdivision (f) continues former Section 12071(b)(8)(H) without substantive change. Subdivision (g) continues former Section 12071(b)(8)(I) without substantive change. Subdivision (h) continues former Section 12071(b)(8)(J) without substantive change.

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

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

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

§ 26853. Steps in safe handling demonstration for semiautomatic pistol

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

(a) Remove the magazine.

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

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

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

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

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

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

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

(j) Lock the slide back to eject the bright orange, red, or other readily
identifiable dummy round. If the handgun is of a model that does not allow the
slide to be locked back, pull the slide back and physically check the chamber to
ensure that the chamber is clear. If no readily identifiable dummy round is
available, an empty cartridge casing with an empty primer pocket may be used.

(k) Apply the safety, if applicable.

(l) Apply the firearm safety device, if applicable. This requirement shall not
apply to an Olympic competition pistol if no firearm safety device, other than a
cable lock that the department has determined would damage the barrel of the
pistol, has been approved for the pistol, and the pistol is either listed in subdivision
(b) of Section 32105 or is subject to subdivision (c) of Section 32105.

Comment. In combination with Section 26850(a)-(b), Section 26853 continues former Section
12071(b)(8)(D) without substantive change, as it pertained to a semiautomatic pistol.
For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5
(commencing with Section 27050), and Article 6 (commencing with Section 27100).
For the consequences of violating this section, see Section 26800 (forfeiture of license).
See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,”
“pistol,” and “revolver”), 16640 (“handgun”).

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

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

(a) Open the cylinder.
(b) Visually and physically inspect each chamber, to ensure that the revolver is
unloaded.
(c) Remove the firearm safety device. If the firearm safety device prevents any
of the previous steps, remove the firearm safety device during the appropriate step.
(d) While maintaining muzzle awareness and trigger discipline, load one bright
orange, red, or other readily identifiable dummy round into a chamber of the
cylinder and rotate the cylinder so that the round is in the next-to-fire position. If
no readily identifiable dummy round is available, an empty cartridge casing with
an empty primer pocket may be used.
(e) Close the cylinder.
(f) Open the cylinder and eject the round.
(g) Visually and physically inspect each chamber to ensure that the revolver is
unloaded.
(h) Apply the firearm safety device, if applicable. This requirement shall not
apply to an Olympic competition pistol if no firearm safety device, other than a
cable lock that the department has determined would damage the barrel of the
pistol, has been approved for the pistol, and the pistol is either listed in subdivision
(b) of Section 32105 or is subject to subdivision (c) of Section 32105.

Comment. In combination with Section 26850(a)-(b), Section 26856 continues former Section
12071(b)(8)(D) without substantive change, as it pertained to a double-action revolver.
For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

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

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

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

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

(a) Open the loading gate.

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

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

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

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

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

(g) Apply the firearm safety device, if applicable. This requirement shall not apply to an Olympic competition pistol if no firearm safety device, other than a cable lock that the department has determined would damage the barrel of the pistol, has been approved for the pistol, and the pistol is either listed in subdivision (b) of Section 32105 or is subject to subdivision (c) of Section 32105.

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

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

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

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

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

26865. Commencing July 1, 1992, a licensee shall offer to provide the purchaser or transferee of a firearm, or person being loaned a firearm, with a copy of the pamphlet described in Section 34205, and may add the cost of the pamphlet, if any, to the sales price of the firearm.

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

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

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

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).
§ 26870. No collusion

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

Comment. Section 26870 continues former Section 12071(b)(10) without substantive change. For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100). For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

§ 26875. Posting of charges and fees

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

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

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

Comment. Section 26875 continues former Section 12071(b)(11) without substantive change. For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100). For the consequences of violating this section, see Section 26800 (forfeiture of license).

☞ Staff Note. Existing Section 12071(b)(11) says:

(11) The licensee shall post conspicuously within the licensed premises a detailed list of each of the following:

(A) All charges required by governmental agencies for processing firearm transfers required by Sections 12076, 12082, and 12806.

(B) All fees that the licensee charges pursuant to Sections 12082 and 12806.

(Emphasis added.)

The two cross-references to Section 12806 appear to be a mistake. The current version of Section 12806 has nothing to do with fees or charges; it concerns the content of a handgun safety certificate.

In the past, however, there was a different Section 12806, which provided:

12806. (a) A fee to cover the costs of giving the basic firearms safety course instruction and issuance of the basic firearm safety certificate may be charged by the instructor to each person participating and receiving instruction in basic firearms safety. The department may impose a charge not to exceed ten dollars ($10) for each person participating and receiving instruction in the basic firearms safety course to cover the department’s cost in carrying out this article as determined annually by the department. The instructor of the course shall collect and submit the charge to the department to be deposited into the Firearms Safety Training Fund Special Account as provided in subdivision (b).

(b) All money received by the department pursuant to this article shall be deposited in the Firearms Safety Training Fund Special Account, which is hereby created in the General Fund and continuously appropriated for expenditure by the department for the costs incurred pursuant to this article.

The cross-references to Section 12806 in Section 12071(b)(11) predate the repeal of the provision quoted above. Apparently, they were never updated to reflect that repeal.

There is no existing provision closely comparable to former Section 12806. Although existing Section 12805 relates to fees, it differs significantly from former Section 12806.

The staff is thus unsure how to handle the cross-references to Section 12806 in Section 12071(b)(11). We would appreciate comments on this point.

Unless someone suggests a better solution, we are inclined to leave those cross-references intact in the provision that would continue Section 12071(b)(11) (proposed Section 26875), as shown above. We also recommend that the Commission add this issue to its list of “Minor Clean-up Issues for Possible Future Legislative Attention.”

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

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

Comment. Section 26880 continues former Section 12071(b)(12) without substantive change.

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

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

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

☞ Note. Existing Section 12071(b)(12) says:

(12) The licensee shall not misstate the amount of fees charged by a governmental agency pursuant to Sections 12076, 12082, and 12806.

(Emphasis added.)

Again, the cross-reference to Section 12806 appears to be a mistake. Unless someone suggests a better solution, we are inclined to treat this cross-reference to Section 12806 the same way as the similar cross-references discussed in the Staff Note on proposed Section 26875.

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

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

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

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

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

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

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

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

For the consequences of violating this section, see Section 26800 (forfeiture of license).
See Sections 16520 ("firearm"), 16810 ("licensed premises," "licensee’s business premises," and "licensee’s place of business"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

§ 26890. Storage and securing of inventory firearms

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

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

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

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

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

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

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

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

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

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

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

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

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

For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).
For the consequences of violating this section, see Section 26800 (forfeiture of license).

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

§ 26895. Providing copy of license to Department of Justice

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

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

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

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

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

§ 26900. Maintenance and inspection of firearm transaction record

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

(b) A licensee shall be in compliance with the provisions of subdivision (a) if the licensee maintains and makes available for inspection during business hours to any peace officer, authorized local law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, the bound book containing the same information referred to in Section 478.124a and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal Regulations and the records referred to in subdivision (a) of Section 478.124 of Title 27 of the Code of Federal Regulations.

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

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

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

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

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

§ 26905. Reporting of handgun acquisitions

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

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

(1) A transaction subject to the provisions of Sections 26960 and 27660.
(2) The dealer acquired the firearm from a wholesaler.

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

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

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

Comment. Section 26905 continues former Section 12071(b)(18) without substantive change. For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).
See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 17340 (“wholesaler”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

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

26910. A licensee shall forward, in a format prescribed by the Department of Justice, information as required by the department on any firearm that is not delivered within the time period set forth in Section 478.102(c) of Title 27 of the Code of Federal Regulations.

Comment. Section 26910 continues former Section 12071(b)(19) without substantive change. For exceptions to this provision, see Article 4 (commencing with Section 27000), Article 5 (commencing with Section 27050), and Article 6 (commencing with Section 27100).

For the consequences of violating this section, see Section 26800 (forfeiture of license).
See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

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

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

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

(c) If the local jurisdiction requires a background check of the agents or employees of a firearms dealer, the agent or employee shall obtain a certificate of eligibility pursuant to subdivision (a).
(d)(1) Nothing in this section shall be construed to preclude a local jurisdiction from conducting an additional background check pursuant to Section 11105. The local jurisdiction may not charge a fee for the additional criminal history check.

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

(e) The licensee shall prohibit any agent who the licensee knows or reasonably should know is within a class of persons prohibited from possessing firearms pursuant to Chapter 2 (commencing with Section 29800) or 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, from coming into contact with any firearm that is not secured and from accessing any key, combination, code, or other means to open any of the locking devices described in subdivision (g).

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

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

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

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

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

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

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

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

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

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

See Sections 16130 (“agent”), 16520 (“firearm”), 16610 (“gun safe”), 16870 (“long-gun safe”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).
Article 3. Exceptions Extending Only to Waiting Period

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

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

1. The person is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.
2. The officer’s employer has authorized the officer to carry firearms while in the performance of duties.

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

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

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

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

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

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

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

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

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

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

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

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

See Sections 16190 (“application to purchase”), 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).
§ 26960. Waiting period exception for sale, delivery, or transfer of handgun, not intended as merchandise, by dealer to self or another dealer

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

1. The dealer is delivering the firearm to another dealer, the firearm is not intended as merchandise in the receiving dealer’s business, and the requirements of subdivisions (b) and (c) are satisfied.
2. The dealer is delivering the firearm to himself or herself, the firearm is not intended as merchandise in the dealer’s business, and the requirements of subdivision (c) are satisfied.

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

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

(2) Where electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the application and the type of information concerning the purchaser or transferee as is indicated in Section 28160.

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

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

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

26965. (a) The waiting period described in Section 26815 does not apply to the sale, delivery, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice pursuant to Section 32650 or 33300, pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of Division 10 of this title.

(b) On the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the application as is indicated in Section 28160 or 28165.
Comment. Section 26965 continues former Section 12078(r) without substantive change, as that provision applied to the waiting period in former Section 12071. See Sections 16190 ("application to purchase"), 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

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

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

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

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

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

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

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

Comment. Section 26970 continues former Section 12078(t)(1) without substantive change, as that provision applied to the waiting period in former Section 12071. See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

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

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

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

(1) The firearm is unloaded.

(2) The loan is made by a dealer.

(3) The loan is made to a person who possesses a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8.

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

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

Comment. Section 27000 continues former Section 12078(s)(3) without substantive change, as that provision applied to former Section 12071(b). See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").
§ 27005. License forfeiture exception for short-term loan of unloaded firearm by dealer to consultant-evaluator

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

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

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

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

3. A letter from the person licensed as an importer, manufacturer, or dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, with whom the consultant-evaluator has a bona fide business relationship. The letter shall detail the bona fide business purposes for which the firearm is being loaned and confirm that the consultant-evaluator is being loaned the firearm as part of a bona fide business relationship.

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

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

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

Article 5. Exceptions Relating to Law Enforcement

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

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

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.
(c) Within 10 days of the date a handgun is acquired by the agency, a record of
the same shall be entered as an institutional weapon into the Automated Firearms
System (AFS) via the California Law Enforcement Telecommunications System
(CLETS) by the law enforcement or state agency. Any agency without access to
AFS shall arrange with the sheriff of the county in which the agency is located to
input this information via this system.

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

For other exceptions relating to law enforcement, see Sections 26950, 27055-27065.
See Sections 16520 (“firearm”), 16640 (“handgun”).

§ 27055. Exception for loan of firearm to peace officer employee for use in performing
official duties
27055. Article 1 (commencing with Section 26700) and Article 2 (commencing
with Section 26800) do not apply to the loan of a firearm if all of the following
conditions are satisfied:
(a) The loan is made by an authorized law enforcement representative of a city,
county, or city and county, or of the state or federal government.
(b) The loan is made to a peace officer employed by that agency and authorized
to carry a firearm.
(c) The loan is made for the carrying and use of that firearm by that peace
officer in the course and scope of the officer’s duties.

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

For other exceptions relating to law enforcement, see Sections 26950, 27050, 27060-27065.
See Section 16520 (“firearm”).

§ 27060. Exception for sale, delivery, or transfer by law enforcement agency to peace officer
pursuant to Public Contract Code
27060. (a) Article 1 (commencing with Section 26700) and Article 2
(commencing with Section 26800) do not apply to the sale, delivery, or transfer of
a firearm by a law enforcement agency to a peace officer pursuant to Section
10334 of the Public Contract Code.
(b) Within 10 days of the date that a handgun is sold, delivered, or transferred
pursuant to Section 10334 of the Public Contract Code to that peace officer, the
name of the officer and the make, model, serial number, and other identifying
characteristics of the firearm being sold, delivered, or transferred shall be entered
into the Automated Firearms System (AFS) via the California Law Enforcement
Telecommunications System (CLETS) by the law enforcement or state agency that
sold, delivered, or transferred the firearm. Any agency without access to AFS shall
arrange with the sheriff of the county in which the agency is located to input this
information via this system.
Comment. Section 27060 continues former Section 12078(a)(4) without substantive change, as that provision applied to former Section 12071 (through its reference to “the preceding provisions of this article”).

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

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

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

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

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

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

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

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

Article 6. Other Exceptions

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

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

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

See Section 16520 (“firearm”).

§ 27105. Exception for service or repair by gunsmith

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

Comment. Section 27105 continues former Section 12078(e) without substantive change, as that provision applied to former Section 12071.
See Sections 16520 (“firearm”), 16630 (“gunsmith”).

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

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

(a) The firearms are unloaded.
(b) The firearms are not handguns.
(c) The sale, delivery, or transfer is made by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555.

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

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

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

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

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

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

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

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

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

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

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

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

(a) The firearms are unloaded.
(b) The sale, delivery, or transfer is made by one dealer to another dealer, upon proof of compliance with the requirements of Section 27555.
(c) The firearms are intended as merchandise in the receiving dealer’s business

Comment. Section 27125 continues former Section 12078(k)(4) without substantive change, as that provision applied to former Section 12071.
See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

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

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

Comment. Section 27130 continues former Section 12078(k)(5) without substantive change, as that provision applied to former Section 12071.
See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

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

27135. (a) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the loan of an unloaded firearm if all of the following conditions are satisfied:
(1) The loan is made by a dealer who also operates a target facility that holds a business or regulatory license on the premises of the building designated in the license.
(2) The loan is made to a person at that target facility.
(3) The firearm is at all times kept within the premises of the target facility.
(b) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) do not apply to the loan of an unloaded firearm if all of the following conditions are satisfied:
(1) The loan is made by a dealer whose building designated in the license is on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private.
(2) The loan is made to a person at that club or organization.
(3) The firearm is at all times kept within the premises of the club or organization.

Comment. Section 27135 continues former Section 12078(k)(6) without substantive change, as that provision applied to former Section 12071.
See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

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

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

(a) Section 24410, relating to cane guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to cane guns.
(b) Section 24510, relating to firearms that are not immediately recognizable as firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to firearms that are not immediately recognizable as firearms.
(c) Sections 24610 and 24680, relating to undetectable firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to undetectable firearms.
(d) Section 24710, relating to wallet guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to wallet guns.
(e) Chapter 2 (commencing with Section 30500) of Division 10, relating to assault weapons.
(f) Section 31500, relating to unconventional pistols, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to unconventional pistols.
(g) Sections 33215 to 33225, inclusive, relating to short-barreled rifles and short-barreled shotguns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to short-barreled rifles and short-barreled shotguns.
(h) Chapter 6 (commencing with Section 32610) of Division 10, relating to machineguns.
(i) Section 33600, relating to zip guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to zip guns.

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


CHAPTER 3. GUN SHOW OR EVENT

Article 1. Gun Show or Event

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 27205. List of participants in gun show or event

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

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

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

(1) The vendor’s complete name.

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

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

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

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

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

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

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

See Section 16520 (“firearm”).

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

§ 27210. Annual event and security plan and schedule

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

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

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

(3) The estimated number of attendees.

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

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

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

(7) The number of sworn peace officers employed by the producer or the facilities manager who will be present at the show or event.
(8) The number of nonsworn security personnel employed by the producer or the facility’s manager who will be present at the show or event.

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

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

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

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

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

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

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

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

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

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

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

See Section 16520 (“firearm”).

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

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

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

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

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

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

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

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

Comment. Subdivision (a) of Section 27220 continues the first sentence of former Section
12071.1(k) without substantive change.
Subdivision (b) continues the second sentence of former Section 12071.1(k) without
substantive change.
For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
Article 3 (commencing with Section 27400).
For the consequences of violating this article, see Section 27245 (punishment).
See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
Sections 26700 to 26915, inclusive”).

§ 27225. Cooperation of licensed firearms dealer

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

Comment. Section 27225 continues former Section 12071.1(l) without substantive change.
For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
Article 3 (commencing with Section 27400).
For the consequences of violating this article, see Section 27245 (punishment).
See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
Sections 26700 to 26915, inclusive”).

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

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

Comment. Section 27230 continues former Section 12071.1(m) without substantive change.
For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
Article 3 (commencing with Section 27400).
For the consequences of violating this article, see Section 27245 (punishment).

§ 27235. Written contract between producer and vendor

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

Comment. Section 27235 continues former Section 12071.1(n) without substantive change.
For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see
Article 3 (commencing with Section 27400).
For the consequences of violating this article, see Section 27245 (punishment).
See Section 16520 (“firearm”).
§ 27240. Posting of signs

27240. (a) The producer of a gun show or event shall require that signs be posted in a readily visible location at each public entrance to the show containing, but not limited to, the following notices:

(1) This gun show follows all federal, state, and local firearms and weapons laws, without exception.

(2) Any firearm carried onto the premises by any member of the public will be checked, cleared of any ammunition, and secured in a manner that prevents it from being operated, and an identification tag or sticker will be attached to the firearm before the person is allowed admittance to the show.

(3) No member of the public under the age of 18 years shall be admitted to the show unless accompanied by a parent, grandparent, or legal guardian.

(4) All firearms transfers between private parties at the show shall be conducted through a licensed dealer in accordance with applicable state and federal laws.

(5) Persons possessing firearms at this facility must have in their immediate possession government-issued photo identification, and display it upon request to any security officer or any peace officer, as defined in Section 830.

(b) The show producer shall post, in a readily visible location at each entrance to the parking lot at the show, signage that states: “The transfer of firearms on the parking lot of this facility is a crime.”

Comment. Subdivision (a) of Section 27240 continues former Section 12071.1(o) without substantive change.

Subdivision (b) continues former Section 12071.1(p) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27245 (punishment).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27245. Punishment

27245. (a) A willful failure by a gun show producer to comply with any of the requirements of this article, except for the posting of required signs, shall be a misdemeanor punishable by a fine not to exceed two thousand dollars ($2,000), and shall render the producer ineligible for a gun show producer license for one year from the date of the conviction.

(b) A willful failure of a gun show producer to post signs as required by this article shall be a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000) for the first offense and not to exceed two thousand dollars ($2,000) for the second or subsequent offense, and with respect to the second or subsequent offense, shall render the producer ineligible for a gun show producer license for one year from the date of the conviction.

(c) Multiple violations charged pursuant to subdivision (a) arising from more than one gun show or event shall be grounds for suspension of a producer’s certificate of eligibility pending adjudication of the violations.
Comment. Subdivision (a) of Section 27245 continues former Section 12071.1(e)(1) without substantive change.
Subdivision (b) continues former Section 12071.1(e)(2) without substantive change.
Subdivision (c) continues former Section 12071.1(e)(3) without substantive change.
A violation of the predecessor of this article (former Section 12071.1) counts as a prior offense in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction).
For exceptions to provisions in this article and Article 2 (commencing with Section 27300), see Article 3 (commencing with Section 27400).

Article 2. Gun Show Enforcement and Security Act of 2000

§ 27300. Title of act
27300. This article shall be known, and may be cited as, the Gun Show Enforcement and Security Act of 2000.

Comment. Section 27300 continues former Section 12071.4(a) without substantive change.

§ 27305. Vendor certification to producer
27305. All gun show or event vendors shall certify in writing to the producer that they:
(a) Will not display, possess, or offer for sale any firearms, knives, or weapons for which possession or sale is prohibited.
(b) Acknowledge that they are responsible for knowing and complying with all applicable federal, state, and local laws dealing with the possession and transfer of firearms.
(c) Will not engage in activities that incite or encourage hate crimes.
(d) Will process all transfers of firearms through licensed firearms dealers as required by state law.
(e) Will verify that all firearms in their possession at the show or event will be unloaded, and that the firearms will be secured in a manner that prevents them from being operated except for brief periods when the mechanical condition of a firearm is being demonstrated to a prospective buyer.
(f) Have complied with the requirements of Section 27320.
(g) Will not display or possess black powder, or offer it for sale.

Comment. Section 27305 continues former Section 12071.4(b) without substantive change.
For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).
For the consequences of violating this article, see Section 27350 (punishment).
See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27310. Compliance with federal and state laws
27310. All firearms transfers at a gun show or event shall be in accordance with applicable state and federal laws.

Comment. Section 27310 continues former Section 12071.4(c) without substantive change.
For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).
For the consequences of violating this article, see Section 27350 (punishment).
See Section 16520 (“firearm”).

§ 27315. Display of ammunition

27315. Except for purposes of showing ammunition to a prospective buyer, ammunition at a gun show or event may be displayed only in closed original factory boxes or other closed containers.

Comment. Section 27315 continues former Section 12071.4(d) without substantive change.
For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).
For the consequences of violating this article, see Section 27350 (punishment).

§ 27320. Information to be provided by vendor

27320. (a) Before commencement of a gun show or event, each vendor who will offer for sale firearms manufactured after December 31, 1898, shall provide to the producer all of the following information relative to the vendor, the vendor’s employees, and other persons, compensated or not, who will be working or otherwise providing services to the public at the vendor’s display space:
1. The person’s complete name.
2. The person’s driver’s license or state-issued identification card number.
3. The person’s date of birth.

(b) The producer shall keep the information at the onsite headquarters of the show or event for the duration of the show or event, and at the producer’s regular place of business for two weeks after the conclusion of the show or event. The producer shall make the information available upon request to any sworn peace officer for purposes of the officer’s official law enforcement duties.

Comment. Section 27320 continues former Section 12071.4(e) without substantive change.
For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).
For the consequences of violating this article, see Section 27350 (punishment).
See Section 16520 (“firearm”).

☞ Note. Proposed Section 27320(a) refers to “each vendor who will offer for sale firearms manufactured after December 31, 1898 ....” (Emphasis added.) The reference to “1898” is not a mistake. See existing Section 12071.4(e).

§ 27325. Nametag requirement

27325. At any gun show or event, each vendor and each employee of a vendor shall wear a name tag indicating first and last name.

Comment. Section 27325 continues former Section 12071.4(f) without substantive change.
For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).
For the consequences of violating this article, see Section 27350 (punishment).
§ 27330. Simultaneous possession of firearm and ammunition designed for that firearm

27330. No person at a gun show or event, other than security personnel or sworn peace officers, shall possess at the same time both a firearm and ammunition that is designed to be fired in the firearm. Vendors having those items at the show for sale or exhibition are exempt from this prohibition.

Comment. Section 27330 continues former Section 12071.4(g) without substantive change. For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400). For the consequences of violating this article, see Section 27350 (punishment).

See Section 16520 (“firearm”).

§ 27335. Attendance by person under 18

27335. No member of the public who is under the age of 18 years shall be admitted to, or be permitted to remain at, a gun show or event unless accompanied by a parent or legal guardian. Any member of the public who is under the age of 18 shall be accompanied by that person’s parent, grandparent, or legal guardian while at the show or event.

Comment. Section 27335 continues former Section 12071.4(h) without substantive change. For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400). For the consequences of violating this article, see Section 27350 (punishment).

§ 27340. Firearm brought to gun show by member of public

27340. (a) Persons other than show or event security personnel, sworn peace officers, or vendors, who bring firearms onto the gun show or event premises shall sign in ink the tag or sticker that is attached to the firearm prior to being allowed admittance to the show or event, as provided for in subdivision (b).

(b) All firearms carried onto the premises of a gun show or event by members of the public shall be checked, cleared of any ammunition, secured in a manner that prevents them from being operated, and an identification tag or sticker shall be attached to the firearm, prior to the person being allowed admittance to the show. The identification tag or sticker shall state that all firearms transfers between private parties at the show or event shall be conducted through a licensed dealer in accordance with applicable state and federal laws. The person possessing the firearm shall complete the following information on the tag before it is attached to the firearm:

(1) The gun owner’s signature.

(2) The gun owner’s printed name.

(3) The identification number from the gun owner’s government-issued photo identification.

Comment. Subdivision (a) of Section 27340 continues former Section 12071.4(i) without substantive change. Subdivision (b) continues former Section 12071.4(j) without substantive change. See Section 16520 (“firearm”). For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).
For the consequences of violating this article, see Section 27350 (punishment).

§ 27345. Government-issued photo identification

27345. Any person who possesses a firearm at a gun show or event shall have government-issued photo identification in immediate possession, and shall display it upon request to any security officer or peace officer.

Comment. Section 27345 continues former Section 12071.4(k) without substantive change.

For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).

For the consequences of violating this article, see Section 27350 (punishment).

See Section 16520 (“firearm”).

§ 27350. Punishment

27350. (a) Unless otherwise specified, a first violation of this article is an infraction.

(b) Any second or subsequent violation of this article is a misdemeanor.

(c) Any person who commits an act the person knows to be a violation of this article is guilty of a misdemeanor for a first offense.

Comment. Section 27350 continues former Section 12071.4(k) without substantive change.

A violation of the predecessor of this article (former Section 12071.4(k)) counts as a prior offense in determining the appropriate punishment under this section. See Section 16015 (determining existence of prior conviction).

For exceptions to provisions in this article and Article 1 (commencing with Section 27200), see Article 3 (commencing with Section 27400).

Article 3. Exceptions Relating to Law Enforcement

§ 27400. Exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government

27400. (a) Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) do not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System.
(CLETS) by the law enforcement or state agency. Any agency without access to
AFS shall arrange with the sheriff of the county in which the agency is located to
input this information via this system.

Comment. Section 27400 continues former Section 12078(a)(2) without substantive change, as
that provision applied to former Sections 12071.1 and 12071.4 (through its reference to “the
preceding provisions of this article”).
See Sections 16520 (“firearm”), 16640 (“handgun”).

§ 27405. Exception for loan of firearm to peace officer employee for use in performing
official duties
27405. Article 1 (commencing with Section 27200) and Article 2 (commencing
with Section 27300) do not apply to the loan of a firearm if all of the following
conditions are satisfied:
(a) The loan is made by an authorized law enforcement representative of a city,
county, or city and county, or of the state or federal government.
(b) The loan is made to a peace officer employed by that agency and authorized
to carry a firearm.
(c) The loan is made for the carrying and use of that firearm by that peace
officer in the course and scope of the officer’s duties.

Comment. Section 27405 continues former Section 12078(a)(3) without substantive change, as
that provision applied to former Sections 12071.1 and 12071.4 (through its reference to “the
preceding provisions of this article”).
See Section 16520 (“firearm”).

§ 27410. Exception for sale, delivery, or transfer by law enforcement agency to peace officer
pursuant to Public Contract Code
27410. (a) Article 1 (commencing with Section 27200) and Article 2
(commencing with Section 27300) do not apply to the sale, delivery, or transfer of
a firearm by a law enforcement agency to a peace officer pursuant to Section
10334 of the Public Contract Code.
(b) Within 10 days of the date that a handgun is sold, delivered, or transferred
pursuant to Section 10334 of the Public Contract Code to that peace officer, the
name of the officer and the make, model, serial number, and other identifying
characteristics of the firearm being sold, delivered, or transferred shall be entered
into the Automated Firearms System (AFS) via the California Law Enforcement
Telecommunications System (CLETS) by the law enforcement or state agency that
sold, delivered, or transferred the firearm. Any agency without access to AFS shall
arrange with the sheriff of the county in which the agency is located to input this
information via this system.

Comment. Section 27410 continues former Section 12078(a)(4) without substantive change, as
that provision applied to former Sections 12071.1 and 12071.4 (through its reference to “the
preceding provisions of this article”).
See Sections 16520 (“firearm”), 16640 (“handgun”).
§ 27415. Exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm

27415. (a) Article 1 (commencing with Section 27200) and Article 2 (commencing with Section 27300) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

Comment. Section 27415 continues former Section 12078(a)(5) without substantive change, as that provision applied to former Sections 12071.1 and 12071.4 (through its reference to “the preceding provisions of this article”).

See Sections 16520 (“firearm”), 16640 (“handgun”).

CHAPTER 4. CRIMES RELATING TO SALE, LEASE, OR TRANSFER OF FIREARMS

Article 1. Crimes Relating to Sale, Lease, or Transfer of Firearms

§ 27500. Providing firearm to person in prohibited class

27500. (a) No person, corporation, or firm shall knowingly supply, deliver, sell, or give possession or control of a firearm to any person within any of the classes prohibited by Chapter 2 (commencing with Section 29800) or 3 (commencing with Section 29900) of Division 9.

(b) No person, corporation, or dealer shall sell, supply, deliver, or give possession or control of a firearm to anyone whom the person, corporation, or dealer has cause to believe is within any of the classes prohibited by Chapter 2 (commencing with Section 29800) or 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code.

Comment. Subdivision (a) of Section 27500 continues former Section 12072(a)(1) without substantive change.

Subdivision (b) continues former Section 12072(a)(2) without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).
§ 27505. Person, corporation, or firm that sells, loans, or transfers firearm to minor or
handgun to person under age 21

27505. (a) No person, corporation, or firm shall sell, loan, or transfer a firearm
to a minor, nor sell a handgun to an individual under 21 years of age.
(b) Subdivision (a) shall not apply to or affect the following circumstances:
   (1) The sale of a handgun, if the handgun is an antique firearm and the sale is to
       a person at least 18 years of age.
   (2) The transfer or loan of a firearm, other than a handgun, to a minor by the
       minor’s parent or legal guardian.
   (3) The transfer or loan of a firearm, other than a handgun, to a minor by a
       grandparent who is not the legal guardian of the minor, if the transfer is done with
       the express permission of the minor’s parent or legal guardian.
   (4) The loan of a firearm, other than a handgun, to a minor, with the express
       permission of the minor’s parent or legal guardian, if the loan does not exceed 30
       days in duration and is for a lawful purpose.
   (5) The loan of a handgun to a minor by the minor’s parent or legal guardian, if
       both of the following requirements are satisfied:
       (A) The minor is being loaned the firearm for the purposes of engaging in a
           lawful, recreational sport, including, but not limited to, competitive shooting, or
           agricultural, ranching, or hunting activity, or a motion picture, television, or video
           production, or entertainment or theatrical event, the nature of which involves the
           use of a firearm.
       (B) The duration of the loan does not exceed the amount of time that is
           reasonably necessary to engage in the lawful, recreational sport, including, but not
           limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a
           motion picture, television, or video production, or entertainment or theatrical
           event, the nature of which involves the use of a firearm.
   (6) The loan of a handgun to a minor by a person who is not the minor’s parent
       or legal guardian, if all of the following requirements are satisfied:
       (A) The minor is accompanied by the minor’s parent or legal guardian when the
           loan is made, or the minor has the written consent of the minor’s parent or legal
           guardian, which is presented at the time of the loan, or earlier.
       (B) The minor is being loaned the firearm for the purpose of engaging in a
           lawful, recreational sport, including, but not limited to, competitive shooting, or
           agricultural, ranching, or hunting activity, or a motion picture, television, or video
           production, or entertainment or theatrical event, the nature of which involves the
           use of a firearm.
       (C) The duration of the loan does not exceed the amount of time that is
           reasonably necessary to engage in the lawful, recreational sport, including, but not
           limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a
           motion picture, television, or video production, or entertainment or theatrical
           event, the nature of which involves the use of a firearm.
       (D) The duration of the loan does not, in any event, exceed 10 days.
Comment. Subdivision (a) of Section 27505 continues former Section 12072(a)(3)(A) without substantive change.

Subdivision (b) continues without substantive change former Section 12072(a)(3)(B) and former Section 12078(p), as it pertained to former Section 12072(a)(3). See Section 16170 (“antique firearm”).

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See also Sections 16520 (“firearm”), 16640 (“handgun”).

§ 27510. Dealer that supplies, delivers, or gives possession or control of firearm to minor or handgun to person under age 21

27510. No person licensed under Sections 26700 to 26915, inclusive, shall supply, sell, deliver, or give possession or control of a pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years, or any other firearm to a person under the age of 18 years.

Comment. Section 27510 continues former Section 12072(b) without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 “firearm,” 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver.”

§ 27515. Providing firearm to sham recipient

27515. No person, corporation, or dealer shall sell, loan, or transfer a firearm to anyone whom the person, corporation, or dealer has cause to believe is not the actual purchaser or transferee of the firearm, or to anyone who is not the one actually being loaned the firearm, if the person, corporation, or dealer has either of the following:

(a) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the provisions of Section 27540 or 27545.
(b) Knowledge that the firearm is to be subsequently loaned, sold, or transferred to avoid the requirements of any exemption to the provisions of Section 27540 or 27545.

Comment. Section 27515 continues former Section 12072(a)(4) without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27520. Acquiring firearm with intent to violate certain restrictions

27520. No person, corporation, or dealer shall acquire a firearm for the purpose of selling, transferring, or loaning the firearm, if the person, corporation, or dealer has either of the following:

(a) In the case of a dealer, intent to violate Section 27510 or 27540.
(b) In any other case, intent to avoid either of the following:
(1) The provisions of Section 27545.

(2) The requirements of any exemption to the provisions of Section 27545.

Comment. Section 27520 continues former Section 12072(a)(5) without substantive change. For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27525. Compliance with reporting requirements

27525. (a) A dealer shall comply with Section 26905.

(b) A dealer shall comply with Section 26910.

Comment. Subdivision (a) of Section 27525 continues former Section 12072(a)(6), relating to reporting of handgun acquisitions, without substantive change.

Subdivision (b) continues former Section 12072(a)(7), relating to reporting of information on a firearm that is not timely delivered, without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27530. Transfer of handgun that lacks identifying information

27530. No person shall sell or otherwise transfer ownership in a pistol, revolver, or other firearm capable of being concealed upon the person unless the firearm bears either:

(a) The name of the manufacturer, the manufacturer’s make or model, and a manufacturer’s serial number assigned to that firearm.

(b) The identification number or mark assigned to the firearm by the Department of Justice pursuant to Section 23910.

Comment. Section 27530 continues former Section 12072(a)(8) without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16640 (“handgun”).

§ 27535. Purchasing more than one firearm in 30-day period

27535. (a) No person shall make an application to purchase more than one pistol, revolver, or other firearm capable of being concealed upon the person within any 30-day period.

(b) Subdivision (a) shall not apply to any of the following:

(1) Any law enforcement agency.

(2) Any agency duly authorized to perform law enforcement duties.

(3) Any state or local correctional facility.

(4) Any private security company licensed to do business in California.
(5) Any person who is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, and who is authorized to, and does carry a firearm during the course and scope of employment as a peace officer.

(6) Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of a firearm.

(7) Any person who may, pursuant to Article 2 (commencing with Section 27600), 3 (commencing with Section 27650), or 4 (commencing with Section 27700), claim an exemption from the waiting period set forth in Section 27540.

(8) Any transaction conducted through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

(9) Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and has a current certificate of eligibility issued by the Department of Justice pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(10) The exchange of a pistol, revolver, or other firearm capable of being concealed upon the person where the dealer purchased that firearm from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.

(11) The replacement of a pistol, revolver, or other firearm capable of being concealed upon the person when the person’s pistol, revolver, or other firearm capable of being concealed upon the person was lost or stolen, and the person reported that firearm lost or stolen prior to the completion of the application to purchase to any local law enforcement agency of the city, county, or city and county in which the person resides.

(12) The return of any pistol, revolver, or other firearm capable of being concealed upon the person to its owner.

Comment. Section 27535 continues former Section 12072(a)(9) without substantive change. For exceptions to this provision, see Article 2 (commencing with Section 27600). For the consequences of violating this section, see Section 27590 (punishment for violation of article).

§ 27540. Waiting period and other delivery restrictions

27540. No dealer, whether or not acting pursuant to Chapter 5 (commencing with Section 28050), shall deliver a firearm to a person, as follows:

(a) Within 10 days of the application to purchase, or, after notice by the department pursuant to Section 28220, within 10 days of the submission to the department of any correction to the application, or within 10 days of the
submission to the department of any fee required pursuant to Section 28225, whichever is later.

(b) Unless unloaded and securely wrapped or unloaded and in a locked container.

(c) Unless the purchaser, transferee, or person being loaned the firearm presents clear evidence of the person’s identity and age to the dealer.

(d) Whenever the dealer is notified by the Department of Justice that the person is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(e)(1) Commencing April 1, 1994, and until January 1, 2003, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless the purchaser, transferee, or person being loaned the firearm presents to the dealer a basic firearms safety certificate.

(2) Commencing January 1, 2003, no handgun shall be delivered unless the purchaser, transferee, or person being loaned the handgun presents a handgun safety certificate to the dealer.

(f) No pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person and that the previous application to purchase involved none of the entities specified in subdivision (b) of Section 27535.

Comment. Section 27540 continues former Section 12072(c) without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600), Article 3 (commencing with Section 27650), and Article 4 (commencing with Section 27700).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16190 (“application to purchase”), 16240 (“basic firearms safety certificate”), 16400 (“clear evidence of the person’s identity and age”), 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 16670 (“handgun safety certificate”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27545. Use of dealer for private party firearms transaction

27545. Where neither party to the transaction holds a dealer’s license issued pursuant to Sections 26700 to 26915, inclusive, the parties to the transaction shall complete the sale, loan, or transfer of that firearm through a licensed firearms dealer pursuant to Chapter 5 (commencing with Section 28050).

Comment. Section 27545 continues former Section 12072(d) without substantive change.

For exceptions to this provision, see Article 2 (commencing with Section 27600) and Article 6 (commencing with Section 27850). See also Section 28000 (circumstances that may be reported to Department of Justice in prescribed format).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).
§ 27550. No collusion

27550. (a) No person may commit an act of collusion relating to Sections 31610 to 31700, inclusive.
(b) For purposes of this section and Section 26870, collusion may be proven by any one of the following factors:
(1) Answering a test applicant’s questions during an objective test relating to firearms safety.
(2) Knowingly grading the examination falsely.
(3) Providing an advance copy of the test to an applicant.
(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for a basic firearms safety certificate or a handgun safety certificate.
(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.
(6) Using or allowing another to use one’s identification, proof of residency, or thumbprint.
(7) Allowing others to give unauthorized assistance during the examination.
(8) Reference to unauthorized materials during the examination and cheating by the applicant.
(9) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as authorized by the department.

Comment. Section 27550 continues former Section 12072(e) without substantive change.
For exceptions to this provision, see Article 2 (commencing with Section 27600).
For the consequences of violating this section, see Section 27590 (punishment for violation of this article).
See Sections 16240 (“basic firearms safety certificate”), 16520 (“firearm”), 16670 (“handgun safety certificate”).

§ 27555. Obtaining verification number

27555. (a)(1) Commencing July 1, 2008, a person who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code may not sell, deliver, or transfer a firearm to a person in California who is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code unless, prior to delivery, the person intending to sell, deliver, or transfer the firearm obtains a verification number via the Internet for the intended sale, delivery, or transfer, from the Department of Justice.
(2) If Internet service is unavailable to either the department or the licensee due to a technical or other malfunction, or a federal firearms licensee who is located outside of California does not possess a computer or have Internet access, alternate means of communication, including facsimile or telephone, shall be made available for a licensee to obtain a verification number in order to comply with this section.
(b) For every identification number request received pursuant to this section, the department shall determine whether the intended recipient is on the centralized list
of firearms dealers pursuant to Section 26715, or the centralized list of exempted federal firearms licensees pursuant to Section 28450, or the centralized list of firearms manufacturers pursuant to Section 29060.

(c)(1) If the department finds that the intended recipient is on one of these lists, the department shall issue to the inquiring party, a unique identification number for the intended sale, delivery, or transfer.

(2) In addition to the unique verification number, the department may provide to the inquiring party information necessary for determining the eligibility of the intended recipient to receive the firearm.

(3) The person intending to sell, deliver, or transfer the firearm shall provide the unique verification number to the recipient along with the firearm upon delivery, in a manner to be determined by the department.

(d) If the department finds that the intended recipient is not on one of these lists, the department shall notify the inquiring party that the intended recipient is ineligible to receive the firearm.

(e) The department shall prescribe the manner in which the verification numbers may be requested via the Internet, or by alternate means of communication, such as by facsimile or telephone, including all required enrollment information and procedures.

(f) This section does not apply to the sale, delivery, or transfer of an assault weapon, a machinegun, a short-barreled rifle, or a short-barreled shotgun.

Comment. Section 27555 continues former Section 12072(f)(1) without substantive change. An erroneous reference to “this section” in former Section 12072(f)(1)(B) has been replaced with a reference to Section 26715, which continues former Section 12071(e).

For exceptions to this provision, see Article 2 (commencing with Section 27600) and Article 5 (commencing with Section 27800).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 (“firearm”), 16880 (“machinegun”), 17170 (“short-barreled rifle”), 17180 (“short-barreled shotgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 30510 (“assault weapon”), 30515 (further clarification of “assault weapon”).

§ 27560. Restrictions on personal handgun importer

27560. (a) On or after January 1, 1998, within 60 days of bringing a pistol, revolver, or other firearm capable of being concealed upon the person into this state, a personal handgun importer shall do one of the following:

(1) Forward by prepaid mail or deliver in person to the Department of Justice, a report prescribed by the department including information concerning that individual and a description of the firearm in question.

(2) Sell or transfer the firearm in accordance with the provisions of Section 27545 or in accordance with the provisions of an exemption from Section 27545.

(3) Sell or transfer the firearm to a dealer licensed pursuant to Sections 26700 to 26915, inclusive.

(4) Sell or transfer the firearm to a sheriff or police department.
(b) If all of the following requirements are satisfied, the personal handgun importer shall have complied with the provisions of this section:

1. The personal handgun importer sells or transfers the pistol, revolver, or other firearm capable of being concealed upon the person pursuant to Section 27545.

2. The sale or transfer cannot be completed by the dealer to the purchaser or transferee.

3. The firearm can be returned to the personal handgun importer,

(c)(1) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law.

(2) However, an act or omission punishable in different ways by this article and different provisions of the Penal Code shall not be punished under more than one provision.

(d) On and after January 1, 1998, the department shall conduct a public education and notification program regarding this section to ensure a high degree of publicity of the provisions of this section.

(e) As part of the public education and notification program described in this section, the department shall do all of the following:

1. Work in conjunction with the Department of Motor Vehicles to ensure that any person who is subject to this section is advised of the provisions of this section, and provided with blank copies of the report described in paragraph (1) of subdivision (a), at the time when that person applies for a California driver’s license or registers a motor vehicle in accordance with the Vehicle Code.

2. Make the reports referred to in paragraph (1) of subdivision (a) available to dealers licensed pursuant to Sections 26700 to 26915, inclusive.

3. Make the reports referred to in paragraph (1) of subdivision (a) available to law enforcement agencies.

4. Make persons subject to the provisions of this section aware that (i) the report referred to in paragraph (1) of subdivision (a) may be completed at either a law enforcement agency or the licensed premises of a dealer licensed pursuant to Sections 26700 to 26915, inclusive, (ii) it is advisable to do so for the sake of accuracy and completeness of the report, (iii) before transporting a pistol, revolver, or other firearm capable of being concealed upon the person to a law enforcement agency to comply with subdivision (a), the person should give notice to the law enforcement agency that the person is doing so, and (iv) in any event, the pistol, revolver, or other firearm capable of being concealed upon the person should be transported unloaded and in a locked container.

(f) Any costs incurred by the department to implement this section shall be absorbed by the department within its existing budget and the fees in the Dealers’ Record of Sale Special Account allocated for implementation of subdivisions (d) and (e) of this section pursuant to Section 28235.

Comment. Section 27560 continues former Section 12072(f)(2) without substantive change. For guidance in applying this section, see Section 27570 (rules for applying Sections 27560 and 27565).

For exceptions to this provision, see Article 2 (commencing with Section 27600).
For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 17000 (“personal handgun importer”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27565. Handgun that is curio or relic, transported into California by licensed collector

27565. (a) This section applies in the following circumstances:

(1) A person is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(2) The licensed premises of that person are within this state.

(3) The licensed collector acquires, outside of this state, a pistol, revolver, or other firearm capable of being concealed upon the person.

(4) The licensed collector takes actual possession of that firearm outside of this state pursuant to the provisions of subsection (j) of Section 923 of Title 18 of the United States Code, as amended by Public Law 104-208, and transports the firearm into this state.

(5) The firearm is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations.

(b) Within five days of transporting a firearm into this state under the circumstances described in subdivision (a), the licensed collector shall report the acquisition of that firearm to the department in a format prescribed by the department.

Comment. Section 27565 continues former Section 12072(f)(3) without substantive change.

For guidance in applying this section, see Section 27570 (rules for applying Sections 27560 and 27565).

For exceptions to this provision, see Article 2 (commencing with Section 27600).

For the consequences of violating this section, see Section 27590 (punishment for violation of article).

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

§ 27570. Rules for applying Sections 27560 and 27565

27570. (a) It is the intent of the Legislature that a violation of Section 27560 or 27565 shall not constitute a “continuing offense” and the statute of limitations for commencing a prosecution for a violation of Section 27560 or 27565 commences on the date that the applicable grace period specified in Section 27560 or 27565 expires.

(b) Sections 27560 and 27565 shall not apply to a person who reports ownership of a pistol, revolver, or other firearm capable of being concealed upon the person after the applicable grace period specified in Section 27560 or 27565 expires if evidence of that violation arises only as the result of the person submitting the report described in Section 27560 or 27565.

Comment. Section 27570 continues former Section 12072(f)(4) without substantive change.
See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

§ 27590. Punishment for violation of article

27590. (a) Except as provided in subdivision (b), (c), or (e), a violation of this article is a misdemeanor.
(b) If any of the following circumstances apply, a violation of this article is punishable by imprisonment in the state prison for two, three, or four years.
   (1) If the violation is of subdivision (a) of Section 27500.
   (2) If the defendant has a prior conviction of violating the provisions, other than Section 27535, of this article or former Section 12100 of this code or Section 8101 of the Welfare and Institutions Code.
   (3) If the defendant has a prior conviction of violating any offense specified in Section 29905 or of a violation of Section 32625 or 33410, or of former Section 12560, or of any provision listed in Section 16590.
   (4) If the defendant is in a prohibited class described in Chapter 2 (commencing with Section 29800) or 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code.
   (5) A violation of this article by a person who actively participates in a “criminal street gang” as defined in Section 186.22.
   (6) A violation of Section 27510 involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.
   (c) If any of the following circumstances apply, a violation of this article shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment.
      (1) A violation of Section 27525, 27520, or subdivision (b) of Section 27500.
      (2) A violation of Section 27505 involving the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person, to a minor.
      (3) A violation of Section 27510 involving the delivery of a pistol, revolver, or other firearm capable of being concealed upon the person.
      (4) A violation of subdivision (a), (c), (d), (e), or (f) of Section 27540 involving a pistol, revolver, or other firearm capable of being concealed upon the person.
      (5) A violation of Section 27545 involving a pistol, revolver, or other firearm capable of being concealed upon the person.
      (6) A violation of Section 27550.
   (d) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.
      (1) A violation of Section 27510 or subdivision (a) of Section 27500.
      (2) The firearm transferred in violation of Section 27510 or subdivision (a) of Section 27500 is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.
(e)(1) A first violation of Section 27535 is an infraction punishable by a fine of fifty dollars ($50).

(2) A second violation of Section 27535 is an infraction punishable by a fine of one hundred dollars ($100).

(3) A third or subsequent violation of Section 27535 is a misdemeanor.

(4) For purposes of this subdivision each application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person in violation of Section 27535 shall be deemed a separate offense.

Comment. Section 27590 continues former Section 12072(g) without substantive change.

For guidance in applying paragraphs (b)(1), (b)(2), (e)(2), and (e)(3), see Section 16015 (determining existence of prior conviction).

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

Article 2. Exceptions Relating to Law Enforcement

§ 27600. Exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government

27600. (a) Article 1 (commencing with Section 27500) does not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

Comment. Section 27600 continues former Section 12078(a)(2) without substantive change, as that provision applied to former Section 12072 (through its reference to “the preceding provisions of this article”).

See Sections 16520 (“firearm”), 16640 (“handgun”).

§ 27605. Exception for loan of firearm to peace officer employee for use in performing official duties

27605. Article 1 (commencing with Section 27500) does not apply to the loan of a firearm if all of the following conditions are satisfied:
(a) The loan is made by an authorized law enforcement representative of a city, county, or city and county, or of the state or federal government.

(b) The loan is made to a peace officer employed by that agency and authorized to carry a firearm.

(c) The loan is made for the carrying and use of that firearm by that peace officer in the course and scope of the officer’s duties.

Comment. Section 27605 continues former Section 12078(a)(3) without substantive change, as that provision applied to former Section 12072 (through its reference to “the preceding provisions of this article”).

§ 27610. Exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code

27610. (a) Article 1 (commencing with Section 27500) does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

(b) Within 10 days of the date that a handgun is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

Comment. Section 27610 continues former Section 12078(a)(4) without substantive change, as that provision applied to former Section 12072 (through its reference to “the preceding provisions of this article”).

See Sections 16520 (“firearm”), 16640 (“handgun”).

§ 27615. Exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm

27615. (a) Article 1 (commencing with Section 27500) does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.
Comment. Section 27615 continues former Section 12078(a)(5) without substantive change, as that provision applied to former Section 12072 (through its reference to “the preceding provisions of this article”).

See Sections 16520 (“firearm”), 16640 (“handgun”).

Article 3. Exceptions Extending Only to Waiting Period

§ 27650. Waiting period exception for sale, delivery, or transfer to full-time paid peace officer authorized to carry firearms in performance of duties

27650. (a) The waiting period described in Section 27540 does not apply to the sale, delivery, or transfer of firearms made to any person who satisfies both of the following requirements:

(1) The person is properly identified as a full-time paid peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) The officer’s employer has authorized the officer to carry firearms while in the performance of duties.

(b)(1) Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of duties, and authorizing the purchase or transfer.

(2) The certification shall be delivered to the dealer at the time of purchase or transfer and the purchaser or transferee shall identify himself or herself as the person authorized in the certification.

(3) The dealer shall keep the certification with the record of sale.

(4) On the date that the sale, delivery, or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in Section 28160 or 28165.

Comment. Section 27650 continues former Section 12078(a)(1) without substantive change, as that provision applied to the waiting period in former Section 12072.

For other exceptions relating to law enforcement, see Sections 27600-27615.

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27655. Waiting period exception for dealer who delivers firearm other than handgun at auction or similar event conducted by nonprofit mutual or public benefit corporation

27655. (a) The waiting period described in Section 27540 does not apply to a dealer who delivers a firearm, other than a handgun, at an auction or similar event described in Section 27900, as authorized by subdivision (c) of Section 26805.

(b) Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the application as is indicated in Section 28165.

(c) If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the application as is indicated in Section 28165.
Comment. Section 27655 continues former Section 12078(g)(3) without substantive change, as that provision applied to the waiting period in former Section 12072.

See Sections 16190 (“application to purchase”), 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27660. Waiting period exception for sale, delivery, or transfer of handgun, not intended as merchandise, by dealer to self or another dealer

27660. (a) The waiting period described in Section 27540 does not apply to the sale, delivery, or transfer of a handgun by a dealer in either of the following situations:

(1) The dealer is delivering the firearm to another dealer, the firearm is not intended as merchandise in the receiving dealer’s business, and the requirements of subdivisions (b) and (c) are satisfied.

(2) The dealer is delivering the firearm to himself or herself, the firearm is not intended as merchandise in the dealer’s business, and the requirements of subdivision (c) are satisfied.

(b) If the dealer is receiving the firearm from another dealer, the dealer receiving the firearm shall present proof to the dealer delivering the firearm that the receiving dealer is licensed pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800). This shall be done by complying with Section 27555.

(c)(1) Regardless of whether the dealer is selling, delivering, or transferring the firearm to another dealer or to himself or herself, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the application and the type of information concerning the purchaser or transferee as is indicated in Section 28160.

(2) Where electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the application and the type of information concerning the purchaser or transferee as is indicated in Section 28160.

Comment. Section 27660 continues former Section 12078(n) without substantive change, as that provision applied to the waiting period in former Section 12072.

See Sections 16190 (“application to purchase”), 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27665. Waiting period exception for sale, delivery, or transfer to holder of special weapons permit

27665. (a) The waiting period described in Section 27540 does not apply to the sale, delivery, or transfer of a firearm to the holder of a special weapons permit issued by the Department of Justice pursuant to Section 32650 or 33300, pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of Division 10 of this title.
(b) On the date that the application to purchase is completed, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the application as is indicated in Section 28160 or 28165.

Comment. Section 27665 continues former Section 12078(r) without substantive change, as that provision applied to the waiting period in former Section 12072.

See Sections 16190 (“application to purchase”), 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27670. Waiting period exception for sale, delivery, loan, or transfer of curio or relic by dealer to licensed collector

27670. (a) The waiting period described in Section 27540 does not apply to the sale, delivery, loan, or transfer of a firearm if all of the following conditions are satisfied:

(1) The firearm is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.

(2) The sale, delivery, loan, or transfer is made by a dealer.

(3) The sale, delivery, loan, or transfer is made to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) The licensed collector has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(b) On the date that the sale, delivery, or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in Section 28160 or 28165.

Comment. Section 27670 continues former Section 12078(t)(1) without substantive change, as that provision applied to the waiting period in former Section 12072.

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

Article 4. Exceptions to Restrictions on Delivery of a Firearm

§ 27700. Exception for sales, deliveries, or transfers of firearms between or to licensed importers and manufacturers

27700. Section 27540 does not apply to sales, deliveries, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

Comment. Section 27700 continues former Section 12078(b)(1) without substantive change, as that provision applied to former Section 12072(c).

See Section 16520 (“firearm”).

§ 27705. Exception for service or repair by gunsmith

27705. Section 27540 does not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.
Comment. Section 27705 continues former Section 12078(e) without substantive change, as that provision applied to former Section 12072(c).

See Sections 16520 (“firearm”), 16630 (“gunsmith”).

§ 27710. Exception for sale, delivery, or transfer of unloaded firearms, other than handguns, by dealer to another dealer

27710. Section 27540 does not apply to the sale, delivery, or transfer of firearms if all of the following conditions are satisfied:

(a) The firearms are unloaded.
(b) The firearms are not handguns.
(c) The sale, delivery, or transfer is made by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555.

Comment. Section 27710 continues former Section 12078(k)(1) without substantive change, as that provision applied to former Section 12072(c).

See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27715. Exception for sale, delivery, or transfer of unloaded firearms by dealer to licensed nonresident

27715. Section 27540 does not apply to the sale, delivery, or transfer of unloaded firearms by a dealer to a person who resides outside this state and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

Comment. Section 27715 continues former Section 12078(k)(2) without substantive change, as that provision applied to former Section 12072(c).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27720. Exception for return of unloaded firearms to wholesaler to treat as merchandise

27720. Section 27540 does not apply to the sale, delivery, or transfer of unloaded firearms to a wholesaler if the firearms are being returned to the wholesaler and are intended as merchandise in the wholesaler’s business.

Comment. Section 27720 continues former Section 12078(k)(3) without substantive change, as that provision applied to former Section 12072(c).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 17340 (“wholesaler”).

§ 27725. Exception for sale, delivery, or transfer of unloaded firearms by dealer to another dealer to treat as merchandise

27725. Section 27540 does not apply to the sale, delivery, or transfer of firearms if all of the following conditions are satisfied:

(a) The firearms are unloaded.
(b) The sale, delivery, or transfer is made by one dealer to another dealer, upon proof of compliance with the requirements of Section 27555.
(c) The firearms are intended as merchandise in the receiving dealer’s business.
Comment. Section 27725 continues former Section 12078(k)(4) without substantive change, as that provision applied to former Section 12072(c).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27730. Exception for sale, delivery, or transfer of unloaded firearm, other than handgun, by dealer to self

27730. Section 27540 does not apply to the sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to himself or herself.

Comment. Section 27730 continues former Section 12078(k)(5) without substantive change, as that provision applied to former Section 12072(c).

See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27735. Exception for loan of unloaded firearm under specified circumstances by dealer to person at target facility or at premises of target shooting club or organization

27735. (a) Section 27540 does not apply to the loan of an unloaded firearm if all of the following conditions are satisfied:

(1) The loan is made by a dealer who also operates a target facility that holds a business or regulatory license on the premises of the building designated in the license.

(2) The loan is made to a person at that target facility.

(3) The firearm is at all times kept within the premises of the target facility.

(b) Section 27540 does not apply to the loan of an unloaded firearm if all of the following conditions are satisfied:

(1) The loan is made by a dealer whose building designated in the license is on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private.

(2) The loan is made to a person at that club or organization.

(3) The firearm is at all times kept within the premises of the club or organization.

Comment. Section 27735 continues former Section 12078(k)(6) without substantive change, as that provision applied to former Section 12072(c).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27740. Exception for sale, delivery, or transfer of firearms regulated pursuant to specified statutes, if sale, delivery, or transfer complies with applicable statutory provisions

27740. Section 27540 does not apply to the sale, delivery, or transfer of firearms regulated pursuant to any of the following statutes, if the sale, delivery, or transfer is conducted in accordance with the applicable provisions of the statute:

(a) Section 24410, relating to cane guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to cane guns.

(b) Section 24510, relating to firearms that are not immediately recognizable as firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of...
Title 2, as they relate to firearms that are not immediately recognizable as firearms.

(c) Sections 24610 and 24680, relating to undetectable firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to undetectable firearms.

(d) Section 24710, relating to wallet guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to wallet guns.

(e) Chapter 2 (commencing with Section 30500) of Division 10, relating to assault weapons.

(f) Section 31500, relating to unconventional pistols, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to unconventional pistols.

(g) Sections 33215 to 33225, inclusive, relating to short-barreled rifles and short-barreled shotguns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to short-barreled rifles and short-barreled shotguns.

(h) Chapter 6 (commencing with Section 32610) of Division 10, relating to machineguns.

(i) Section 33600, relating to zip guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to zip guns.

Comment. Section 27740 continues former Section 12078(o) without substantive change, as that provision applied to former Section 12072(c).


§ 27745. Exception for loan of unloaded firearm, for use solely as prop, by dealer to person with entertainment firearms permit

27745. (a) Section 27540 does not apply to the loan of a firearm if all of the following conditions are satisfied:

(1) The firearm is unloaded.
(2) The loan is made by a dealer.
(3) The loan is made to a person who possesses a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8.
(4) The firearm is loaned solely for use as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

(b) The dealer shall retain a photocopy of the entertainment firearms permit as proof of compliance with this requirement.

Comment. Section 27745 continues former Section 12078(s)(3) without substantive change, as that provision applied to former Section 12072(c).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).
§ 27750. Exception for short-term loan of unloaded firearm by dealer to consultant-evaluator

27750. (a) Section 27540 does not apply to the loan of an unloaded firearm to a consultant-evaluator by a person licensed pursuant to Sections 26700 to 26915, inclusive, if the loan does not exceed 45 days from the date of delivery.

(b) At the time of the loan, the consultant-evaluator shall provide the following information, which the dealer shall retain for two years:

(1) A photocopy of a valid, current, government-issued identification to determine the consultant-evaluator’s identity, including, but not limited to, a California driver’s license, identification card, or passport.

(2) A photocopy of the consultant-evaluator’s valid, current certificate of eligibility.

(3) A letter from the person licensed as an importer, manufacturer, or dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, with whom the consultant-evaluator has a bona fide business relationship. The letter shall detail the bona fide business purposes for which the firearm is being loaned and confirm that the consultant-evaluator is being loaned the firearm as part of a bona fide business relationship.

(4) The signature of the consultant-evaluator on a form indicating the date the firearm is loaned and the last day the firearm may be returned.

Comment. Section 27750 continues former Section 12078(s)(4) without substantive change, as that provision applied to former Section 12072(c).

See Sections 16410 (“consultant-evaluator”), 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

Article 5. Exceptions to the Requirement of Obtaining a Verification Number

§ 27800. Exception for sale, delivery, or transfer of firearms regulated pursuant to specified statutes, if sale, delivery, or transfer complies with applicable statutory provisions

27800. Section 27555 does not apply to the sale, delivery, or transfer of firearms regulated pursuant to any of the following statutes, if the sale, delivery, or transfer is conducted in accordance with the applicable provisions of the statute:

(a) Section 24410, relating to cane guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to cane guns.

(b) Section 24510, relating to firearms that are not immediately recognizable as firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to firearms that are not immediately recognizable as firearms.

(c) Sections 24610 and 24680, relating to undetectable firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to undetectable firearms.

(d) Section 24710, relating to wallet guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to wallet guns.
(e) Chapter 2 (commencing with Section 30500) of Division 10, relating to assault weapons.

(f) Section 31500, relating to unconventional pistols, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to unconventional pistols.

(g) Sections 33215 to 33225, inclusive, relating to short-barreled rifles and short-barreled shotguns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to short-barreled rifles and short-barreled shotguns.

(h) Chapter 6 (commencing with Section 32610) of Division 10, relating to machineguns.

(i) Section 33600, relating to zip guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to zip guns.

Comment. Section 27800 continues former Section 12078(o) without substantive change, as that provision applied to former Section 12072(f)(1).


§ 27805. Exception for loan of unloaded firearm, for use solely as prop, by dealer to person with entertainment firearms permit

27805. (a) Section 27555 does not apply to the loan of a firearm if all of the following conditions are satisfied:

(1) The firearm is unloaded.

(2) The loan is made by a dealer.

(3) The loan is made to a person who possesses a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8.

(4) The firearm is loaned solely for use as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

(b) The dealer shall retain a photocopy of the entertainment firearms permit as proof of compliance with this requirement.

Comment. Section 27805 continues former Section 12078(s)(3) without substantive change, as that provision applied to former Section 12072(f)(1).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27810. Exception for loan of unloaded firearm, for use solely as prop, by federal firearms licensee to person with entertainment firearms permit

27810. (a) Section 27555 does not apply to the loan of a firearm if all of the following requirements are satisfied:

(1) The firearm is unloaded.

(2) The loan is made by a person who is not a dealer but is a federal firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code.
(3) The loan is made to a person who possesses a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8.

(4) The firearm is loaned for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

(b) The person loaning the firearm pursuant to this section shall retain a photocopy of the entertainment firearms permit as proof of compliance with this requirement.

Comment. Section 27810 continues former Section 12078(s)(2) without substantive change, as that provision applied to former Section 12072(f)(1).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27815. Exception for short-term loan of unloaded firearm by dealer to consultant-evaluator

27815. (a) Section 27555 does not apply to the loan of an unloaded firearm to a consultant-evaluator by a person licensed pursuant to Sections 26700 to 26915, inclusive, if the loan does not exceed 45 days from the date of delivery.

(b) At the time of the loan, the consultant-evaluator shall provide the following information, which the dealer shall retain for two years:

(1) A photocopy of a valid, current, government-issued identification to determine the consultant-evaluator’s identity, including, but not limited to, a California driver’s license, identification card, or passport.

(2) A photocopy of the consultant-evaluator’s valid, current certificate of eligibility.

(3) A letter from the person licensed as an importer, manufacturer, or dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, with whom the consultant-evaluator has a bona fide business relationship. The letter shall detail the bona fide business purposes for which the firearm is being loaned and confirm that the consultant-evaluator is being loaned the firearm as part of a bona fide business relationship.

(4) The signature of the consultant-evaluator on a form indicating the date the firearm is loaned and the last day the firearm may be returned.

Comment. Section 27815 continues former Section 12078(s)(4) without substantive change, as that provision applied to former Section 12072(f)(1).

See Sections 16410 (“consultant-evaluator”), 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 27820. Exception for infrequent sale, loan, or transfer of curio or relic manufactured at least 50 years ago, which is not handgun

27820. If all of the following requirements are satisfied, Section 27555 does not apply to the sale, loan, or transfer of a firearm:

(a) The sale, loan, or transfer is infrequent, as defined in Section 16730.

(b) The firearm is not a handgun.
(c) The firearm is a curio or relic manufactured at least 50 years prior to the current date but is not a replica, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.

Comment. Section 27820 continues former Section 12078(t)(2) without substantive change, as that provision applied to former Section 12072(f)(1).

See Sections 16520 (“firearm”), 16640 (“handgun”).

Article 6. Exceptions to the Requirement of Using a Dealer for a Private Party Firearms Transaction

§ 27850. Exception for sale, delivery, or transfer to governmental entity as part of program in which entity is acquiring weapons from private individuals

27850. (a) Section 27545 does not apply to a sale, delivery, or transfer of firearms if both of the following requirements are satisfied:

(1) The sale, delivery, or transfer is to an authorized representative of a city, city and county, county, or state government, or of the federal government, and is for the governmental entity.

(2) The entity is acquiring the weapon as part of an authorized, voluntary program in which the entity is buying or receiving weapons from private individuals.

(b) Any weapons acquired pursuant to this section shall be disposed of pursuant to the applicable provisions of Section 34000 or Sections 18000 and 18005.

Comment. Section 27850 continues former Section 12078(a)(6) without substantive change, as that provision applied to former Section 12072(d).

See Section 16520 (“firearm”).

§ 27855. Exception for sale, delivery, loan, or transfer by law enforcement representative to nonprofit historical society, museum, or institutional collection

27855. Section 27545 does not apply to the sale, delivery, loan, or transfer of a firearm made by an authorized law enforcement representative of a city, city and county, county, or state, or of the federal government, to any public or private nonprofit historical society, museum, or institutional collection, or the purchase or receipt of that firearm by that public or private nonprofit historical society, museum, or institutional collection, if all of the following conditions are met:

(a) The entity receiving the firearm is open to the public.

(b) The firearm prior to delivery is deactivated or rendered inoperable.

(c) The firearm is not subject to any of the following:

(1) Sections 18000 and 18005.

(2) Division 4 (commencing with Section 18250) of Title 2.

(3) Section 34000.

(4) Sections 34005 and 34010.

(d) The firearm is not prohibited by other provisions of law from being sold, delivered, or transferred to the public at large.
(e) Prior to delivery, the entity receiving the firearm submits a written statement to the law enforcement representative stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions listed in Section 16575 and, if applicable, with Section 31615.

(f) Within 10 days of the date that the firearm is sold, loaned, delivered, or transferred to that entity, all of the following information shall be reported to the department in a manner prescribed by the department:

1. The name of the government entity delivering the firearm.
2. The make, model, serial number, and other identifying characteristics of the firearm.
3. The name of the person authorized by the entity to take possession of the firearm.

(g) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

Comment. Section 27855 continues former Section 12078(a)(7) without substantive change, as that provision applied to former Section 12072(d).

See Section 16520 (“firearm”).

§ 27860. Exception for sale, delivery, loan, or transfer by person other than law enforcement representative to nonprofit historical society, museum, or institutional collection

27860. Section 27545 does not apply to the sale, delivery, loan, or transfer of a firearm made by any person other than a representative of an authorized law enforcement agency to any public or private nonprofit historical society, museum, or institutional collection, if all of the following conditions are met:

a. The entity receiving the firearm is open to the public.

b. The firearm is deactivated or rendered inoperable prior to delivery.

c. The firearm is not of a type prohibited from being sold, delivered, or transferred to the public.

d. Prior to delivery, the entity receiving the firearm submits a written statement to the person selling, loaning, or transferring the firearm stating that the firearm will not be restored to operating condition, and will either remain with that entity, or if subsequently disposed of, will be transferred in accordance with the applicable provisions listed in Section 16575 and, if applicable, with Section 31615.

e. If title to a handgun is being transferred to the public or private nonprofit historical society, museum, or institutional collection, then the designated representative of that entity shall, within 30 days of taking possession of that handgun, forward by prepaid mail or deliver in person to the Department of Justice, a single report signed by both parties to the transaction, which includes all of the following information:

1. Information identifying the person representing the public or private historical society, museum, or institutional collection.
(2) Information on how title was obtained and from whom.

(3) A description of the firearm in question.

(4) A copy of the written statement referred to in subdivision (d).

(f) The report forms that are to be completed pursuant to this section shall be provided by the Department of Justice.

(g) In the event of a change in the status of the designated representative, the entity shall notify the department of a new representative within 30 days.

Comment. Section 27860 continues former Section 12078(a)(8) without substantive change, as that provision applied to former Section 12072(d).

See Sections 16520 (“firearm”), 16640 (“handgun”).

§ 27865. Exception for sales, deliveries, or transfers of firearms between or to licensed importers and manufacturers

27865. Section 27545 does not apply to sales, deliveries, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

Comment. Section 27865 continues former Section 12078(b)(1) without substantive change, as that provision applied to former Section 12072(d).

See Section 16520 (“firearm”).

§ 27870. Exception for infrequent transfer of firearm, other than handgun, between members of same immediate family

27870. Section 27545 does not apply to the transfer of a firearm, other than a handgun, by gift, bequest, intestate succession, or other means from one individual to another, if both of the following requirements are satisfied:

(a) The transfer is infrequent, as defined in Section 16730.

(b) The transfer is between members of the same immediate family.

Comment. Section 27870 continues former Section 12078(c)(1) without substantive change.

See Sections 16520 (“firearm”), 16640 (“handgun”), 16720 (“immediate family member”).

§ 27875. Exception for infrequent transfer of handgun between members of same immediate family

27875. Section 27545 does not apply to the transfer of a handgun by gift, bequest, intestate succession, or other means from one individual to another, if all of the following requirements are met:

(a) The transfer is infrequent, as defined in Section 16730.

(b) The transfer is between members of the same immediate family.

(c) Within 30 days of taking possession of the firearm, the person to whom it is transferred shall forward by prepaid mail, or deliver in person to the Department of Justice, a report that includes information concerning the individual taking possession of the firearm, how title was obtained and from whom, and a description of the firearm in question. The report forms that individuals complete pursuant to this section shall be provided to them by the Department of Justice.
(d) The person taking title to the firearm shall first obtain a handgun safety certificate.

(e) The person receiving the firearm is 18 years of age or older.

Comment. Section 27875 continues former Section 12078(c)(2) without substantive change. See Sections 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”), 16720 (“immediate family member”).

§ 27880. Exception for infrequent loan of firearm between persons who are personally known to each other

27880. Section 27545 does not apply to the loan of a firearm between persons who are personally known to each other, if all of the following requirements are satisfied:

(a) The loan is infrequent, as defined in Section 16730.
(b) The loan is for any lawful purpose.
(c) The loan does not exceed 30 days in duration.
(d) Commencing January 1, 2003, if the firearm is a handgun, the individual being loaned the handgun shall have a valid handgun safety certificate.

Comment. Section 27880 continues former Section 12078(d)(1) without substantive change. See Sections 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”).

§ 27885. Exception for loan of firearm if lender is constantly in presence of recipient, loan is for 3 days or less, and other requirements are met

27885. Section 27545 does not apply to the loan of a firearm if all of the following conditions exist:

(a) The person loaning the firearm is at all times within the presence of the person being loaned the firearm.
(b) The loan is for a lawful purpose.
(c) The loan does not exceed three days in duration.
(d) The individual receiving the firearm is not prohibited by state or federal law from possessing, receiving, owning or purchasing a firearm.
(e) The person loaning the firearm is 18 years of age or older.
(f) The person being loaned the firearm is 18 years of age or older.

Comment. Section 27885 continues former Section 12078(d)(2) without substantive change, as that provision applied to former Section 12072(d). See Section 16520 (“firearm”).

§ 27890. Exception for service or repair by gunsmith

27890. Section 27545 does not apply to the delivery of a firearm to a gunsmith for service or repair, or to the return of the firearm to its owner by the gunsmith.

Comment. Section 27890 continues former Section 12078(e) without substantive change, as that provision applied to former Section 12072(d). See Sections 16520 (“firearm”), 16630 (“gunsmith”).
§ 27895. Exception for sale, delivery, or transfer by resident to licensed nonresident
27895. Section 27545 does not apply to the sale, delivery, or transfer of firearms if all of the following requirements are satisfied:
(a) The sale, delivery, or transfer is made by a person who resides in this state.
(b) The sale, delivery, or transfer is made to a person who resides outside this state and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.
(c) The sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

Comment. Section 27895 continues former Section 12078(f) without substantive change, as that provision applied to former Section 12072(d).

See Section 16520 (“firearm”).

§ 27900. Exception for infrequent sale or transfer of firearm, other than handgun, at auction or similar event conducted by nonprofit mutual or public benefit corporation
27900. (a) Section 27545 does not apply to the infrequent sale or transfer of a firearm other than a handgun at an auction or similar event conducted by a nonprofit mutual or public benefit corporation organized pursuant to the Corporations Code.
(b) As used in this section, “infrequent” has the meaning provided in Section 16730.

Comment. Section 27900 continues the first paragraph of former Section 12078(g)(1) without substantive change.

See Sections 16520 (“firearm”), 16640 (“handgun”).

§ 27905. Exception for donation of firearm, other than handgun, for auction or similar event conducted by nonprofit mutual or public benefit corporation
27905. Section 27545 does not apply to the transfer of a firearm if all of the following requirements are satisfied:
(a) The firearm is not a handgun.
(b) The firearm is donated for an auction or similar event described in Section 27900.
(c) The firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

Comment. Section 27905 continues former Section 12078(g)(2) without substantive change.

See Sections 16520 (“firearm”), 16640 (“handgun”).

§ 27910. Exception for loan of firearm to person 18 or older for target shooting under specified circumstances
27910. (a) Section 27545 does not apply to the loan of a firearm to a person 18 years of age or older for the purposes of shooting at targets if either of the following conditions is satisfied:
(a) The loan occurs on the premises of a target facility that holds a business or regulatory license and the firearm is at all times kept within the premises of the target range.

(b) The loan occurs on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, and the firearm is at all times kept on the premises of the club or organization.

Comment. Section 27910 continues former Section 12078(h) without substantive change, as that provision applied to former Section 12072(d).

See Section 16520 (“firearm”).

§ 27915. Exception for person who takes title or possession of firearm, other than handgun, by operation of law

27915. Section 27545 does not apply to a person who takes title or possession of a firearm by operation of law if both of the following requirements are satisfied:

(a) The firearm is not a handgun.

(b) The person is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

Comment. Section 27915 continues former Section 12078(i)(1) without substantive change.

See Sections 16520 (“firearm”), 16640 (“handgun”), 16990 (“person taking title or possession of a firearm by operation of law”).

§ 27920. Exception for person who takes title or possession of handgun by operation of law

27920. Section 27545 does not apply to a person who takes title or possession of a handgun by operation of law if the person is not prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm and all of the following conditions are met:

(a) If the person taking title or possession is neither a levying officer as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure, nor a person who is receiving that firearm pursuant to subdivision (g), (i), or (j) of Section 16990, the person shall, within 30 days of taking possession, forward by prepaid mail or deliver in person to the Department of Justice, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question.

(b) If the person taking title or possession is receiving the firearm pursuant to subdivision (g) of Section 16990, the person shall do both of the following:

(1) Within 30 days of taking possession, forward by prepaid mail or deliver in person to the department, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question.

(2) Prior to taking title or possession of the firearm, the person shall obtain a handgun safety certificate.
(c) Where the person receiving title or possession of the handgun is a person described in subdivision (i) of Section 16990, on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that transferred or delivered the firearm. An agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

(d) Where the person receiving title or possession of the handgun is a person described in subdivision (g) of Section 16990, on the date that the person is delivered the firearm, the name and other information concerning the person taking possession of the firearm, how title or possession of the firearm was obtained and from whom, and a description of the firearm by make, model, serial number, and other identifying characteristics, shall be entered into the AFS via the CLETS by the law enforcement or state agency that transferred or delivered the firearm. An agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system. In addition, that law enforcement agency shall not deliver that handgun to the person referred to in this subdivision unless, prior to the delivery of the handgun, the person presents proof to the agency that the person is the holder of a handgun safety certificate.

(e) The reports that individuals complete pursuant to this section shall be provided to them by the Department of Justice.

Comment. Section 27920 continues former Section 12078(i)(2) without substantive change. An erroneous cross-reference to Code of Civil Procedure Section 680.210 has been corrected by replacing it with a cross-reference to Code of Civil Procedure Section 680.260.

See Sections 16520 (“firearm”), 16640 (“handgun”), 16990 (“person taking title or possession of a firearm by operation of law”).

§ 27925. Exception for person who takes possession of firearm by operation of law in representative capacity and then transfers firearm to self in individual capacity

27925. (a) Section 27545 does not apply to a person who takes possession of a firearm by operation of law in a representative capacity who subsequently transfers ownership of the firearm to himself or herself in an individual capacity.

(b) In the case of a handgun, the individual shall obtain a handgun safety certificate prior to transferring ownership to himself or herself, or taking possession of a handgun in an individual capacity.

Comment. Section 27925 continues former Section 12078(i)(3) without substantive change. See Sections 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”), 16990 (“person taking title or possession of a firearm by operation of law”).
§ 27930. Exception for deliveries, transfers, or returns made pursuant to certain statutes

27930. Section 27545 does not apply to deliveries, transfers, or returns of firearms made pursuant to any of the following:

(a) Sections 18000 and 18005.
(b) Division 4 (commencing with Section 18250) of Title 2.
(c) Chapter 2 (commencing with Section 33850) of Division 11.
(d) Sections 34005 and 34010.

Comment. Section 27930 continues former Section 12078(j) without substantive change, as that provision applied to former Section 12072(d).

See Section 16520 (“firearm”).

§ 27935. Exception for sale, delivery, or transfer of unloaded firearms to wholesaler by another wholesaler or by licensed manufacturer or importer

27935. Section 27545 does not apply to the sale, delivery, or transfer of unloaded firearms to a wholesaler as merchandise in the wholesaler’s business by a manufacturer or importer licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, or by another wholesaler, if the sale, delivery, or transfer is made in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

Comment. Section 27935 continues former Section 12078(m) without substantive change, as that provision applied to former Section 12072(d).

See Sections 16520 (“firearm”), 17340 (“wholesaler”).

§ 27940. Exception for sale, delivery, or transfer of firearms regulated pursuant to specified statutes, if sale, delivery, or transfer complies with applicable statutory provisions

27940. Section 27545 does not apply to the sale, delivery, or transfer of firearms regulated pursuant to any of the following statutes, if the sale, delivery, or transfer is conducted in accordance with the applicable provisions of the statute:

(a) Section 24410, relating to cane guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to cane guns.
(b) Section 24510, relating to firearms that are not immediately recognizable as firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to firearms that are not immediately recognizable as firearms.
(c) Sections 24610 and 24680, relating to undetectable firearms, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to undetectable firearms.
(d) Section 24710, relating to wallet guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to wallet guns.
(e) Chapter 2 (commencing with Section 30500) of Division 10, relating to assault weapons.
(f) Section 31500, relating to unconventional pistols, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to unconventional pistols.

(g) Sections 33215 to 33225, inclusive, relating to short-barreled rifles and short-barreled shotguns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to short-barreled rifles and short-barreled shotguns.

(h) Chapter 6 (commencing with Section 32610) of Division 10, relating to machineguns.

(i) Section 33600, relating to zip guns, and the exemptions in Chapter 1 (commencing with Section 17700) of Title 2, as they relate to zip guns.

Comment. Section 27940 continues former Section 12078(o) without substantive change, as that provision applied to former Section 12072(d).


§ 27945. Exception for certain situations involving minor

27945. Section 27545 does not apply to or affect the following circumstances:

(a) The transfer or loan of a firearm, other than a handgun, to a minor by the minor’s parent or legal guardian.

(b) The transfer or loan of a firearm, other than a handgun, to a minor by a grandparent who is not the legal guardian of the minor, if the transfer is done with the express permission of the minor’s parent or legal guardian.

(c) The loan of a firearm, other than a handgun, to a minor, with the express permission of the minor’s parent or legal guardian, if the loan does not exceed 30 days in duration and is for a lawful purpose.

(d) The loan of a handgun to a minor by the minor’s parent or legal guardian, if both of the following requirements are satisfied:

(1) The minor is being loaned the firearm for the purposes of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(2) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(e) The loan of a handgun to a minor by a person who is not the minor’s parent or legal guardian, if all of the following requirements are satisfied:
(1) The minor is accompanied by the minor’s parent or legal guardian when the loan is made, or the minor has the written consent of the minor’s parent or legal guardian, which is presented at the time of the loan, or earlier.

(2) The minor is being loaned the firearm for the purpose of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(3) The duration of the loan does not exceed the amount of time that is reasonably necessary to engage in the lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(4) The duration of the loan does not, in any event, exceed 10 days.

Comment. Subdivision (a) of Section 27945 continues former Section 12078(p)(4) without substantive change, as that provision applied to former Section 12072(d).

Subdivision (b) continues former Section 12078(p)(5) without substantive change, as that provision applied to former Section 12072(d).

Subdivision (c) continues former Section 12078(p)(1) without substantive change, as that provision applied to former Section 12072(d).

Subdivision (d) continues former Section 12078(p)(3) without substantive change, as that provision applied to former Section 12072(d).

Subdivision (e) continues former Section 12078(p)(2) without substantive change, as that provision applied to former Section 12072(d).

See Sections 16520 (“firearm”), 16640 (“handgun”).

§ 27950. Exception for loan of firearm, other than handgun, to licensed hunter for use in hunting season

27950. Section 27545 does not apply to the loan of a firearm, other than a handgun, to a licensed hunter for use by that hunter for a period of time not to exceed the duration of the hunting season for which the firearm is to be used.

Comment. Section 27950 continues former Section 12078(q) without substantive change.

See Sections 16520 (“firearm”), 16640 (“handgun”).

§ 27955. Exception for infrequent loan of unloaded firearm for use solely as prop

27955. Section 27545 does not apply to the loan of a firearm if all of the following requirements are satisfied:

(a) The loan is infrequent, as defined in Section 16730.

(b) The firearm is unloaded.

(c) The loan is made by a person who is neither a dealer nor a federal firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code.

(d) The loan is made to a person 18 years of age or older.

(e) The loan is for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.

Comment. Section 27955 continues former Section 12078(s)(1) without substantive change, as that provision applied to former Section 12072(d).
See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

§ 27960. Exception loan of unloaded firearm, for use solely as prop, by federal firearms licensee to person with entertainment firearms permit

27960. (a) Section 27545 does not apply to the loan of a firearm if all of the following requirements are satisfied:
(1) The firearm is unloaded.
(2) The loan is made by a person who is not a dealer but is a federal firearms licensee pursuant to Chapter 44 of Title 18 of the United States Code.
(3) The loan is made to a person who possesses a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8.
(4) The firearm is loaned for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.
(b) The person loaning the firearm pursuant to this section shall retain a photocopy of the entertainment firearms permit as proof of compliance with this requirement.

Comment. Section 27960 continues former Section 12078(s)(2) without substantive change, as that provision applied to former Section 12072(d).

See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

§ 27965. Exception for infrequent sale, loan, or transfer of curio or relic manufactured at least 50 years ago, which is not handgun

27965. If all of the following requirements are satisfied, Section 27545 does not apply to the sale, loan, or transfer of a firearm:
(a) The sale, loan, or transfer is infrequent, as defined in Section 16730.
(b) The firearm is not a handgun.
(c) The firearm is a curio or relic manufactured at least 50 years prior to the current date but is not a replica, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.

Comment. Section 27965 continues former Section 12078(t)(2) without substantive change, as that provision applied to former Section 12072(d).

See Sections 16520 ("firearm"), 16640 ("handgun").

Article 7. Report to Department of Justice

§ 28000. Circumstances that may be reported to Department of Justice in prescribed format

28000. A person who is exempt from Section 27545 or is otherwise not required by law to report acquisition, ownership, or disposal of a handgun or who moves out of this state with the person’s handgun may report that to the Department of Justice in a format prescribed by the department.

Comment. Section 28000 continues former Section 12078(l) without substantive change.

See Section 16640 ("handgun").
CHAPTER 5. PROCEDURE FOR A PRIVATE PARTY FIREARMS TRANSACTION

§ 28050. Basic procedure
28050. (a) A person shall complete any sale, loan, or transfer of a firearm through a person licensed pursuant to Sections 26700 to 26915, inclusive, in accordance with this chapter in order to comply with Section 27545.

(b) The seller or transferor or the person loaning the firearm shall deliver the firearm to the dealer who shall retain possession of that firearm.

(c) The dealer shall then deliver the firearm to the purchaser or transferee or the person being loaned the firearm, if it is not prohibited, in accordance with Section 27540.

(d) If the dealer cannot legally deliver the firearm to the purchaser or transferee or the person being loaned the firearm, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 26815 and 27540, return the firearm to the transferor or seller or the person loaning the firearm. The dealer shall not return the firearm to the seller or transferor or the person loaning the firearm when to do so would constitute a violation of Section 27500, 27505, 27515, 27520, 27525, 27530, or 27535. If the dealer cannot legally return the firearm to the transferor or seller or the person loaning the firearm, then the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county, who shall then dispose of the firearm in the manner provided by Sections 18000, 18005, and 34000.

Comment. Section 28050 continues the first six sentences of former Section 12082(a) without substantive change.

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 28055. Fees
28055. (a) For a sale, loan, or transfer conducted pursuant to this chapter, the purchaser or transferee or person being loaned the firearm may be required by the dealer to pay a fee not to exceed ten dollars ($10) per firearm.

(b) No other fee may be charged by the dealer for a sale, loan, or transfer of a firearm conducted pursuant to this chapter, except for the applicable fees that may be charged pursuant to Sections 23690 and 28300 and Article 3 (commencing with Section 28100) of Chapter 6 and forwarded to the Department of Justice, and the fees set forth in Section 31650.

(c) The dealer may not charge any additional fees.

(d) Nothing in these provisions shall prevent a dealer from charging a smaller fee.

Comment. Subdivisions (a) and (b) of Section 28055 continue the seventh sentence of former Section 12082(a) without substantive change.

Subdivision (c) continues the ninth sentence of former Section 12082(a) without substantive change.
Subdivision (d) continues the eighth sentence of former Section 12082(a) without substantive change.

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 28060. Regulations

28060. The Attorney General shall adopt regulations under this chapter to do all of the following:

(a) Allow the seller or transferor or the person loaning the firearm, and the purchaser or transferee or the person being loaned the firearm, to complete a sale, loan, or transfer through a dealer, and to allow those persons and the dealer to preserve the confidentiality of those records and to comply with the requirements of this chapter and all of the following:

(1) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2.

(2) Article 1 (commencing with Section 27500) of Chapter 4.

(3) Article 2 (commencing with Section 28150) of Chapter 6.

(4) Article 3 (commencing with Section 28200) of Chapter 6.

(b) Where a personal handgun importer is selling or transferring a pistol, revolver, or other firearm capable of being concealed upon the person to comply with paragraph (2) of subdivision (a) of Section 27560, to allow a personal handgun importer’s ownership of the pistol, revolver, or other firearm capable of being concealed upon the person being sold or transferred to be recorded in a manner that if the firearm is returned to that personal handgun importer because the sale or transfer cannot be completed, the Department of Justice will have sufficient information about that personal handgun importer so that a record of the importer’s ownership can be maintained in the registry provided by subdivision (c) of Section 11106.

(c) Ensure that the register or record of electronic transfer shall state all of the following:

(1) The name and address of the seller or transferor of the firearm or the person loaning the firearm.

(2) Whether or not the person is a personal handgun importer.

(3) Any other information required by Article 2 (commencing with Section 28150) of Chapter 6.

Comment. Section 28060 continues former Section 12082(b) without substantive change.

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 17000 (“personal handgun importer”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

§ 28065. Dealer who does not sell, transfer, or keep inventory of handguns

28065. Notwithstanding any other provision of law, a dealer who does not sell, transfer, or keep an inventory of handguns is not required to process private party transfers of handguns.

Comment. Section 28065 continues former Section 12082(c) without substantive change.
§ 28070. Punishment
28070. A violation of this chapter by a dealer is a misdemeanor.

Comment. Section 28070 continues former Section 12082(d) without substantive change.
See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

CHAPTER 6. RECORDKEEPING, BACKGROUND CHECKS, AND FEES RELATING TO SALE, LEASE, OR TRANSFER OF FIREARMS

Article 1. General Provisions Relating to the Register or the Record of Electronic or Telephonic Transfer

§ 28100. Register or record of electronic or telephonic transfer
28100. (a) As required by the Department of Justice, every dealer shall keep a register or record of electronic or telephonic transfer in which shall be entered the information prescribed in Article 2 (commencing with Section 28150).
(b) This section shall not apply to any of the following transactions:
(1) The loan of an unloaded firearm by a dealer to a person who possesses a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8, for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event.
(2) The delivery of an unloaded firearm by a dealer to a gunsmith for service or repair.
(3) The sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555.
(4) The sale, delivery, or transfer of an unloaded firearm by a dealer who sells, delivers, or transfers the firearm to a person who resides outside this state and is licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and any regulations issued pursuant thereto.
(5) The sale, delivery, or transfer of an unloaded firearm by a dealer to a wholesaler if that firearm is being returned to the wholesaler and is intended as merchandise in the wholesaler’s business.
(6) The sale, delivery, or transfer of an unloaded firearm by a dealer to another dealer, upon proof of compliance with the requirements of Section 27555, if the firearm is intended as merchandise in the receiving dealer’s business.
(7) The sale, delivery, or transfer of an unloaded firearm, other than a handgun, by a dealer to himself or herself.
(8) The loan of an unloaded firearm by a dealer, if the dealer also operates a target facility that holds a business or regulatory license on the premises of the
building designated in the license, the loan is made to a person at that target
facility, and the firearm is kept at all times within the premises of the target range.

(9) The loan of an unloaded firearm by a dealer, if the building designated in the
license is on the premises of any club or organization organized for the purpose of
practicing shooting at targets upon established public or private ranges, the loan is
made to a person at that club or organization, and the firearm is kept at all times
within the premises of the club or organization.

(10) The loan of an unloaded firearm by a dealer to a consultant-evaluator, if the
loan does not exceed 45 days from the date of delivery of the firearm by the dealer
to the consultant-evaluator.

(11) The return of an unloaded firearm to the owner of that firearm by a dealer,
if the owner initially delivered the firearm to the dealer for service or repair.

(12) The sale, delivery, or transfer of an unloaded firearm by a dealer to a person
licensed as an importer or manufacturer pursuant to Chapter 44 (commencing with
Section 921) of Title 18 of the United States Code and any regulations issued
pursuant thereto.

(c) A violation of this section is a misdemeanor.

Comment. Section 28100 continues former Section 12073 without substantive change.
For exceptions to provisions in this article and in Article 2 (commencing with Section 28150),
Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see
Article 5 (commencing with Section 28400).

§ 28105. Requirements for preparation of register or record

28105. (a)(1) The register required by Section 28100 shall be prepared by and
obtained from the State Printer.

(2) The State Printer shall furnish the register only to dealers on application, at a
cost to be determined by the Department of General Services.

(3) The Department of General Services shall determine the cost for each 100
leaves in quadruplicate, one original and three duplicates for the making of carbon
copies.

(4) The original and duplicate copies shall differ in color, and shall be in the
form provided by this chapter.

(b) Where the electronic transfer of applicant information is used, the
Department of Justice shall develop the standards for all appropriate electronic
equipment and telephone numbers to effect the transfer of information to the
department.

Comment. Section 28105 continues former Section 12074 without substantive change.
For exceptions to provisions in this article and in Article 2 (commencing with Section 28150),
Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see
Article 5 (commencing with Section 28400).

See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to
26915, inclusive”).
§ 28110. Duties relating to register

28110. (a) The State Printer upon issuing a register shall forward to the Department of Justice both of the following:
(1) The name and business address of the dealer.
(2) The series and sheet numbers of the register.
(b) The register shall not be transferable.
(c) If the dealer moves the business to a different location, the dealer shall notify the department of that fact in writing within 48 hours.

Comment. Section 28110 continues former Section 12075 without substantive change.
For exceptions to provisions in this article and in Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).
See Section 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

Article 2. Form of the Register or the Record of Electronic Transfer

§ 28150. “Purchase,” “purchaser,” and “sale”

28150. As used in this article,
(a) “Purchase” means the purchase, loan, or transfer of a firearm.
(b) “Purchaser” means the purchaser or transferee of a firearm or the person being loaned a firearm.
(c) “Sale” means the sale, loan, or transfer of a firearm.

Comment. Section 28150 continues former Section 12077(g) without substantive change.
See Section 16520 (“firearm”).

§ 28155. Department of Justice to prescribe form of register and record of electronic transfer

28155. The Department of Justice shall prescribe the form of the register and the record of electronic transfer pursuant to Section 28105.

Comment. Section 28155 continues former Section 12077(a) without substantive change.

§ 28160. Form for handgun

28160. (a) For handguns, the register or record of electronic transfer shall include all of the following information:
(1) The date and time of sale.
(2) The make of firearm.
(3) Peace officer exemption status pursuant to the provisions listed in subdivision (c) of Section 16585, and the agency name.
(4) Dealer waiting period exemption pursuant to Sections 26900 and 27760.
(5) Dangerous weapons permitholder waiting period exemption pursuant to Sections 26965 and 27665.
(6) Curio and relic waiting period exemption pursuant to Sections 26970 and 27670.
(7) Curio and relic waiting period exemption pursuant to Sections 27820 and 27965.

(8) California Firearms Dealer number issued pursuant to Article 1 (commencing with Section 26700) of Chapter 2.

(9) For transactions occurring prior to January 1, 2003, the purchaser’s basic firearms safety certificate number issued pursuant to former Sections 12805 and 12809.

(10) For transactions occurring on or after January 1, 2003, the purchaser’s handgun safety certificate number issued pursuant to Article 2 (commencing with Section 31610) of Chapter 4 of Division 10 of this title, or pursuant to former Article 8 (commencing with Section 12800) of Chapter 6 of Title 2 of Part 4.

(11) Manufacturer’s name if stamped on the firearm.

(12) Model name or number, if stamped on the firearm.

(13) Serial number, if applicable.

(14) Other number, if more than one serial number is stamped on the firearm.

(15) Any identification number or mark assigned to the firearm pursuant to Section 23910.

(16) Caliber.

(17) Type of firearm.

(18) If the firearm is new or used.

(19) Barrel length.

(20) Color of the firearm.

(21) Full name of purchaser.

(22) Purchaser’s complete date of birth.

(23) Purchaser’s local address.

(24) If current address is temporary, complete permanent address of purchaser.

(25) Identification of purchaser.

(26) Purchaser’s place of birth (state or country).

(27) Purchaser’s complete telephone number.

(28) Purchaser’s occupation.

(29) Purchaser’s sex.

(30) Purchaser’s physical description.

(31) All legal names and aliases ever used by the purchaser.

(32) Yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Chapter 2 (commencing with Section 29800) or an offense described in Chapter 3 (commencing with Section 29900) of Division 9 of this title, the purchaser’s status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, and whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code.

(33) Signature of purchaser.
(34) Signature of salesperson, as a witness to the purchaser’s signature.
(35) Salesperson’s certificate of eligibility number, if the salesperson has obtained a certificate of eligibility.
(36) Name and complete address of the dealer or firm selling the firearm as shown on the dealer’s license.
(37) The establishment number, if assigned.
(38) The dealer’s complete business telephone number.
(39) Any information required by Chapter 5 (commencing with Section 28050).
(40) Any information required to determine whether subdivision (f) of Section 27540 applies.
(41) A statement of the penalties for signing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register.
(b) Effective January 1, 2003, the purchaser shall provide the purchaser’s right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.
(c) The firearms dealer shall record on the register or record of electronic transfer the date that the handgun is delivered.

Comment. Section 28160 continues former Section 12077(b) without substantive change.
For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).
See Sections 16240 (“basic firearms safety certificate”), 16520 (“firearm”), 16640 (“handgun”), 16670 (“handgun safety certificate”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28150 (“purchase,” “purchaser,” and “sale”).

§ 28165. Form for firearm other than handgun
28165. (a) For firearms other than handguns, the register or record of electronic transfer shall include all of the following information:
(1) The date and time of sale.
(2) Peace officer exemption status pursuant to the provisions listed in subdivision (c) of Section 16585, and the agency name.
(3) Dangerous weapons permit holder waiting period exemption pursuant to Sections 26965 and 27665.
(4) Curio and relic waiting period exemption pursuant to Sections 26970 and 27670.
(5) Auction or event waiting period exemption pursuant to Sections 26955 and 27655.
(6) California Firearms Dealer number issued pursuant to Article 1 (commencing with Section 26700) of Chapter 2.
(7) Full name of purchaser.
(8) Purchaser’s complete date of birth.
(9) Purchaser’s local address.
(10) If current address is temporary, complete permanent address of purchaser.
(11) Identification of purchaser.
(12) Purchaser’s place of birth (state or country).
(13) Purchaser’s complete telephone number.
(14) Purchaser’s occupation.
(15) Purchaser’s sex.
(16) Purchaser’s physical description.
(17) All legal names and aliases ever used by the purchaser.
(18) Yes or no answer to questions that prohibit purchase, including, but not
limited to, conviction of a felony as described in Chapter 2 (commencing with
Section 29800) or an offense described in Chapter 3 (commencing with Section
29900) of Division 9 of this title, the purchaser’s status as a person described in
Section 8100 of the Welfare and Institutions Code, whether the purchaser is a
person who has been adjudicated by a court to be a danger to others or found not
guilty by reason of insanity, whether the purchaser is a person who has been found
incompetent to stand trial or placed under conservatorship by a court pursuant to
Section 8103 of the Welfare and Institutions Code.
(19) Signature of purchaser.
(20) Signature of salesperson, as a witness to the purchaser’s signature.
(21) Salesperson’s certificate of eligibility number, if the salesperson has
obtained a certificate of eligibility.
(22) Name and complete address of the dealer or firm selling the firearm as
shown on the dealer’s license.
(23) The establishment number, if assigned.
(24) The dealer’s complete business telephone number.
(25) Any information required by Chapter 5 (commencing with Section 28050).
(26) A statement of the penalties for any person signing a fictitious name or
address, knowingly furnishing any incorrect information, or knowingly omitting
any information required to be provided for the register.
(b) Effective January 1, 2003, the purchaser shall provide the purchaser’s right
thumbprint on the register in a manner prescribed by the department. No exception
to this requirement shall be permitted except by regulations adopted by the
department.
(c) The firearms dealer shall record on the register or record of electronic
transfer the date that the firearm is delivered.

Comment. Section 28165 continues former Section 12077(c) without substantive change.
For exceptions to provisions in this article and in Article 1 (commencing with Section 28100),
Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see
Article 5 (commencing with Section 28400).
See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person
licensed pursuant to Sections 26700 to 26915, inclusive”), 28150 (“purchase,” “purchaser,” and
“sale”).
§ 28170. Requirements relating to use of register

28170. Where the register is used, the following shall apply:

(a) Dealers shall use ink to complete each document.

(b) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(c) Each dealer shall be provided instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions, which shall include the information set forth in this section.

(d) One firearm transaction shall be reported on each record of sale document.

(e) For purposes of this section, a “transaction” means a single sale, loan, or transfer of any number of firearms that are not handguns.

Comment. Section 28170 continues former Section 12077(d) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 16520 (“firearm”), 16640 (“handgun”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28150 (“purchase,” “purchaser,” and “sale”).

§ 28175. Duty of dealer or salesperson to obtain complete information from purchaser

28175. The dealer or salesperson making a sale shall ensure that all required information has been obtained from the purchaser. The dealer and all salespersons shall be informed that incomplete information will delay sales.

Comment. Section 28175 continues former Section 12077(e) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28150 (“purchase,” “purchaser,” and “sale”).

§ 28180. Use of magnetic strip to obtain purchaser’s name, date of birth, and driver’s license or identification number

28180. (a) Effective January 1, 2003, the purchaser’s name, date of birth, and driver’s license or identification number shall be obtained electronically from the magnetic strip on the purchaser’s driver’s license or identification and shall not be supplied by any other means, except as authorized by the department.

(b) The requirement of subdivision (a) shall not apply in either of the following cases:

(1) The purchaser’s identification consists of a military identification card.

(2) Due to technical limitations, the magnetic stripe reader is unable to obtain the required information from the purchaser’s identification. In those circumstances, the firearms dealer shall obtain a photocopy of the identification as proof of compliance.
(c) In the event that the dealer has reported to the department that the dealer’s equipment has failed, information pursuant to this section shall be obtained by an alternative method to be determined by the department.

Comment. Section 28180 continues former Section 12077(f) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28150 (“purchase,” “purchaser,” and “sale”).

Article 3. Submission of Fees and Firearm Purchaser Information to the Department of Justice

§ 28200. “Purchase,” “purchaser,” “sale,” and “seller”

28200. As used in this article,
(a) “Purchase” means the purchase, loan, or transfer of a firearm.
(b) “Purchaser” means the purchaser or transferee of a firearm or the person being loaned a firearm.
(c) “Sale” means the sale, loan, or transfer of a firearm.
(d) “Seller” means, if the transaction is being conducted pursuant to Chapter 5 (commencing with Section 28050), the person selling, loaning, or transferring the firearm.

Comment. Section 28200 continues former Section 12076(l) without substantive change.

§ 28205. Means of submitting firearm purchaser information to Department of Justice

28205. (a) Until January 1, 1998, the Department of Justice shall determine the method by which a dealer shall submit firearm purchaser information to the department. The information shall be in one of the following formats:
(1) Submission of the register described in Article 2 (commencing with Section 28150).
(2) Electronic or telephonic transfer of the information contained in the register described in Article 2 (commencing with Section 28150).

(b) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(c) On or after January 1, 2003, except as permitted by the department, electronic transfer shall be the exclusive means by which information is transmitted to the department. Telephonic transfer shall not be permitted for information regarding sales of any firearms.

Comment. Section 28205 continues former Section 12076(a) without substantive change.
See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

§ 28210. Use of register

28210. (a)(1) Where the register is used, the purchaser of any firearm shall be required to present to the dealer clear evidence of the person’s identity and age.

(2) The dealer shall require the purchaser to sign the purchaser’s current legal name and affix the purchaser’s residence address and date of birth to the register in quadruplicate.

(3) The salesperson shall sign the register in quadruplicate, as a witness to the signature and identification of the purchaser.

(b) Any person furnishing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the register shall be punished as provided in Section 28250.

(c)(1) The original of the register shall be retained by the dealer in consecutive order.

(2) Each book of 50 originals shall become the permanent register of transactions, which shall be retained for not less than three years from the date of the last transaction.

(3) Upon presentation of proper identification, the permanent register of transactions shall be available for inspection by any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives. No information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(d) On the date of the application to purchase, two copies of the original sheet of the register shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento.

(e) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(f) If the transaction is a private party transfer conducted pursuant to Chapter 5 (commencing with Section 28050), a photocopy of the original shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser’s personal information, as required pursuant to subdivision (a) of Section 28160 and subdivision (a) of Section 28165, from the seller’s copy, and the seller’s personal information from the purchaser’s copy.

Comment. Subdivision (a) of Section 28210 continues the first and second sentences of former Section 12076(b)(1) without substantive change.

Subdivision (b) cross-references to Section 28250, which continues the third sentence of former Section 12076(b)(1) and the third sentence of former Section 12076(c)(1) without substantive change.

Subdivision (c) continues former Section 12076(b)(2) without substantive change.

Subdivision (d) continues former Section 12076(b)(3) without substantive change.

Subdivision (e) continues former Section 12076(b)(4) without change.
Subdivision (f) continues former Section 12076(b)(5) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 16400 (“clear evidence of the person’s identity and age”), 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

§ 28215. Use of electronic or telephonic transfer

28215. (a)(1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present to the dealer clear evidence of the person’s identity and age.

(2) The dealer shall require the purchaser to sign the purchaser’s current legal name to the record of electronic or telephonic transfer.

(3) The salesperson shall sign the record of electronic or telephonic transfer, as a witness to the signature and identification of the purchaser.

(b) Any person furnishing a fictitious name or address, knowingly furnishing any incorrect information, or knowingly omitting any information required to be provided for the electronic or telephonic transfer shall be punished as provided in Section 28250.

(c)(1) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order.

(2) Each original shall become the permanent record of the transaction, which shall be retained for not less than three years from the date of the last transaction.

(3) Upon presentation of proper identification, the permanent record of the transaction shall be provided for inspection by any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives. No information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(d) On the date of the application to purchase, the record of applicant information shall be transmitted to the Department of Justice in Sacramento by electronic or telephonic transfer

(e) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(f) If the transaction is a private party transfer conducted pursuant to Chapter 5 (commencing with Section 28050), a copy shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser’s personal information, as required pursuant to subdivision (a) of Section 28160 and subdivision (a) of Section 28165, from the seller’s copy, and the seller’s personal information from the purchaser’s copy.

Comment. Subdivision (a) of Section 28215 continues the first and second sentences of former Section 12076(c)(1) without substantive change.
Subdivision (b) cross-refers to Section 28250, which continues the third sentence of former Section 12076(b)(1) and the third sentence of former Section 12076(c)(1) without substantive change.

Subdivision (c) continues former Section 12076(c)(3) without substantive change.

Subdivision (d) continues former Section 12076(c)(2) without substantive change.

Subdivision (e) continues former Section 12076(c)(4) without change.

Subdivision (f) continues former Section 12076(c)(5) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 16400 (“clear evidence of the person’s identity and age”), 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

§ 28220. Background check by Department of Justice

28220. (a) Upon submission of firearm purchaser information, the Department of Justice shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b) To the extent that funding is available, the Department of Justice may participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and, if that participation is implemented, shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(c) If the department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or is a person described in subdivision (a) of Section 27535, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(d) If the department determines that the copies of the register submitted to it pursuant to subdivision (d) of Section 28210 contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to Section 28225 is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to Section 28225, or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased,
the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(e) If the department determines that the information transmitted to it pursuant to Section 28215 contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to Section 28225 is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to Section 28225, or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

Comment. Section 28220 continues former Section 12076(d) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

For the consequences of violating this article, see Section 28250.

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

§ 28225. Fee to be charged by dealer

28225. (a) The Department of Justice may require the dealer to charge each firearm purchaser a fee not to exceed fourteen dollars ($14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations.

(b) The fee under subdivision (a) shall be no more than is necessary to fund the following:

(1) The department for the cost of furnishing this information.

(2) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(3) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by Section 8103 of the Welfare and Institutions Code.

(4) The State Department of Mental Health for the costs resulting from the requirements imposed by Section 8104 of the Welfare and Institutions Code.

(5) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.
(7) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

(8) For the actual costs associated with the electronic or telephonic transfer of information pursuant to Section 28215.1

(9) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.

(10) The department for the costs associated with subdivisions (d) and (e) of Section 27560.

(11) The department for the costs associated with funding Department of Justice firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to any provision listed in Section 16580.

(c) The fee established pursuant to this section shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (3) of subdivision (b), the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (4) of subdivision (b), the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (5) of subdivision (b), the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (7) of subdivision (b), the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, the estimated reasonable costs of the department for the costs associated with subdivisions (d) and (e) of Section 27560, and the estimated reasonable costs of department firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to any provision listed in Section 16580.

(d) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in this section to the department.

Comment. Subdivisions (a)-(c) of Section 28225 continue former Section 12076(e) without substantive change. Subdivision (d) continues former Section 12076(h) without substantive change. For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400). For the consequences of violating this article, see Section 28250. See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).
§ 28230. Fee that may be charged by Department of Justice

28230. (a) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars ($14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(1) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to any provision listed in subdivision (a) of Section 16585.

(2) For the actual processing costs associated with the submission of a Dealers’ Record of Sale to the department.

(3) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to Section 26905, 27565, or 28000, or paragraph (1) of subdivision (a) of Section 27560.

(4) For the actual costs associated with the electronic or telephonic transfer of information pursuant to 28215.

(b) If the department charges a fee pursuant to paragraph (2) of subdivision (a), it shall be charged in the same amount to all categories of transaction that are within subdivision (a).

(c) Any costs incurred by the Department of Justice to implement this section shall be reimbursed from fees collected and charged pursuant to this section. No fees shall be charged to the dealer pursuant to Section 28225 for implementing this section.

Comment. Section 28230 continues former Section 12076(f) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

See Sections 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

§ 28235. Dealers’ Record of Sale Special Account

28235. All money received by the department pursuant to this article shall be deposited in the Dealers’ Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to any of the following:

(a) This article.

(b) Section 18910.

(c) Section 27555.

(d) Subdivisions (d) and (e) of Section 27560.

(e) Article 6 (commencing with Section 28450).

(f) Section 31110.

(g) Section 31115.

(h) Subdivision (a) of Section 32020.
(i) Section 32670.
(j) Section 33320.

**Comment.** Section 28235 continues former Section 12076(g) without substantive change.

§ 28240. Method of calculating fees

28240. (a) Only one fee shall be charged pursuant to this article for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person, or for the taking of possession of those firearms.

(b) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this article for the second and subsequent firearms that are part of that transaction.

(c) Only one fee shall be charged pursuant to this article for a single transaction on the same date for taking title or possession of any number of firearms pursuant to Section 26905, 27870, 27875, 27915, 27920, or 27925.

**Comment.** Subdivisions (a) and (b) of Section 28240 continue former Section 12076(i) without substantive change.

Subdivision (c) continues former Section 12076(j) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

For the consequences of violating this article, see Section 28250.

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”), 28200 (“purchase,” “purchaser,” “sale,” and “seller”).

§ 28245. Application of California Tort Claims Act

28245. Whenever the Department of Justice acts pursuant to this article as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department’s acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

**Comment.** Section 28245 continues former Section 12076(k) without substantive change.

See Sections 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

§ 28250. Punishment for violation of article, providing false information for firearm transaction, or failing to provide necessary information for firearm transaction

28250. (a) Any person who does any of the following is guilty of a misdemeanor:

(1) Furnishing a fictitious name or address for the register under Section 28210 or the electronic or telephonic transfer under Section 28215.

(2) Knowingly furnishing any incorrect information for the register under Section 28210 or the electronic or telephonic transfer under Section 28215.
(3) Knowingly omitting any information required to be provided for the register under Section 28210 or the electronic or telephonic transfer under Section 28215.

(4) Violating any provision of this article.

(b) Notwithstanding subdivision (a), any person who is prohibited from obtaining a firearm pursuant to Chapter 2 (commencing with Section 29800) or 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, who does any of the following shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for a term of 8, 12, or 18 months:

(1) Knowingly furnishes a fictitious name or address for the register under Section 28210 or the electronic or telephonic transfer under Section 28215.

(2) Knowingly furnishes any incorrect information for the register under Section 28210 or the electronic or telephonic transfer under Section 28215.

(3) Knowingly omits any information required to be provided for the register under Section 28210 or the electronic or telephonic transfer under Section 28215.

Comment. Section 28250 continues the third sentence of former Section 12076(b)(1) and the third sentence of former Section 12076(c)(1) without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 4 (commencing with Section 28300), see Article 5 (commencing with Section 28400).

Article 4. Firearms Safety and Enforcement Special Fund

§ 28300. Firearms Safety and Enforcement Special Fund

28300. (a) The Firearms Safety and Enforcement Special Fund is hereby established in the State Treasury and shall be administered by the Department of Justice.

(b) Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the Department of Justice, without regard to fiscal years, for the purpose of implementing and enforcing the provisions of Article 2 (commencing with Section 31610) of Chapter 4 of Division 10, enforcing Section 830.95, Title 2 (commencing with Section 12001) of Part 4, Sections 16000 to 16960, inclusive, Sections 16970 to 17230, inclusive, Sections 17240 to 21390, inclusive, and Sections 21590 to 34370, inclusive, and for the establishment, maintenance and upgrading of equipment and services necessary for firearms dealers to comply with Article 2 (commencing with Section 28150).

(c) The Department of Justice may require firearms dealers to charge each person who obtains a firearm a fee not to exceed five dollars ($5) for each transaction. Revenues from this fee shall be deposited in the Firearms Safety and Enforcement Special Fund.

Comment. Section 28300 continues former Section 12076.5 without substantive change.

For exceptions to provisions in this article and in Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), and Article 3 (commencing with Section 28200), see Article 5 (commencing with Section 28400).
§ 28400. Exception for sale, delivery, or transfer to authorized law enforcement representative of city, county, city and county, or state or federal government

28400. (a) Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300) do not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

Comment. Section 28400 continues former Section 12078(a)(2) without substantive change, as that provision applied to former Sections 12073, 12074, 12075, 12076, 12076.5, and 12077 (through its reference to “the preceding provisions of this article”).

§ 28405. Exception for loan of firearm to peace officer employee for use in performing official duties

28405. Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300) do not apply to the loan of a firearm if all of the following conditions are satisfied:

(a) The loan is made by an authorized law enforcement representative of a city, county, or city and county, or of the state or federal government.

(b) The loan is made to a peace officer employed by that agency and authorized to carry a firearm.

(c) The loan is made for the carrying and use of that firearm by that peace officer in the course and scope of the officer’s duties.
Comment. Section 28405 continues former Section 12078(a)(3) without substantive change, as that provision applied to former Sections 12073, 12074, 12075, 12076, 12076.5, and 12077 (through its reference to “the preceding provisions of this article”).

See Section 16520 (“firearm”).

§ 28410. Exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code

28410. (a) Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.

(b) Within 10 days of the date that a handgun is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

Comment. Section 28410 continues former Section 12078(a)(4) without substantive change, as that provision applied to former Sections 12073, 12074, 12075, 12076, 12076.5, and 12077 (through its reference to “the preceding provisions of this article”).

See Sections 16520 (“firearm”), 16640 (“handgun”).

§ 28415. Exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm

28415. (a) Article 1 (commencing with Section 28100), Article 2 (commencing with Section 28150), Article 3 (commencing with Section 28200), and Article 4 (commencing with Section 28300) do not apply to a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

Comment. Section 28415 continues former Section 12078(a)(5) without substantive change, as that provision applied to former Sections 12073, 12074, 12075, 12076, 12076.5, and 12077 (through its reference to “the preceding provisions of this article”).
See Sections 16520 ("firearm"), 16640 ("handgun").

Article 6. Centralized List of Exempted Federal Firearms Licensees

§ 28450. Centralized list of exempted federal firearms licensees

28450. (a) Commencing January 1, 2008, the Department of Justice shall keep a centralized list of persons who identify themselves as being licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker, importer, or manufacturer of firearms whose licensed premises are within this state and who declare to the department an exemption from the firearms dealer licensing requirements of Section 26500.

(b) The list shall be known as the centralized list of exempted federal firearms licensees.

(c) To qualify for placement on the centralized list, an applicant shall do all of the following:

1. Possess a valid federal firearms license pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker, importer, or manufacturer of firearms.
2. Maintain eligibility under California law to possess firearms by possessing a current, valid certificate of eligibility pursuant to Section 26710.
3. Maintain with the department a signed declaration enumerating the applicant’s statutory exemptions from licensing requirements of Section 26500.

Comment. Section 28450 continues former Section 12083(a) without substantive change, except the second sentence of paragraph (a)(3), which is continued without substantive change in Section 28455.

See Sections 16520 ("firearm"), 26700 ("dealer," "licensee," or "person licensed pursuant to Sections 26700 to 26915, inclusive").

§ 28455. Punishment for misconduct in submitting declaration enumerating statutory exemptions from licensing requirements

28455. Any person furnishing a fictitious name, knowingly furnishing any incorrect information, or knowingly omitting any information for the declaration under paragraph (3) of subdivision (c) of Section 28450 shall be guilty of a misdemeanor.

Comment. Section 28455 continues the second sentence of former Section 12083(a)(3) without substantive change.

§ 28460. Fee

28460. (a) Commencing January 1, 2008, the department shall assess an annual fee of one hundred fifteen dollars ($115) to cover its costs of maintaining the centralized list of exempted federal firearms licensees prescribed by Section 28450, conducting inspections in accordance with this article, and for the cost of maintaining the firearm shipment verification number system described in Section 27555.
(b) The department may increase the fee at a rate not to exceed the increase in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations.

(c) The fees collected shall be deposited in the Dealers’ Record of Sale Special Account.

Comment. Section 28460 continues former Section 12083(b) without substantive change.

For the provision establishing the Dealers’ Record of Sale Special Account, see Section 28235.

See Section 16520 (“firearm”).

§ 28465. Restriction on importing or receiving firearms

28465. (a) Any person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code as a dealer, pawnbroker, importer, or manufacturer of firearms whose licensed premises are within this state shall not import or receive firearms from any source unless listed on the centralized list of firearms dealers pursuant to Section 26715, or the centralized list of exempted federal firearms licensees pursuant to Section 28450, or the centralized list of firearms manufacturers pursuant to Section 29060.

(b) A violation of this section is a misdemeanor.

Comment. Section 28465 continues former Section 12083(c) without substantive change.

See Section 16520 (“firearm”).

§ 28470. Maintaining record of verification number

28470. (a) All persons on the centralized list of exempted federal firearms licensees prescribed by Section 28450 shall record and keep on file for three years, the verification number that shall accompany firearms received from other federal firearms licensees pursuant to Section 27555.

(b) A violation of this section is cause for immediate removal from the centralized list.

Comment. Section 28470 continues former Section 12083(d) without substantive change.

For another provision authorizing removal from the centralized list in specified circumstances, see Section 28485.

See Section 16520 (“firearm”).

§ 28475. Use of information from centralized list of exempted federal firearms licensees

28475. Information compiled from the list described in Section 28450 shall be made available for the following purposes:

(a) Requests from local, state, and federal law enforcing agencies and the duly constituted city, county, and city and county licensing authorities.

(b) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

Comment. Section 28475 continues former Section 12083(e) without substantive change.

See Section 16520 (“firearm”).
§ 28480. Inspection of business premises

28480. (a) The department may conduct onsite inspections at the business premises of a person on the centralized list described in Section 28450 to determine compliance with firearms laws pursuant to the provisions listed in Section 16575.

(b) The department shall work in consultation with the Bureau of Alcohol, Tobacco, Firearms, and Explosives to ensure that licensees are not subject to duplicative inspections.

(c) During the inspection the following firearm records shall be made available for review:

1. Federal records referred to in subdivision (a) of Section 478.125 of Title 27 of the Code of Federal Regulations and the bound book containing the same information referred to in Section 478.124a and subdivision (e) of Section 478.125 of Title 27 of the Code of Federal Regulations.

2. Verification numbers issued pursuant to Section 27555.

3. Any other records requested by the department to determine compliance with the provisions listed in Section 16575.

Comment. Section 28480 continues former Section 12083(f) without substantive change. See Section 16520 (“firearm”).

§ 28485. Removal from centralized list of exempted federal firearms licensees

28485. The department may remove from the centralized list described in Section 28450 any person who violates a provision listed in Section 16575.

Comment. Section 28485 continues former Section 12083(g) without substantive change. See also Section 28470, which requires recording and retention of verification numbers and states that violation of that requirement is cause for immediate removal from the centralized list of exempted federal firearms licensees.

§ 28490. Regulations

28490. The department may adopt regulations as necessary to carry out the provisions of this article, Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2, and Sections 27555 to 27570, inclusive. The department shall work in consultation with the Bureau of Alcohol, Tobacco, Firearms, and Explosives to ensure that state regulations are not duplicative of federal regulations.

Comment. Section 28490 continues former Section 12083(h) without substantive change.
DIVISION 7. MANUFACTURE OF FIREARMS

CHAPTER 1. LICENSE REQUIREMENT FOR MANUFACTURE OF FIREARMS

§ 29010. Prohibition against unlicensed manufacture of firearms

29010. (a) Commencing July 1, 1999, no person, firm, or corporation licensed to manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code may manufacture firearms within this state unless licensed pursuant to Chapter 2 (commencing with Section 29030).

(b) Subdivision (a) does not apply to a person licensed to manufacture firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code who manufactures fewer than 100 firearms in a calendar year within this state.

(c) If a person, firm, or corporation required to be licensed pursuant to Chapter 2 (commencing with Section 29030) ceases operations, then the records required pursuant to Section 29130 and subdivision (b) of Section 29115 shall be forwarded to the federal Bureau of Alcohol, Tobacco, and Firearms within three days of the closure of business.

(d) A violation of this section is a misdemeanor.

Comment. Section 29010 continues subdivisions (a)-(d) of former Section 12085 without substantive change.

See Section 16520 (“firearm”).

CHAPTER 2. ISSUANCE, FORFEITURE, AND CONDITIONS OF LICENSE TO MANUFACTURE FIREARMS


§ 29030. “Licensee”

29030. In this chapter, “licensee” means a person, firm, or corporation that satisfies both of the following:

(a) Has a license issued pursuant to subdivision (b) of Section 29050.

(b) Is among those recorded in the centralized list specified in Section 29060.

Comment. Section 29030 continues former Section 12086(a)(1) without substantive change.

Article 2. Licensing Process

§ 29050. Issuance of license to manufacture firearms

29050. (a) The Department of Justice shall accept applications for, and shall grant licenses permitting, the manufacture of firearms within this state.

(b) No license shall be granted by the department unless and until the applicant presents proof that the applicant has all of the following:
(1) A valid license to manufacture firearms issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(2) Any regulatory or business license, or licenses, required by local government.

(3) A valid seller’s permit or resale certificate issued by the State Board of Equalization, if applicable.

(4) A certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(c) A license granted by the department shall be valid for no more than one year from the date of issuance and shall be in the form prescribed by the Attorney General.

(d) The department shall inform applicants who are denied licenses of the reasons for the denial in writing.

Comment. Subdivision (a) of Section 29050 continues the first sentence of former Section 12086(b)(1) without substantive change.

Subdivision (b) continues former Section 12086(b)(2) without substantive change.

Subdivision (c) continues former Section 12086(b)(4) without substantive change.

Subdivision (d) continues the second sentence of former Section 12086(b)(1) without substantive change.

See Sections 16450 (“department”), 16520 (“firearm”).

§ 29055. Fees and regulations

29055. (a) The department shall adopt regulations to administer this chapter and Chapter 1 (commencing with Section 29010).

(b) The department shall recover the full costs of administering the program by collecting fees from license applicants. Recoverable costs shall include, but not be limited to, the costs of inspections and maintaining a centralized list of licensed firearm manufacturers.

(c) The fee for licensed manufacturers who produce fewer than 500 firearms in a calendar year within this state shall not exceed (i) two hundred fifty dollars ($250) per year or (ii) the actual costs of inspections and maintaining a centralized list of firearm manufacturers and any other duties of the department required pursuant to this chapter and Chapter 1 (commencing with Section 29010), whichever is less.

Comment. Section 29055 continues former Section 12086(b)(3) without substantive change.

See Sections 16450 (“department”), 16520 (“firearm”).

§ 29060. Centralized list of persons licensed to manufacture firearms

29060. (a) Except as otherwise provided in subdivisions (a) and (b) of Section 20965, the Department of Justice shall maintain a centralized list of all persons licensed pursuant to subdivision (b) of Section 29050.

(b) The centralized list shall be provided annually to each police department and county sheriff within the state.

Comment. Section 29060 continues former Section 12086(f)(1) without substantive change.
§ 29065. Revocation of license

29065. (a) Except as provided in subdivision (b), the license of any licensee who violates this chapter may be revoked.

(b) The license of any licensee who knowingly or with gross negligence violates this chapter or violates this chapter three times shall be revoked, and that person, firm, or corporation shall become permanently ineligible to obtain a license pursuant to this chapter.

(c) Upon the revocation of the license, notification shall be provided to local law enforcement authorities in the jurisdiction where the licensee’s business is located and to the federal Bureau of Alcohol, Tobacco, and Firearms.

Comment. Subdivision (a) of Section 29065 continues former Section 12086(f)(2) without substantive change.

Subdivision (b) continues former Section 12086(f)(3) without substantive change. For guidance in applying this subdivision, see Section 16010 (continuation of existing law). See also Section 16015 (determining existence of prior conviction).

Subdivision (c) continues former Section 12086(g)(1) without substantive change.

See Section 29030 (“licensee”).

§ 29070. Release of information about licensees

29070. (a) The department shall make information concerning the location and name of a licensee available, upon request, for the following purposes only:

(1) Law enforcement.

(2) When the information is requested by a person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code for determining the validity of the license for firearm shipments.

(b) Notwithstanding subdivision (a), the department shall make the name and business address of a licensee available to any person upon written request.

Comment. Subdivision (a) of Section 29070 continues former Section 12086(g)(2) without substantive change.

Subdivision (b) continues former Section 12086(g)(3) without substantive change.

See Sections 16450 (“department”), 16520 (“firearm”), 29030 (“licensee”).

§ 29075. Information to be maintained and made available by Department of Justice

29075. The Department of Justice shall maintain and make available upon request information concerning all of the following:

(a) The number of inspections conducted and the amount of fees collected pursuant to Section 29055.

(b) The number of licensees removed from the centralized list described in Sections 29060 and 29065.

(c) The number of licensees found to have violated this chapter.

Comment. Section 29075 continues former Section 12086(h) without substantive change.

See Section 29030 (“licensee”).
Article 3. Prohibitions and Requirements Applicable to Licensee

§ 29100. Compliance with prohibitions and requirements

29100. A licensee shall comply with the prohibitions and requirements described in this article.

Comment. Section 29100 continues the introductory clause of former Section 12086(c) without substantive change.
See Section 29030 (“licensee”).

§ 29105. Place of conducting business

29105. The business of a licensee shall be conducted only in the buildings designated in the license.

Comment. Section 29105 continues former Section 12086(c)(1) without substantive change.
See Section 29030 (“licensee”).

§ 29110. Display of license

29110. A licensee shall display the license or a copy thereof, certified by the department, on the premises where it can easily be seen.

Comment. Section 29110 continues former Section 12086(c)(2) without substantive change.
See Sections 16450 (“department”), 29030 (“licensee”).

§ 29115. Lost or stolen firearm

29115. (a) Whenever a licensee discovers that a firearm has been stolen or is missing from the licensee’s premises, the licensee shall report the loss or theft within 48 hours of the discovery to all of the following:

(1) The Department of Justice, in a manner prescribed by the department.
(2) The federal Bureau of Alcohol, Tobacco, and Firearms.
(3) The police department in the city or city and county where the building designated in the license is located.
(4) If there is no police department in the city or city and county where the building designated in the license is located, the sheriff of the county where the building designated in the license is located.

(b) For at least 10 years, the licensee shall maintain records of all firearms that are lost or stolen, as prescribed by the Department of Justice.

Comment. Subdivision (a) of Section 29115 continues former Section 12086(c)(3) without substantive change.
Subdivision (b) continues former Section 12086(c)(10) without substantive change.
See Sections 16520 (“firearm”), 29030 (“licensee”).

§ 29120. Restrictions on employee access to firearms

29120. (a) A licensee shall require that each employee obtain a certificate of eligibility pursuant to Section 26710, which shall be renewed annually, before being allowed to come into contact with any firearm.

(b) A licensee shall prohibit any employee who the licensee knows or reasonably should know is prohibited by state or federal law from possessing,
receiving, owning, or purchasing a firearm from coming into contact with any firearm.

Comment. Section 29120 continues former Section 12086(c)(4) without substantive change. See Sections 16520 (“firearm”), 29030 (“licensee”).

§ 29125. Unique serial number on each firearm

29125. (a) Each firearm a licensee manufactures in this state shall be identified with a unique serial number stamped onto the firearm utilizing the method of compression stamping.

(b) Licensed manufacturers who produce fewer than 500 firearms in a calendar year within this state may serialize long guns only by utilizing a method of compression stamping or by engraving the serial number onto the firearm.

(c) The licensee shall stamp the serial number onto the firearm within one business day of the time the frame or receiver is manufactured.

(d) The licensee shall not use the same serial number for more than one firearm.

Comment. Section 29125 continues former Section 12086(c)(5) without substantive change. See Sections 16520 (“firearm”), 29030 (“licensee”).

§ 29130. Recordkeeping requirements

29130. (a) A licensee shall record the type, model, caliber, or gauge, and serial number of each firearm manufactured or acquired, and the date of the manufacture or acquisition, within one business day of the manufacture or acquisition.

(b) The licensee shall maintain permanently within the building designated in the license the records required pursuant to subdivision (a).

(c) Backup copies of the records described in subdivision (a), whether electronic or hard copy, shall be made at least once a month. These backup records shall be maintained in a facility separate from the one in which the primary records are stored.

Comment. Section 29130 continues former Section 12086(c)(6) without substantive change. See Sections 16520 (“firearm”), 29030 (“licensee”).

§ 29135. Inspections

29135. (a) A licensee shall allow the department to inspect the building designated in the license to ensure compliance with the requirements of this chapter.

(b) A licensee shall allow any peace officer, authorized law enforcement employee, or Department of Justice employee designated by the Attorney General, upon the presentation of proper identification, to inspect facilities and records during business hours to ensure compliance with the requirements of this chapter.

Comment. Section 29135 continues former Section 12086(c)(7) without substantive change. See Section 29030 (“licensee”).
§ 29140. Storage of firearms and barrels for firearms in secure facility

29140. A licensee shall store in a secure facility all firearms manufactured and all barrels for firearms manufactured.

Comment. Section 29140 continues former Section 12086(c)(8) without substantive change. See Sections 16520 (“firearm”), 29141 (“secure facility” for firearm storage by manufacturer), 29142 (special definition of “secure facility” for firearm storage by manufacturer producing fewer than 500 firearms per calendar year).

§ 29141. “Secure facility” for firearm storage by manufacturer

29141. Except as otherwise provided in Section 29142, as used in this chapter, “secure facility” means that the facility satisfies all of the following:

(a) The facility is equipped with a burglar alarm with central monitoring.
(b) All perimeter entries to areas in which firearms are stored other than doors, including windows and skylights, are secured with steel window guards or an audible, silent, or sonic alarm to detect entry.
(c) All perimeter doorways are designed in one of the following ways:
   (1) A windowless steel security door equipped with both a deadbolt and a doorknob lock.
   (2) A windowed metal door equipped with both a deadbolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window is covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door.
   (3) A metal grate that is padlocked and affixed to the licensee’s premises independent of the door and doorframe.
   (4) Hinges and hasps attached to doors by welding, riveting, or bolting with nuts on the inside of the door.
   (5) Hinges and hasps installed so that they cannot be removed when the doors are closed and locked.
(d) Heating, ventilating, air-conditioning, and service openings are secured with steel bars, metal grating, or an alarm system.
(e) No perimeter metal grates are capable of being entered by any person.
(f) Steel bars used to satisfy the requirements of this section are not capable of being entered by any person.
(g) Perimeter walls of rooms in which firearms are stored are constructed of concrete or at least 10-gauge expanded steel wire mesh utilized along with typical wood frame and drywall construction. If firearms are not stored in a vault, the facility shall use an exterior security-type door along with a high security, single-key deadbolt, or other door that is more secure. All firearms shall be stored in a separate room away from any general living area or work area. Any door to the storage facility shall be locked while unattended.
(h) Perimeter doorways, including the loading dock area, are locked at all times when not attended by paid employees or contracted employees, including security guards.
(i) Except when a firearm is currently being tested, any ammunition on the premises is removed from all manufactured guns and stored in a separate and locked room, cabinet, or box away from the storage area for the firearms. Ammunition may be stored with a weapon only in a locked safe.

Comment. Section 29141 continues former Section 12086(d) without substantive change. See Section 16520 (“firearm”). See also Sections 17110 (“secure facility” for firearm storage by dealer), 29142 (special definition of “secure facility” for firearm storage by manufacturer producing fewer than 500 firearms per calendar year).

§ 29142. Special definition of “secure facility” for firearm storage by manufacturer producing fewer than 500 firearms per calendar year

29142. (a) For purposes of this chapter, any licensed manufacturer who produces fewer than 500 firearms in a calendar year within this state may maintain a “secure facility” by complying with all of the requirements described in Section 29141, or may design a security plan that is approved by the Department of Justice or the federal Bureau of Alcohol, Tobacco, and Firearms.

(b) If a security plan is approved by the federal Bureau of Alcohol, Tobacco, and Firearms, the approved plan, along with proof of approval, shall be filed with the Department of Justice and the local police department. If there is no police department, the filing shall be with the county sheriff’s office.

(c) If a security plan is approved by the Department of Justice, the approved plan, along with proof of approval, shall be filed with the local police department. If there is no police department, the filing shall be with the county sheriff’s office.

Comment. Section 29142 continues former Section 12086(e) without substantive change. See Section 16520 (“firearm”). See also Sections 17110 (“secure facility” for firearm storage by dealer), 29141 (“secure facility” for firearm storage by manufacturer).

§ 29150. Notification requirement

29150. (a) A licensee shall notify the chief of police or other head of the municipal police department in the city or city and county where the building designated in the license is located that the licensee is manufacturing firearms within that city or city and county and the location of the licensed premises.

(b) If there is no police department in the city or city and county where the building designated in the license is located, the licensee shall notify the sheriff of the county where the building designated in the license is located that the licensee is manufacturing firearms within that county and the location of the licensed premises.

Comment. Section 29150 continues former Section 12086(c)(9) without substantive change. See Sections 16520 (“firearm”), 29030 (“licensee”).
DIVISION 8. MISCELLANEOUS RULES RELATING TO FIREARMS GENERALLY

CHAPTER 1. MISCELLANEOUS PROVISIONS

§ 29300. Firearm of any nature constitutes nuisance under specified circumstances

29300. (a) Except as provided in subdivision (c), a firearm of any nature owned or possessed in violation of Chapter 1 (commencing with Section 29610), 2 (commencing with Section 29800), or 3 (commencing with Section 29900) of Division 9 of this title, or Chapter 3 (commencing with Section 8100) of Division 5 of the Welfare and Institutions Code, or used in the commission of any misdemeanor as provided in this code, any felony, or an attempt to commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, a nuisance, and is subject to Sections 18000 and 18005.

(b) A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

(c) A firearm is not a nuisance pursuant to this section if the firearm owner disposes of the firearm pursuant to Section 29810.

(d) This section does not apply to any of the following:

(1) Any firearm in the possession of the Department of Fish and Game.

(2) Any firearm that was used in the violation of any provision of the Fish and Game Code or any regulation adopted pursuant thereto.

(3) Any firearm that is forfeited pursuant to Section 5008.6 of the Public Resources Code.

Comment. Subdivision (a) of Section 29300 continues the first sentence of former Section 12028(b)(1) without substantive change.

In combination with Section 18000(c), subdivision (b) continues the second sentence of former Section 12028(b)(1) without substantive change.

Subdivision (c) continues former Section 12028(b)(2) without substantive change.

In combination with Section 25700, subdivision (d) continues former Section 12028(e) without substantive change.

See Section 16520 (“firearm”).

CHAPTER 2. ENTERTAINMENT FIREARMS PERMIT

§ 29500. Entertainment firearms permit

29500. Any person who is at least 21 years of age may apply for an entertainment firearms permit from the Department of Justice. An entertainment firearms permit authorizes the permitholder to possess firearms loaned to the
permitholder for use solely as a prop in a motion picture, television, video, 
theatrical, or other entertainment production or event.

Comment. Section 29500 continues the first sentence of former Section 12081(a) without 
substantive change.

See Section 16520 (“firearm”).

§ 29505. Application form

29505. (a) Requests for entertainment firearms permits shall be made on 
an application forms prescribed by the Department of Justice that require applicant 
information, including, but not limited to, the following:

(1) Complete name.
(2) Residential and mailing address.
(3) Telephone number.
(4) Date of birth.
(5) Place of birth.
(6) Country of citizenship and, if other than United States, alien number or 
admission number.
(7) Valid driver’s license number or valid identification card number issued by 
the California Department of Motor Vehicles.
(8) Social security number.
(9) Signature.

(b) All applications must be submitted with the appropriate fee as specified in 
Section 29510.

Comment. Subdivision (a) of Section 29505 continues former Section 12081(b)(1) without 
substantive change.

Subdivision (b) continues former Section 12081(b)(2) without substantive change.

§ 29510. Application fee

29510. (a) The Department of Justice shall recover the full costs of 
administering the entertainment firearms permit program by assessing the 
following application fees:

(1) For the initial application: one hundred four dollars ($104). Of this sum, 
fifty-six dollars ($56) shall be deposited into the Fingerprint Fee Account, and 
forty-eight dollars ($48) shall be deposited into the Dealer Record of Sale 
Account.

(2) For each annual renewal application: twenty-nine dollars ($29), which shall 
be deposited into the Dealer Record of Sale Account.

(b) The department shall annually review and shall adjust the fees specified in 
subdivision (a), if necessary, to fully fund, but not to exceed the actual costs of, 
the permit program provided for by this chapter, including enforcement of the 
program.

Comment. Subdivision (a) of Section 29510 continues former Section 12081(c) without 
substantive change.

Subdivision (b) continues former Section 12081(c) without substantive change.
§ 29515. No entertainment firearms permit for person prohibited from possessing or receiving firearms

29515. (a) Upon receipt of an initial or renewal application submitted as specified in Sections 29505, 29520, and 29525, the department shall examine its records, records the department is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, and records of the National Instant Criminal Background Check System as described in subsection (t) of Section 922 of Title 18 of the United States Code, in order to determine if the applicant is prohibited from possessing or receiving firearms.

(b) The department shall issue an entertainment firearms permit only if the records indicate that the applicant is not prohibited from possessing or receiving firearms pursuant to any federal, state, or local law.

Comment. Section 29515 continues the second and third sentences of former Section 12081(a) without substantive change.

§ 29520. Arrests and convictions of applicant

29520. (a) An initial application for an entertainment firearms permit shall require the submission of fingerprint images and related information in a manner prescribed by the department, for the purpose of obtaining information as to the existence and nature of a record of state or federal level convictions and state or federal level arrests for which the department establishes that the individual was released on bail or on the individual’s own recognizance pending trial as needed to determine whether the applicant may be issued the permit. Requests for federal level criminal offender record information received by the Department of Justice pursuant to this chapter shall be forwarded by the department to the Federal Bureau of Investigation.

(b) The Department of Justice shall review the criminal offender record information specified in subdivision (l) of Section 11105 for entertainment firearms permit applicants.

(c) The Department of Justice shall review subsequent arrests, pursuant to Section 11105.2, to determine the continuing validity of the permit as specified in Section 29530 for all entertainment firearms permitholders.

Comment. Subdivision (a) of Section 29520 continues former Section 12081(b)(3) without substantive change.

Subdivision (b) continues former Section 12081(b)(4) without substantive change.

Subdivision (c) continues former Section 12081(b)(5) without substantive change. An erroneous cross-reference to former Section 12081(d) has been replaced with a cross-reference to Section 29530, which continues the substance of former Section 12081(f).

§ 29525. Furnishing fictitious name, knowingly furnishing incorrect information, or knowingly omitting required information on application

29525. Any person who furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required
to be provided on an application for an entertainment firearms permit is guilty of a misdemeanor.

Comment. Section 29525 continues former Section 12081(b)(6) without substantive change.

§ 29530. Duration of entertainment firearms permit

29530. (a) An entertainment firearms permit issued by the Department of Justice shall be valid for one year from the date of issuance.

(b) If at any time during that year the permitholder becomes prohibited from possessing or receiving firearms pursuant to any federal, state, or local law, the entertainment firearms permit shall be no longer valid.

Comment. Section 29530 continues former Section 12081(f) without substantive change.

§ 29535. Exemption from Administrative Procedure Act

29535. The implementation of Sections 29500, 29505, 29515, 29520, and 29525, and of subdivision (a) of Section 29510, by the department is exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

Comment. Section 29535 continues former Section 12081(d) without substantive change.

DIVISION 9. SPECIAL FIREARM RULES RELATING TO PARTICULAR PERSONS

CHAPTER 1. JUVENILE

Article 1. Possession of Handgun

§ 29610. Prohibition on possession of handgun by minor

29610. A minor shall not possess a pistol, revolver, or other firearm capable of being concealed upon the person.

Comment. Section 29610 continues former Section 12101(a)(1) without substantive change.

For exceptions to this provision, see Section 29615 (exceptions). For the consequences of violating this provision, see Sections 29700 (punishment for violation of chapter), 29705 (compulsory participation in parenting education).

For further guidance on firearm restrictions relating to minors and persons under age 21, see Sections 27505 (person, corporation, or firm that sells, loans, or transfers firearm to minor or handgun to person under age 21), 27510 (dealer that supplies, delivers, or gives possession or control of firearm to minor or handgun to person under age 21), 27945 (exception for certain situations involving minor), 29650 (prohibition on possession of live ammunition by minor), 29655 (exceptions).

See Section 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).
§ 29615. Exceptions

29615. Section 29610 shall not apply if one of the following circumstances exists:

(a) The minor is accompanied by a parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves this use of a firearm.

(b) The minor is accompanied by a responsible adult, the minor has the prior written consent of a parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(c) The minor is at least 16 years of age, the minor has the prior written consent of a parent or legal guardian and the minor is actively engaged in, or is in direct transit to or from, a lawful recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

(d) The minor has the prior written consent of a parent or legal guardian, the minor is on lands owned or lawfully possessed by the parent or legal guardian, and the minor is actively engaged in, or is in direct transit to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm.

Comment. Section 29615 continues former Section 12101(a)(2) without substantive change. See Sections 16520 (“firearm”), 17070 (“responsible adult”).

Article 2. Possession of Live Ammunition

§ 29650. Prohibition on possession of live ammunition by minor

29650. A minor shall not possess live ammunition.

Comment. Section 29650 continues former Section 12101(b)(1) without substantive change. For exceptions to this provision, see Section 29655 (exceptions). For the consequences of violating this provision, see Sections 29700 (punishment for violation of chapter), 29705 (compulsory participation in parenting education).

For further guidance on firearm restrictions relating to minors and persons under age 21, see Sections 27505 (person, corporation, or firm that sells, loans, or transfers firearm to minor or handgun to person under age 21), 27510 (dealer that supplies, delivers, or gives possession or control of firearm to minor or handgun to person under age 21), 27945 (exception for certain situations involving minor), 29610 (prohibition on possession of handgun by minor), 29615 (exceptions).
§ 29655. Exceptions
29655. Section 29650 shall not apply if one of the following circumstances exists:
   (a) The minor has the written consent of a parent or legal guardian to possess live ammunition.
   (b) The minor is accompanied by a parent or legal guardian.
   (c) The minor is actively engaged in, or is going to or from, a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, the nature of which involves the use of a firearm.

Comment. Section 29655 continues former Section 12101(b)(2) without substantive change.
See Section 16520 (“firearm”).

Article 3. Punishment

§ 29700. Punishment for violation of chapter
29700. Every minor who violates this chapter shall be punished as follows:
   (a) By imprisonment in the state prison or in a county jail if one of the following applies:
      (1) The minor has been found guilty previously of violating this chapter.
      (2) The minor has been found guilty previously of an offense specified in Section 29905, 32625, or 33410, or an offense specified in any provision listed in Section 16590.
      (3) The minor has been found guilty of a violation of Section 29610.
   (b) Violations of this chapter other than those violations specified in subdivision (a) shall be punishable as a misdemeanor.

Comment. Section 29700 continues former Section 12101(c) without substantive change. A cross-reference to former Section 12560 has not been continued, because that provision was repealed in 1990. See 1990 Cal. Stat. ch. 9, § 14.
For guidance in applying paragraphs (a)(1) and (a)(2), see Section 16015 (determining existence of prior conviction). For requirements a court may impose on a parent or guardian of a minor who violates this chapter, see Section 29705 (compulsory participation in parenting education).

§ 29705. Compulsory participation in parenting education
29705. In a proceeding to enforce this chapter brought pursuant to Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the court may require the custodial parent or legal guardian of a minor who violates this chapter to participate in classes on parenting education that meet the requirements established in Section 16507.7 of the Welfare and Institutions Code.

Comment. Section 29705 continues former Section 12101(d) without substantive change. An incomplete cross-reference to an article in the Welfare and Institutions Code has been corrected.
For guidance on punishment of a minor who violates this chapter, see Section 29700 (punishment).
Article 4. Legislative Intent

§ 29750. Intent of 1994 amendments
29750. In enacting the amendments to former Sections 12078 and 12101 by Section 10 of Chapter 33 of the Statutes of 1994, First Extraordinary Session, it was not the intent of the Legislature to expand or narrow the application of the then-existing statutory and judicial authority as to the rights of minors to be loaned or to possess live ammunition or a firearm for the purpose of self-defense or the defense of others.

Comment. Section 29750 continues former Section 12101(f) without substantive change. See Section 16520 (“firearm”).

CHAPTER 2. PERSON CONVICTED OF SPECIFIED OFFENSE, ADDICTED TO NARCOTIC, OR SUBJECT TO COURT ORDER

Article 1. Prohibitions on Firearm Access

§ 29800. Firearm access by person convicted of felony, addicted to narcotic drug, or convicted of other specified offense
29800. (a)(1) Any person who has been convicted of a felony under the laws of the United States, the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 23515, or who is addicted to the use of any narcotic drug, and who owns, purchases, receives, or has in possession or under custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns, purchases, receives, or has in possession or under custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 23515, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, and who owns or has in possession or under custody or control any firearm is guilty of a felony.

(c) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both punishments.

Comment. Subdivision (a) of Section 29800 continues former Section 12021(a) without substantive change.
Subdivision (b) continues former Section 12021(b) without substantive change.

For an exemption from the prohibitions in subdivisions (a) and (b), see Section 29850 (justifiable violation of Section 29800, 29805, 29815, or 29820). For a notice requirement relating to those prohibitions, see Section 29810 (notice to person who is subject to Section 29800 or 29805).

Subdivision (c) continues former Section 12021(f) without substantive change.

§ 29805. Firearm access by person convicted of misdemeanor violation of certain statutes or other specified offense

29805. Except as provided in Section 29800 or 29855, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of former Section 12100, Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision (b) or (d) of Section 26100, or Section 27510, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in subdivision (c) of Section 27590, and who, within 10 years of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

Comment. Section 29805 continues former Section 12021(c)(1) without substantive change.

For an exemption from this provision, see Section 29850 (justifiable violation of Section 29800, 29805, 29815, or 29820). For guidance on petitioning for relief from this provision, see Sections 29855 (petition by peace officer for relief from prohibition in Section 29805) and 29860 (petition by person who was convicted of offense before that offense was added to Section 29805). For guidance on false arrest arising from enforcement of this provision, see Section 29865 (immunity from liability for false arrest). For a notice requirement relating to this provision, see Section 29810 (notice to person who is subject to Section 29800 or 29805).

See Section 16520 (“firearm”).

§ 29810. Notice to person who is subject to Section 29800 or 29805

29810. (a) For any person who is subject to Section 29800 or 29805, the court shall, at the time judgment is imposed, provide on a form supplied by the Department of Justice, a notice to the defendant prohibited by this chapter from owning, purchasing, receiving, possessing or having under custody or control, any firearm. The notice shall inform the defendant of the prohibition regarding firearms and include a form to facilitate the transfer of firearms.

(b) Failure to provide the notice described in subdivision (a) shall not be a defense to a violation of this chapter.
Comment. Section 29810 continues former Section 12020(d)(2) without substantive change.

See Section 16520 ("firearm").

§ 29815. Firearm access by person subject to firearm restriction as express condition of probation

29815. (a) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, purchases, receives, or has in possession or under custody or control, any firearm, but who is not subject to Section 29805 or subdivision (a) of Section 29800, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(b) The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this section. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

Comment. Subdivision (a) of Section 29815 continues the first sentence of former Section 12021(d)(1) without substantive change. For an exemption from this provision, see Section 29850 (justifiable violation of Section 29800, 29805, 29815, or 29820).

Subdivision (b) continues the second and third sentences of former Section 12021(d)(1) without substantive change.

See Section 16520 ("firearm").

§ 29820. Firearm access by person adjudged ward of juvenile court, under specified circumstances

29820. (a) This section applies to any person who satisfies both of the following requirements:

(1) The person is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, any offense enumerated in Section 29805, or any offense described in Section 25850, subdivision (a) of Section 25400, or subdivision (a) of Section 26100.

(2) The person is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, any offense enumerated in Section 29805, or any offense described in Section 25850, subdivision (a) of Section 25400, or subdivision (a) of Section 26100.

(b) Any person described in subdivision (a) shall not own, or have in possession or under custody or control, any firearm until the age of 30 years.

(c) A violation of this section shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.
(d) The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this section may be used to determine eligibility to acquire a firearm.

Comment. Subdivisions (a) and (b) of Section 29820 continue the first sentence of former Section 12021(e) without substantive change.

Subdivision (c) continues the second sentence of former Section 12021(e) without substantive change.

Subdivision (d) continues the third and fourth sentences of former Section 12021(e) without substantive change.

For an exemption from this provision, see Section 29850 (justifiable violation of Section 29800, 29805, 29815, or 29820).

See Section 16520 (“firearm”).

§ 29825. Firearm access by person subject to temporary restraining order, injunction, or protective order

29825. (a) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that the person is prohibited from doing so by a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective order as defined in Section 6218 of the Family Code, a protective order issued pursuant to Section 136.2 or 646.91 of this code, or a protective order issued pursuant to Section 15657.03 of the Welfare and Institutions Code, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(b) Every person who owns or possesses a firearm knowing that the person is prohibited from doing so by a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective order as defined in Section 6218 of the Family Code, a protective order issued pursuant to Section 136.2 or 646.91 of this code, or a protective order issued pursuant to Section 15657.03 of the Welfare and Institutions Code, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars ($1,000), or by both that imprisonment and fine.

(c) If probation is granted upon conviction of a violation of this section, the court shall impose probation consistent with Section 1203.097.

(d) The Judicial Council shall provide notice on all protective orders that the respondent is prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm while the protective order is in effect. The order shall also state that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed within a specified time of receipt of the order. The order shall state the penalties for a violation of the prohibition. The order shall also state on its face the expiration date for relinquishment.
Comment. Subdivision (a) of Section 29825 continues former Section 12021(g)(1) without substantive change.
Subdivision (b) continues former Section 12021(g)(2) without substantive change.
Subdivision (c) continues former Section 12021(g)(4) without substantive change.
Subdivision (d) continues former Section 12021(g)(3) without substantive change.
See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to Sections 26700 to 26915, inclusive”).

Article 2. Exemption or Petition for Relief

§ 29850. Justifiable violation of Section 29800, 29805, 29815, or 29820
29850. (a) A violation of Section 29800, 29805, 29815, or 29820 is justifiable where all of the following conditions are met:
(1) The person found the firearm or took the firearm from a person who was committing a crime against the person who found or took the firearm.
(2) The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency’s disposition according to law.
(3) If the firearm was transported to a law enforcement agency, it was transported in accordance with subdivision (b) of Section 25570.
(4) If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that the person is transporting the firearm to the law enforcement agency for disposition according to law.
(b) Upon the trial for violating Section 29800, 29805, 29815, or 29820, the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this section.
(c) The defendant has the burden of proving by a preponderance of the evidence that the defendant comes within the provisions of the exemption created by this section.

Comment. Section 29850 continues former Section 12021(h) without substantive change.
See Section 16520 (“firearm”).

§ 29855. Petition by peace officer for relief from prohibition in Section 29805
29855. (a) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by Section 29805 because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition.
(b) The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge who sentenced the petitioner.
(c) Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing.
(d) Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(1) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(2) Finds that the petitioner is not within a prohibited class as specified in Section 29815, 29820, 29825, or 29900, or subdivision (a) or (b) of Section 29800, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(3) Finds that the petitioner does not have a previous conviction under Section 29805 no matter when the prior conviction occurred.

(e) In making its decision, the court shall consider the petitioner’s continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a condition of granting relief from the prohibition under Section 29805, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this section in cases in which relief is warranted. However, nothing in this section shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by Section 29805.

Comment. Section 29855 continues former Section 12021(c)(2) without substantive change. For guidance on false arrest arising from the enforcement of Section 29805, see Section 29865 (immunity from liability for false arrest). See Section 16520 (“firearm”).

§ 29860. Petition by person who was convicted of offense before that offense was added to Section 29805

29860. (a) Any person who is subject to the prohibition imposed by Section 29805 because of a conviction of an offense prior to that offense being added to Section 29805 may petition the court only once for relief from this prohibition.

(b) The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner.

(c) Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing.

(d) Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:
(1) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(2) Finds that the petitioner is not within a prohibited class as specified in Section 29815, 29820, 29825, or 29900, or subdivision (a) or (b) of Section 29800, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(3) Finds that the petitioner does not have a previous conviction under Section 29805, no matter when the prior conviction occurred.

(e) In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this section in cases in which relief is warranted. However, nothing in this section shall be construed to require courts to grant relief to any particular petitioner.

Comment. Section 29860 continues former Section 12021(c)(3) without substantive change.

For guidance on false arrest arising from enforcement of Section 29805, see Section 29865 (immunity from liability for false arrest).

See Section 16520 (“firearm”).

§ 29865. Immunity from liability for false arrest

29865. Law enforcement officials who enforce the prohibition specified in Section 29805 against a person who has been granted relief pursuant to Section 29855 or 29860 shall be immune from any liability for false arrest arising from the enforcement of Section 29805 unless the person has in possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall not relieve any person or entity from any other liability that might otherwise be imposed.

Comment. Section 29865 continues former Section 12021(c)(4) without substantive change.


§ 29875. Protocol for implementation of Section 12021, to be completed by January 1, 2005

29875. Subject to available funding, the Attorney General, working with the Judicial Council, the California Alliance Against Domestic Violence, prosecutors, and law enforcement, probation, and parole officers, shall develop a protocol for the implementation of the provisions of former Section 12021, which is continued in this chapter. The protocol shall be designed to facilitate the enforcement of restrictions on firearm ownership, including provisions for giving notice to defendants who are restricted, provisions for informing those defendants of the procedures by which defendants shall dispose of firearms when required to do so, provisions explaining how defendants shall provide proof of the lawful disposition of firearms, and provisions explaining how defendants may obtain possession of seized firearms when legally permitted to do so pursuant to any provision of law. The protocol shall be completed on or before January 1, 2005.
Comment. Section 29875 continues former Section 12021(i) without substantive change.
See Section 16520 ("firearm").

CHAPTER 3. PERSON CONVICTED OF VIOLENT OFFENSE

§ 29900. Firearm possession or control by person convicted of violent offense
29900. (a)(1) Notwithstanding subdivision (a) of Section 29800, any person who has been previously convicted of any of the offenses listed in Section 29905 and who owns or has in possession or under custody or control any firearm is guilty of a felony.
(2) A dismissal of an accusatory pleading pursuant to Section 1203.4a involving an offense set forth in Section 29905 does not affect the finding of a previous conviction.
(3) If probation is granted, or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the defendant serve at least six months in a county jail.
(b)(1) Any person previously convicted of any of the offenses listed in Section 29905 which conviction results from certification by the juvenile court for prosecution as an adult in adult court under the provisions of Section 707 of the Welfare and Institutions Code, who owns or has in possession or under custody or control any firearm, is guilty of a felony.
(2) If probation is granted, or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the defendant serve at least six months in a county jail.
(c) The court shall apply the minimum sentence as specified in subdivisions (a) and (b) except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the imprisonment required by subdivisions (a) and (b), or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in subdivisions (a) and (b), in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by the disposition.
Comment. Subdivision (a) of Section 29900 continues former Section 12021.1(a) without substantive change.
Subdivision (b) continues former Section 12021.1(c) without substantive change.
Subdivision (c) continues former Section 12021.1(d) without substantive change.
See Section 16520 ("firearm").

§ 29905. Violent offense
29905. (a) As used in this chapter, a violent offense includes any of the following:
(1) Murder or voluntary manslaughter.
(2) Mayhem.
(3) Rape.
(4) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(5) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(6) Lewd acts on a child under the age of 14 years.

(7) Any felony punishable by death or imprisonment in the state prison for life.

(8) Any other felony in which the defendant inflicts great bodily injury on any person, other than an accomplice, that has been charged and proven, or any felony in which the defendant uses a firearm which use has been charged and proven.

(9) Attempted murder.

(10) Assault with intent to commit rape or robbery.

(11) Assault with a deadly weapon or instrument on a peace officer.

(12) Assault by a life prisoner on a noninmate.

(13) Assault with a deadly weapon by an inmate.

(14) Arson.

(15) Exploding a destructive device or any explosive with intent to injure.

(16) Exploding a destructive device or any explosive causing great bodily injury.

(17) Exploding a destructive device or any explosive with intent to murder.

(18) Robbery.

(19) Kidnapping.

(20) Taking of a hostage by an inmate of a state prison.

(21) Attempt to commit a felony punishable by death or imprisonment in the state prison for life.

(22) Any felony in which the defendant personally used a dangerous or deadly weapon.

(23) Escape from a state prison by use of force or violence.

(24) Assault with a deadly weapon or force likely to produce great bodily injury.

(25) Any felony violation of Section 186.22.

(26) Any offense enumerated in subdivision (a), (b), or (d) of Section 23515.

(27) Carjacking.

(28) Any offense enumerated in subdivision (c) of Section 23515 if the person has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417.

(b) As used in this chapter, a violent offense also includes any attempt to commit a crime listed in subdivision (a) other than an assault.

Comment. Section 29905 continues former Section 12021.1(b) without substantive change. See Section 16520 (“firearm”).

CHAPTER 4. PROHIBITED ARMED PERSONS FILE

§ 30000. Prohibited Armed Persons File

30000. (a) The Attorney General shall establish and maintain an online database to be known as the Prohibited Armed Persons File. The purpose of the file is to
cross-reference persons who have ownership or possession of a firearm on or after
January 1, 1991, as indicated by a record in the Consolidated Firearms Information
System, and who, subsequent to the date of that ownership or possession of a
firearm, fall within a class of persons who are prohibited from owning or
possessing a firearm.
(b) The information contained in the Prohibited Armed Persons File shall only
be available to those entities specified in, and pursuant to, subdivision (b) or (c) of
Section 11105, through the California Law Enforcement Telecommunications
System, for the purpose of determining if persons are armed and prohibited from
possessing firearms.
Comment. Section 30000 continues former Section 12010 without substantive change.
See Section 16520 (“firearm”).

§ 30005. Use of Prohibited Armed Persons File
30005. The Prohibited Armed Persons File database shall function as follows:
(a) Upon entry into the Automated Criminal History System of a disposition for
a conviction of any felony, a conviction for any firearms-prohibiting charge
specified in Chapter 2 (commencing with Section 29800), a conviction for an
offense described in Chapter 3 (commencing with Section 29900), a firearms
prohibition pursuant to Section 8100 or 8103 of the Welfare and Institutions Code,
or any firearms possession prohibition identified by the federal National Instant
Check System, the Department of Justice shall determine if the subject has an
entry in the Consolidated Firearms Information System indicating possession or
ownership of a firearm on or after January 1, 1991, or an assault weapon
registration, or a .50 BMG rifle registration.
(b) Upon an entry into any department automated information system that is
used for the identification of persons who are prohibited by state or federal law
from acquiring, owning, or possessing firearms, the department shall determine if
the subject has an entry in the Consolidated Firearms Information System
indicating ownership or possession of a firearm on or after January 1, 1991, or an
assault weapon registration, or a .50 BMG rifle registration.
(c) If the department determines that, pursuant to subdivision (a) or (b), the
subject has an entry in the Consolidated Firearms Information System indicating
possession or ownership of a firearm on or after January 1, 1991, or an assault
weapon registration, or a .50 BMG rifle registration, the following information
shall be entered into the Prohibited Armed Persons File:
(1) The subject’s name.
(2) The subject’s date of birth.
(3) The subject’s physical description.
(4) Any other identifying information regarding the subject that is deemed
necessary by the Attorney General.
(5) The basis of the firearms possession prohibition.
(6) A description of all firearms owned or possessed by the subject, as reflected by the Consolidated Firearms Information System.

Comment. Section 30005 continues former Section 12011 without substantive change.

See Section 16520 (“firearm”).

§ 30010. Assistance by Attorney General

30010. The Attorney General shall provide investigative assistance to local law enforcement agencies to better ensure the investigation of individuals who are armed and prohibited from possessing a firearm.

Comment. Section 30010 continues former Section 12012 without substantive change.

See Section 16520 (“firearm”).

CHAPTER 5. FIREARMS ELIGIBILITY CHECK

Article 1. Firearms Eligibility Check

§ 30105. Firearms eligibility check

30105. (a) An individual may request that the Department of Justice perform a firearms eligibility check for that individual. The applicant requesting the eligibility check shall provide the information required by Section 28165 to the department, in an application specified by the department.

(b) The department shall charge a fee of twenty dollars ($20) for performing the eligibility check authorized by this section, but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged may increase at a rate not to exceed the legislatively approved cost-of-living adjustment for the department’s budget or as otherwise increased through the Budget Act.

(c) An applicant for the eligibility check pursuant to subdivision (a) shall complete the application, have it notarized by any licensed California Notary Public, and submit it by mail to the department.

(d) Upon receipt of a notarized application and fee, the department shall do all of the following:

(1) Examine its records, and the records it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, to determine if the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(2) Notify the applicant by mail of its determination of whether the applicant is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm. The department’s notification shall state either “eligible to possess firearms as of the date the check was completed” or “ineligible to possess firearms as of the date the check was completed.”

(e) If the department determines that the information submitted to it in the application contains any blank spaces, or inaccurate, illegible, or incomplete
information, preventing identification of the applicant, or if the required fee is not
submitted, the department shall not be required to perform the firearms eligibility
check.

(f) The department shall make applications to conduct a firearms eligibility
check as described in this section available to licensed firearms dealers and on the
department’s Web site.

(g) The department shall be immune from any liability arising out of the
performance of the firearms eligibility check, or any reliance upon the firearms
eligibility check.

(h) No person or agency may require or request another person to obtain a
firearms eligibility check or notification of a firearms eligibility check pursuant to
this section. A violation of this subdivision is a misdemeanor.

(i) The department shall include on the application specified in subdivision (a)
and the notification of eligibility specified in subdivision (d) the following
statements:

“No person or agency may require or request another person to obtain a firearms
eligibility check or notification of firearms eligibility check pursuant to
Section 30105 of the Penal Code. A violation of these provisions is a misdemeanor.”

“If the applicant for a firearms eligibility check purchases, transfers, or receives
a firearm through a licensed dealer as required by law, a waiting period and
background check are both required.”

Comment. Section 30105 continues former Section 12077.5 without substantive change.
See Sections 16520 (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to
Sections 26700 to 26915, inclusive”).

Article 2. Exceptions Relating to Law Enforcement

§ 30150. Exception for sale, delivery, or transfer to authorized law enforcement
representative of city, county, city and county, or state or federal government

30150. (a) Section 30105 does not apply to any sale, delivery, or transfer of
firearms made to an authorized law enforcement representative of any city,
county, city and county, or state, or of the federal government, for exclusive use
by that governmental agency if, prior to the sale, delivery, or transfer of these
firearms, written authorization from the head of the agency authorizing the
transaction is presented to the person from whom the purchase, delivery, or
transfer is being made.

(b) Proper written authorization is defined as verifiable written certification from
the head of the agency by which the purchaser or transferee is employed,
identifying the employee as an individual authorized to conduct the transaction,
and authorizing the transaction for the exclusive use of the agency by which that
person is employed.

(c) Within 10 days of the date a handgun is acquired by the agency, a record of
the same shall be entered as an institutional weapon into the Automated Firearms
System (AFS) via the California Law Enforcement Telecommunications System
(CLETS) by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

Comment. Section 30150 continues former Section 12078(a)(2) without substantive change, as that provision applied to former Section 12077.5 (through its reference to “the preceding provisions of this article”). For other exceptions relating to law enforcement, see Sections 30155-30165. See Sections 16520 (“firearm”), 16640 (“handgun”).

§ 30155. Exception for loan of firearm to peace officer employee for use in performing official duties

30155. Section 30105 does not apply to the loan of a firearm if all of the following conditions are satisfied:
(a) The loan is made by an authorized law enforcement representative of a city, county, or city and county, or of the state or federal government.
(b) The loan is made to a peace officer employed by that agency and authorized to carry a firearm.
(c) The loan is made for the carrying and use of that firearm by that peace officer in the course and scope of the officer’s duties.

Comment. Section 30155 continues former Section 12078(a)(3) without substantive change, as that provision applied to former Section 12077.5 (through its reference to “the preceding provisions of this article”). For other exceptions relating to law enforcement, see Sections 30150, 30160-30165. See Section 16520 (“firearm”).

§ 30160. Exception for sale, delivery, or transfer by law enforcement agency to peace officer pursuant to Public Contract Code

30160. (a) Section 30105 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to Section 10334 of the Public Contract Code.
(b) Within 10 days of the date that a handgun is sold, delivered, or transferred pursuant to Section 10334 of the Public Contract Code to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

Comment. Section 30105 continues former Section 12078(a)(4) without substantive change, as that provision applied to former Section 12077.5 (through its reference to “the preceding provisions of this article”). For other exceptions relating to law enforcement, see Sections 30150-30155, 30165. See Sections 16520 (“firearm”), 16640 (“handgun”).
§ 30165. Exception for sale, delivery, or transfer by law enforcement agency to retiring peace officer authorized to carry concealed and loaded firearm

30165. (a) Section 30105 does not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with Section 26300) of Division 5.

(b) Within 10 days of the date that a handgun is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

Comment. Section 30165 continues former Section 12078(a)(5) without substantive change, as that provision applied to former Section 12077.5 (through its reference to “the preceding provisions of this article”).

For other exceptions relating to law enforcement, see Sections 30150-30160.

See Sections 16520 (“firearm”), 16640 (“handgun”).

DIVISION 10. SPECIAL RULES RELATING TO PARTICULAR TYPES OF FIREARMS OR FIREARM EQUIPMENT

CHAPTER 1. AMMUNITION

Article 1. Flechette Dart Ammunition or Bullet Containing or Carrying an Explosive Agent

§ 30210. Prohibition on manufacture, import, sale, gift, loan, or possession of flechette dart ammunition or bullet with explosive agent

30210. Except as provided in Section 30215 and Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses either of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(a) Any ammunition that contains or consists of any flechette dart.

(b) Any bullet containing or carrying an explosive agent.

Comment. With respect to “any ammunition that contains or consists of any flechette dart” and “any bullet containing or carrying an explosive agent,” Section 30210 continues former Section 12020(a)(1) without substantive change.

For circumstances in which this section is inapplicable, see Sections 16590 (“generally prohibited weapon”), 17700-17745 (exemptions relating to generally prohibited weapons), 30215 (exemption for tracer ammunition manufactured for use in shotgun).
See Section 16570 ("flechette dart"). See also Sections 16460(b) (bullet with explosive agent is not destructive device), 17800 (distinct and separate offense), 30290 (flechette dart ammunition or bullet with explosive agent constituting nuisance).

§ 30215. Exemption for tracer ammunition manufactured for use in shotgun

30215. Section 30210 does not apply to tracer ammunition manufactured for use in a shotgun.

Comment. Section 30215 continues former Section 12020(b)(6) without substantive change.

For additional circumstances in which Section 30210 is inapplicable, see Sections 16590 ("generally prohibited weapon"), 17700-17745 (exemptions relating to generally prohibited weapons).

See Section 17190 ("shotgun").

§ 30290. Flechette dart ammunition or bullet with explosive agent constituting nuisance

30290. Except as provided in Section 30210 and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, any ammunition that contains or consists of any flechette dart, or any bullet containing or carrying an explosive agent, is a nuisance and is subject to Section 18010.

Comment. With respect to “any ammunition that contains or consists of any flechette dart” and “any bullet containing or carrying an explosive agent,” Section 30290 continues the first part of the first sentence of former Section 12029 without substantive change.

See Section 16570 ("flechette dart").

Article 2. Other Restrictions Relating to Ammunition

§ 30300. Sale of ammunition or reloaded ammunition to minor, or sale of handgun ammunition or reloaded handgun ammunition to person under age 21

30300. (a) Any person, corporation, or dealer who does either of the following shall be punished by imprisonment in a county jail for a term not to exceed six months, or by a fine not to exceed one thousand dollars ($1,000), or by both the imprisonment and fine:

(1) Sells any ammunition or reloaded ammunition to a person under 18 years of age.

(2) Sells any ammunition or reloaded ammunition designed and intended for use in a handgun to a person under 21 years of age. Where ammunition or reloaded ammunition may be used in both a rifle and a handgun, it may be sold to a person who is at least 18 years of age, but less than 21 years of age, if the vendor reasonably believes that the ammunition is being acquired for use in a rifle and not a handgun.

(b) Proof that a person, corporation, or dealer, or his or her agent or employee, demanded, was shown, and acted in reasonable reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this section.

Comment. Subdivision (a) of Section 30300 continues former Section 12316(a)(1)(A) and the first and third sentences of former Section 12316(a)(1)(B) without substantive change.
Subdivision (b) continues the first sentence of former Section 12316(a)(2) without substantive change.

For limitations on the effect of this article, see Sections 30330 (effect of article on member of military, police agency, forensic laboratory, or holder of permit for destructive device), 30335 (effect of article on permanently deactivated ammunition), 30340 (effect of article on ammunition manufactured under contract approved by government agency).

For further guidance on firearm restrictions relating to minors and persons under age 21, see Sections 27505 (person, corporation, or firm that sells, loans, or transfers firearm to minor or handgun to person under age 21), 27510 (dealer that supplies, delivers, or gives possession or control of firearm to minor or handgun to person under age 21), 27945 (exception for certain situations involving minor), and 29610-29705 (juvenile).

See Sections 16150 (“ammunition”), 16300 (“bona fide evidence of majority and identity”), 16640 (“handgun”), 16650 (“handgun ammunition”), 17090 (“rifle”).

§ 30305. Person prohibited from owning or possessing firearm

30305. (a) No person prohibited from owning or possessing a firearm under Chapter 2 (commencing with Section 29800) or 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, shall own, possess, or have under custody or control, any ammunition or reloaded ammunition.

(b) A violation of this section is punishable by imprisonment in a county jail not to exceed one year or in the state prison, by a fine not to exceed one thousand dollars ($1,000), or by both the fine and imprisonment.

(c) A violation of subdivision (a) is justifiable where all of the following conditions are met:

(1) The person found the ammunition or reloaded ammunition or took the ammunition or reloaded ammunition from a person who was committing a crime against the person who found or took the ammunition or reloaded ammunition.

(2) The person possessed the ammunition or reloaded ammunition no longer than was necessary to deliver or transport the ammunition or reloaded ammunition to a law enforcement agency for that agency’s disposition according to law.

(3) The person is prohibited from possessing any ammunition or reloaded ammunition solely because that person is prohibited from owning or possessing a firearm only by virtue of Chapter 2 (commencing with Section 29800) of Division 9.

(d) Upon the trial for violating subdivision (a), the trier of fact shall determine whether the defendant is subject to the exemption created by subdivision (c). The defendant has the burden of proving by a preponderance of the evidence that the defendant is subject to the exemption provided by subdivision (c).

Comment. Subdivision (a) of Section 30305 continues former Section 12316(b)(1) without substantive change.

Subdivision (b) continues former Section 12316(b)(3) without substantive change.

Subdivision (c) continues former Section 12316(d)(1) without substantive change.

Subdivision (d) continues former Section 12316(d)(2)-(3) without substantive change.

For limitations on the effect of this article, see Sections 30330 (effect of article on member of military, police agency, forensic laboratory, or holder of permit for destructive device), 30335
§ 30310. No ammunition or reloaded ammunition on school grounds

30310. (a) Unless it is with the written permission of the school district superintendent, the superintendent’s designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties or persons exempted under Section 25450.

(b) This section shall not apply to any of the following:

(1) A duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) A full-time paid peace officer of another state or the federal government who is carrying out official duties while in California.

(3) Any person summoned by any of these officers to assist in making an arrest or preserving the peace while that person is actually engaged in assisting the officer.

(4) A member of the military forces of this state or of the United States who is engaged in the performance of duties.

(5) A person holding a valid license to carry the firearm pursuant to Chapter 4 (commencing with Section 26150) of Division 5.

(6) An armored vehicle guard, who is engaged in the performance of duties, as defined in subdivision (d) of Section 7582.1 of the Business and Professions Code.

(c) A violation of this section is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars ($1,000), or both the imprisonment and fine.

Comment. Section 30310 continues former Section 12316(c) without substantive change. An erroneous cross-reference to Business and Professions Code Section 7521(e) has been corrected by replacing it with a cross-reference to Business and Professions Code Section 7582.1(d).

For limitations on the effect of this article, see Sections 30330 (effect of article on member of military, police agency, forensic laboratory, or holder of permit for destructive device), 30335 (effect of article on permanently deactivated ammunition), 30340 (effect of article on ammunition manufactured under contract approved by government agency).

See Section 16520 (“firearm”).

§ 30315. Knowing possession of handgun ammunition designed to penetrate metal or armor

30315. Any person, firm, or corporation who, within this state knowingly possesses any handgun ammunition designed primarily to penetrate metal or armor is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for a term not to exceed one year, or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

Comment. Section 30315 continues former Section 12320 without substantive change.

For an exception to this provision, see Section 30325 (transporting handgun ammunition designed primarily to penetrate metal or armor to law enforcement agency).
For other limitations on the effect of this article, see Sections 30330 (effect of article on member of military, police agency, forensic laboratory, or holder of permit for destructive device), 30335 (effect of article on permanently deactivated ammunition), 30340 (effect of article on ammunition manufactured under contract approved by government agency).

See Section 16660 (“handgun ammunition designed primarily to penetrate metal or armor”).

§ 30320. Manufacturing, importing, selling, offering to sell, or knowingly transporting handgun ammunition designed to penetrate metal or armor

30320. Any person, firm, or corporation who, within this state, manufactures, imports, sells, offers to sell, or knowingly transports any handgun ammunition designed primarily to penetrate metal or armor is guilty of a felony and upon conviction thereof shall be punished by imprisonment in state prison, or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

Comment. Section 30320 continues former Section 12321 without substantive change.

For an exception to this provision, see Section 30325 (transporting handgun ammunition designed primarily to penetrate metal or armor to law enforcement agency).

For other limitations on the effect of this article, see Sections 30330 (effect of article on member of military, police agency, forensic laboratory, or holder of permit for destructive device), 30335 (effect of article on permanently deactivated ammunition), 30340 (effect of article on ammunition manufactured under contract approved by government agency).

See Section 16660 (“handgun ammunition designed primarily to penetrate metal or armor”).

§ 30325. Transporting handgun ammunition designed primarily to penetrate metal or armor to law enforcement agency

30325. Nothing in this article shall apply to or affect the possession of handgun ammunition designed primarily to penetrate metal or armor by a person who found the ammunition, if that person is not prohibited from possessing firearms or ammunition pursuant to subdivision (a) of Section 30305, Chapter 2 (commencing with Section 29800) or 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, and the person is transporting the ammunition to a law enforcement agency for disposition according to law.

Comment. Section 30325 continues former Section 12322(b) without substantive change.

See Section 16660 (“handgun ammunition designed primarily to penetrate metal or armor”).

§ 30330. Effect of article on member of military, police agency, forensic laboratory, or holder of permit for destructive device

30330. Nothing in this article shall apply to or affect the sale to, purchase by, possession of, or use of any ammunition by any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of employment, or any police agency or forensic laboratory or any person who is the holder of a valid permit issued pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2.

Comment. Section 30330 continues former Section 12322(a) without substantive change.
§ 30335. Effect of article on permanently deactivated ammunition

30335. Nothing in this article shall prohibit the possession, importation, sale, attempted sale, or transport of ammunition from which the propellant has been removed and the primer has been permanently deactivated.

Comment. Section 30335 continues former Section 12324 without substantive change.

§ 30340. Effect of article on ammunition manufactured under contract approved by government agency

30340. Nothing in this article shall prohibit the manufacture of ammunition under contracts approved by agencies of the state or federal government.

Comment. Section 30340 continues former Section 12325 without substantive change.


UNCODIFIED

Law Revision Commission studies

SEC. 7. The California Law Revision Commission is authorized to study and to make recommendations to the Legislature and the Governor regarding the minor clean-up issues identified in the report prepared by that commission pursuant to Resolution Chapter 128 of the Statutes of 2006.

Operative date

SEC. 8. Section 7 of this act becomes operative on January 1, 2013. The remainder of this act becomes operative on January 1, 2014.
**DISPOSITION OF EXISTING LAW**

*Note.* This table shows the proposed disposition of Penal Code Section 653k and Title 2 of Part 4 of the Penal Code (Penal Code Sections 12000-12809), as the law existed on January 1, 2009. Unless otherwise indicated, all proposed dispositions are to the Penal Code.

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