

## Memorandum 2009-41

**Nonsubstantive Reorganization of Deadly Weapon Statutes:  
Legislation Enacted in 2009**

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The 2009 legislative session has ended and the Governor has now acted on all of the bills sent to him for approval. Quite a number of bills relating to deadly weapons were enacted this year. The Commission needs to adjust its recommendation on *Nonsubstantive Reorganization of Deadly Weapon Statutes* to reflect those changes in the law, which will become operative on January 1, 2010.

To that end, the staff has sought to identify all of the enacted bills that would affect Title 2 of Part 4 of the Penal Code (Penal Code §§ 12000-12809), which would be repealed and reorganized under the Commission's proposal. This memorandum provides a list of those bills, and then discusses the changes that would be necessary to reflect the enactment of each bill (except one bill, which will be discussed in a supplement to this memorandum).

The staff also needs to identify all of the enacted bills that would affect any of the conforming revisions in the Commission's proposal. We will do that as time permits, and present that information in a supplement to this memorandum, or in a future memorandum.

**Commissioners, stakeholders, and other interested persons should review the changes recommended in this memorandum and determine whether they are acceptable.** In preparing the suggested changes, the staff stuck closely to the language in the newly enacted bills, to avoid any risk of a substantive change. In a few instances, this involved adhering to language that struck the staff as awkward or otherwise problematic. Comments regarding the suggested changes, or any other changes that are necessary to reflect legislation enacted in 2009, **are welcome and encouraged**, preferably at or before the Commission's October meeting.

The staff does not plan to individually discuss each of the revisions suggested in this memorandum. **If you have a concern about a particular revision, please**

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

**plan to raise the point at the meeting, or bring it to the Commission's attention in writing.**

The staff regrets having to release such a complex and lengthy memorandum so close to the date of the meeting at which it will be considered. We normally try to avoid that situation. In this case, the tight timing was unavoidable because we wanted to leave open the possibility of introducing the deadly weapons legislation in 2010, and we were constrained by the short interval between when the Governor acted on pending bills and when the Commission was scheduled to meet. We wish it had been possible to provide more time to review this memorandum before the upcoming meeting.

Unless otherwise noted, all further statutory references in this memorandum are to the Penal Code.

#### BILLS ENACTED IN 2009 THAT AFFECT SECTIONS 12000-12809

Of the bills that were enacted in 2009, the staff found ten that would affect Title 2 of Part 4 of the Penal Code:

- (1) **AB 714 (Feuer), 2009 Cal. Stat. ch. 121.**
  - Amends Section 12020.1.
- (2) **AB 962 (DeLeon), 2009 Cal. Stat. ch. 628.**
  - Amends Section 12316.
  - Adds Section 12317.
  - Adds Section 12318.
  - Adds Article 3.5 (commencing with Section 12060) to Chapter 1 of Title 2 of Part 4 of the Penal Code.
  - Adds a heading for Chapter 2.6 (commencing with Section 12316) of Title 2 of Part 4 of the Penal Code.
  - Repeals the heading for Chapter 2.6 (commencing with Section 12320) of Title 2 of Part 4 of the Penal Code.
- (3) **AB 1129 (Hagman), 2009 Cal. Stat. ch. 138.**
  - Amends Section 12027.1.
- (4) **AB 1164 (Tran), 2009 Cal. Stat. ch. 140.**
  - Amends Section 12011.
  - Amended Section 12071, but this was chaptered out by SB 449 (Padilla). The key change made by AB 1164 (replacing "processing" with "possessing" in Section 12071(b)(3)(D)) was also made in SB 449. The other changes made by AB 1164 were all stylistic. They were not made in SB 449.

- Amended Section 12076, but this was chaptered out by SB 174 (Strickland), due to the subordination clause in AB 1164, and the exclusion of AB 1164 from the subordination clause in SB 174. All of the changes made by AB 1164 were stylistic. A few of them were also made in SB 174, but most were not.
- (5) **AB 1286 (Huber), 2009 Cal. Stat. ch. 144.**
- Amended Section 12072. This was chaptered out by SB 175 (Aanestad), but that bill incorporates the changes made by AB 1286 (Huber) — see Section 12072(a)(9)(B)(xiii).
- (6) **AB 1363 (Davis), 2009 Cal. Stat. ch. 288.**
- Amends Section 12031.
  - Amends Section 12050.
- (7) **SB 150 (Wright), 2009 Cal. Stat. ch. 171.**
- Amends Section 12021.5.
  - Amends Section 12022.2.
  - Amends Section 12022.4.
- (8) **SB 174 (Strickland), 2009 Cal. Stat. ch. 35.**
- Amends Section 12076. This amendment prevails over AB 1164 (Tran), due to the subordination clause in AB 1164, and the exclusion of AB 1164 from the subordination clause in SB 174.
  - Amends Section 12650.
- (9) **SB 175 (Aanestad), 2009 Cal. Stat. ch. 334.**
- Amends Section 12070.
  - Amends Section 12072. This amendment prevails over AB 1286 (Huber), but incorporates the changes made in that bill — see Section 12072(a)(9)(B)(xiii).
  - Amends Section 12078.
  - Amends Section 12083.
- (10) **SB 449 (Padilla), 2009 Cal. Stat. ch. 335.**
- Amends Section 12071. This amendment prevails over AB 1164 (Tran), because it was chaptered last.

Each of these bills, except Senate Bill 175 (Aanestad), is discussed in order below. SB 175 will be discussed in a supplement to this memorandum.

For each bill, the staff recommends certain key changes to the Commission’s recommendation on *Nonsubstantive Reorganization of Deadly Weapon Statutes*. **It will also be necessary to conform the disposition table, the Comments, and the remainder of the Commission’s proposal to reflect these key changes.** We will not repeat this point separately in connection with each bill.

(1) ASSEMBLY BILL 714 (FEUER)

Assembly Bill 714 (Feuer) amends Section 12020.1, relating to hard plastic knuckles and hard wooden knuckles. Among other things, the bill would define the term “composite knuckles,” and would replace references to “hard plastic knuckles” with references to “composite knuckles.”

In the Commission’s proposal, Section 12020.1 would be recodified as proposed Sections 16680 and 21710. **To reflect the enactment of AB 714, the following new definition should be added to the Commission’s proposal:**

**§ 16405. “Composite knuckles”**

16405. As used in this part, “composite knuckles” means any device or instrument made wholly or partially of composite materials, other than a medically prescribed prosthetic, 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.

**Comment.** Section 16405 continues the second sentence of former Section 12020.1 without substantive change.

See Sections 16680 (“hard wooden knuckles”), 16920 (“metal knuckles”).

In addition, **proposed Section 16680 should be revised as shown in ~~strikeout~~ and underscore below:**

**§ 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~~ products 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 composite materials, 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~~ and fourth sentences of former Section 12020.1 without substantive change.

See ~~Section~~ Sections 16405 (“composite knuckles”), 16920 (“metal knuckles”).

Finally, **proposed Section 21710 should be revised as shown in ~~strikeout~~ and underscore below:**

**§ 21710. Restrictions relating to hard plastic knuckles and hard wooden knuckles**

21710. Any person in this state who possesses, 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~~ composite 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~~ Sections 16405 (“composite knuckles”), 16680 (“hard plastic knuckles” or “hard wooden knuckles”).

(2) ASSEMBLY BILL 962 (DELEON)

Assembly Bill 962 (DeLeon) is a major bill relating to ammunition. Extensive changes to the Commission’s proposal are necessary to reflect the enactment of this legislation.

Some of these changes relate to substantive rules, while others involve definitions. We discuss the changes relating to substantive rules first, then the changes involving definitions.

**Substantive Rules**

AB 962 amended Section 12316, added Sections 12317 and 12318, and added a new article entitled “Handgun Ammunition Vendors.”

*Amendment of Section 12316*

AB 962 makes a number of substantive revisions to Section 12316. In the Commission’s proposal, the substantive rules from Section 12316 would be recodified as Sections 30300-30310.

To reflect the revisions made by AB 962, **proposed Sections 30300 and 30305 should be revised as shown in ~~strikeout~~ and underscore below:**

**§ 30300. ~~Sale of ammunition or reloaded ammunition to minor, or sale of handgun ammunition or reloaded handgun ammunition to person under age 21~~ Providing ammunition to minors and other young people**

30300. (a) Any person, corporation, or dealer who does ~~either~~ any 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.

(3) Supplies, delivers, or gives possession of any ammunition to any minor who the person, corporation, or dealer knows, or using reasonable care should know, is prohibited from possessing that ammunition at that time pursuant to Chapter 1 (commencing with Section 29610) of Division 9 of Title 4 of Part 6.

(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), and former Section 12316(a)(1)(C) 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 29610-29750 (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, or enjoined as member of criminal street gang**

30305. (a)(1) No person prohibited from owning or possessing a firearm under Chapter 2 (commencing with Section 29800) or

Chapter 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)~~ (2) A violation of this ~~section~~ subdivision 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.

(b)(1) A person who is not prohibited by subdivision (a) from owning, possessing, or having under the person's custody or control, any ammunition or reloaded ammunition, but who is enjoined from engaging in activity pursuant to an injunction issued pursuant to Section 3479 of the Civil Code against that person as a member of a criminal street gang, as defined in Section 186.22, may not own, possess, or have under the person's custody or control, any ammunition or reloaded ammunition.

(2) A violation of this subdivision is a misdemeanor.

(c) A violation of subdivision (a) or (b) 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 or ammunition or reloaded ammunition because of subdivision (b).

(d) Upon the trial for violating subdivision (a) or (b), 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) & (3) without substantive change.

Subdivision (b) continues former Section ~~12316(b)(3)~~ 12316(b)(4)-(5) 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 (effect

of article on permanently deactivated ammunition), 30340 (effect of article on ammunition manufactured under contract approved by government agency).

See Sections 16150 (“ammunition”), 16520 (“firearm”).

It does not appear necessary to make any changes to proposed Section 30310, because that provision would recodify Section 12316(c), which was not changed by AB 962.

#### *Addition of Section 12317*

AB 962 added Section 12317 to the Penal Code. This new section interrelates with Section 12316, and should therefore be recodified in proximity to the provisions that would continue the substance of Section 12316.

In fact, Section 12317 appears to overlap to some extent with Section 12316. Compare Section 12317(a) with Section 12316(b)(3) & (5).

Because the partially redundant provisions relate to the complex area of criminal sentencing, the staff does not recommend trying to eliminate the apparent redundancies in the context of the Commission’s purely nonsubstantive proposal. That would entail a risk of inadvertently making a substantive change.

Instead, **we would (1) add the matter to the Commission’s list of “Minor Clean-Up Issues for Possible Future Legislative Attention,” and (2) add the following new provision to the Commission’s proposal**, which would continue the substance of newly added Section 12317(a)-(b):

#### **§ 30306. Punishment**

30306. (a) Any person, corporation, or firm who supplies, delivers, sells, or gives possession or control of, any ammunition to any person who he or she knows or using reasonable care should know is prohibited from owning, possessing, or having under custody or control, any ammunition or reloaded ammunition pursuant to subdivision (a) or (b) of Section 30305, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and another provision of law shall not be punished under more than one provision.

**Comment.** Section 30306 continues former Section 12317(a)-(b) without substantive change.

See Section 16150 (“ammunition”).



*Addition of Section 12318*

AB 962 added Section 12318 to the Penal Code, which relates to delivery or transfer of ownership of handgun ammunition. To continue the substance of that section, **the following new provision should be added to the Commission's proposal:**

**§ 30312. Delivery or transfer of ownership of handgun ammunition**

30312. (a) Commencing February 1, 2011, the delivery or transfer of ownership of handgun ammunition may only occur in a face-to-face transaction with the deliverer or transferor being provided bona fide evidence of identity from the purchaser or other transferee.

(b) Subdivision (a) shall not apply to or affect the sale, delivery, or transfer of handgun ammunition to any of the following:

(1) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale, delivery, or transfer is for exclusive use by that government agency and, prior to the sale, delivery, or transfer of the handgun ammunition, written authorization from the head of the agency employing the purchaser or transferee is obtained, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency employing the individual.

(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of handgun ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) A person who is on the centralized list maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.

(5) A person whose licensed premises are outside this state and who is licensed as a dealer or collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(6) A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(7) A handgun ammunition vendor.

(8) A consultant-evaluator.

(c) A violation of this section is a misdemeanor.

**Comment.** Subdivision (a) of Section 30312 continues the first sentence of former Section 12318(a) without substantive change.

Subdivision (b) continues former Section 12318(c) without substantive change.

Subdivision (c) continues the second sentence of former Section 12318(a) without substantive change.

See Sections 16300 (“bona fide evidence of identity” or “bona fide evidence of majority and identity”), 16410 (“consultant-evaluator”), 16520 (“firearm”), 16650 (“handgun ammunition”), 16662 (“handgun ammunition vendor”).

*Addition of the Article Entitled “Handgun Ammunition Vendors”*

AB 962 added a new article to the Penal Code, entitled “Handgun Ammunition Vendors.” To reflect that development, **an article by the same name should be added to the Commission’s proposal, as follows:**

Article 3. Handgun Ammunition Vendors

**§ 30345. Vendor’s compliance with this article**

30345. A vendor shall comply with all of the conditions, requirements, and prohibitions stated in this article.

**Comment.** Section 30345 continues the introductory clause of former Section 12061(a) without substantive change.

See Section 17315 (“vendor”).

**§ 30347. Employee handling, selling, or delivering handgun ammunition**

30347. A vendor shall not permit any employee who the vendor knows or reasonably should know is a person described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title or Section 8100 or 8103 of the Welfare and Institutions Code to handle, sell, or deliver handgun ammunition in the course and scope of employment.

**Comment.** Section 30347 continues former Section 12061(a)(1) without substantive change.

See Sections 16650 (“handgun ammunition”), 17315 (“vendor”).

**§ 30350. Purchaser or transferee access to handgun ammunition**

30350. A vendor shall not sell or otherwise transfer ownership of, offer for sale or otherwise offer to transfer ownership of, or display for sale or display for transfer of ownership of any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or an employee of the vendor.

**Comment.** Section 30350 continues former Section 12061(a)(2) without substantive change.

See Sections 16650 (“handgun ammunition”), 17315 (“vendor”).

**§ 30352. Records relating to sale or transfer of handgun ammunition**

30352. (a) Commencing February 1, 2011, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly recording the following information:

- (1) The date of the sale or other transaction.
- (2) The purchaser’s or transferee’s driver’s license or other identification number and the state in which it was issued.
- (3) The brand, type, and amount of ammunition sold or otherwise transferred.
- (4) The purchaser’s or transferee’s signature.
- (5) The name of the salesperson who processed the sale or other transaction.
- (6) The right thumbprint of the purchaser or transferee on the above form.
- (7) The purchaser’s or transferee’s full residential address and telephone number.
- (8) The purchaser’s or transferee’s date of birth.

(b) Subdivision (a) shall not apply to or affect sales or other transfers of ownership of handgun ammunition by handgun ammunition vendors to any of the following, if properly identified:

- (1) A person licensed pursuant to Sections 26700 to 26915, inclusive.
- (2) A handgun ammunition vendor.
- (3) A person who is on the centralized list maintained by the department pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.
- (4) A target facility that holds a business or regulatory license.
- (5) A gunsmith.
- (6) A wholesaler.
- (7) A manufacturer or importer of firearms licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.

(8) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale or other transfer of ownership is for exclusive use by that government agency, and, prior to the sale, delivery, or transfer of the handgun ammunition, 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. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser, transferee, or person otherwise acquiring ownership 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 individual is employed.

**Comment.** Subdivision (a) of Section 30352 continues former Section 12061(a)(3) without substantive change.

Subdivision (b) continues former Section 12061(b) without substantive change.

See Sections 16520 (“firearm”), 16630 (“gunsmith”), 16650 (“handgun ammunition”), 16662 (“handgun ammunition vendor”), 17315 (“vendor”), 17340 (“wholesaler”).

### **§ 30355. Retention of records**

30355. Commencing February 1, 2011, the records required by this article shall be maintained on the premises of the vendor for a period of not less than five years from the date of the recorded transfer.

**Comment.** Section 30355 continues former Section 12061(a)(4) without substantive change.

See Section 17315 (“vendor”).

### **§ 30357. Inspection of records**

30357. (a) Commencing February 1, 2011, the records referred to in Section 30352 shall be subject to inspection at any time during normal business hours by any peace officer employed by a sheriff, city police department, or district attorney as provided in subdivision (a) of Section 830.1, or employed by the department as provided in subdivision (b) of Section 830.1, provided that the officer is conducting an investigation where access to those records is or may be relevant, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law, as defined in Section 23500, or any other laws pertaining to firearms or ammunition.

(b) The records referred to in Section 30352 shall also be subject to inspection at any time during normal business hours by any other employee of the department, provided that the employee is conducting an investigation where access to those records is or may be relevant, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law, as defined in Section 23500, or any other laws pertaining to firearms or ammunition.

**Comment.** Section 30357 continues former Section 12061(a)(5) without substantive change.

See Section 16520 (“firearm”).

**§ 30360. Knowingly false entry or omission**

30360. Commencing February 1, 2011, a vendor shall not knowingly make a false entry in, fail to make a required entry in, fail to obtain the required thumbprint, or otherwise fail to maintain in the required manner records prepared in accordance with Section 30352. If the right thumbprint is not available, then the vendor shall have the purchaser or transferee use the left thumb, or any available finger, and shall so indicate on the form.

**Comment.** Section 30360 continues former Section 12061(a)(6) without substantive change. An erroneous cross-reference to former Section 12316(a)(2) has been replaced with a reference to Section 30352, which continues former Section 12316(a)(3).

See Section 17315 (“vendor”).

**§ 30362. Refusal to permit authorized person to examine record during inspection, or to use any record or information**

30362. (a) Commencing February 1, 2011, no vendor shall, during any inspection conducted pursuant to this article, refuse to permit a person authorized under Section 30357 to examine any record prepared in accordance with this article.

(b) Commencing February 1, 2011, no vendor shall refuse to permit the use of any record or information by a person authorized under Section 30357.

**Comment.** Section 30362 continues former Section 12061(a)(7) without substantive change.

See Section 17315 (“vendor”).

**§ 30365. Punishment**

30365. (a) A violation of Section 30352, 30355, 30360, or 30362 is a misdemeanor.

(b) The provisions of this section are cumulative, and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by different provisions of law shall not be punished under more than one provision.

**Comment.** Section 30365 continues former Section 12061(c) without substantive change.

Proposed Section 30360 would correct an erroneous cross-reference. As enacted, Section 12061(a)(6) refers to “records prepared in accordance with paragraph (2).” But paragraph (2) of Section 12061(a) has nothing to do with record preparation; the proper reference is to paragraph (3) instead. Thus, proposed Section 30360 would cross-refer to the provision that would continue paragraph (3), not the provision that would continue paragraph (2). The

correction is noted in the Comment. **The correction should also be noted in the Commission’s list of corrected cross-references (Appendix A to its report).**

## **Definitions**

Several definitions in the Commission’s proposal need to be adjusted to reflect the enactment of AB 962. In particular, **the following definitions should be revised as shown in ~~strikeout~~ and underscore below:**

### **§ 16150. “Ammunition”**

16150. (a) As used in Section 30300, “ammunition” means handgun ammunition as defined in Section 16650.

(b) As used in subdivision (a) of Section 30305 and Section 30306, “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. “Ammunition” does not include blanks.

**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~~ Sections 12316(b)(2) and 12317(c) without substantive change.

### **§ 16170. “Antique firearm”**

16170. (a) As used in Sections 30515 and 30530, “antique firearm” means any firearm manufactured before January 1, 1899.

(b) As used in Section 16520, Section 16650, 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), 12060(b), 12078(p)(6)(B), 12085(e)(3), 12088.8(a), 12318(b)(2), and 12801(b).

Subdivision (c) continues the second sentence of former Section 12020(b)(5) without substantive change.

See Section 16520 (“firearm”).

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

16300. As used in this part, “bona fide evidence of identity” or “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 former Section 12318(b)(1) and the second sentence of former Section 12316(a)(2) without substantive change.

**§ 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, and in Article 3 (commencing with Section 30345) of Chapter 1 of Division 10 of Title 4, “department” means the Department of Justice.

**Comment.** Section 16450 continues former Sections 12060(a), 12086(a)(2), and 12801(a)(1) without substantive change.

**§ 16650. “Handgun ammunition”**

16650. (a) 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.

(b) As used in Section 30312 and in Article 3 (commencing with Section 30345) of Chapter 1 of Division 10 of Title 4, “handgun ammunition” does not include either of the following:

(1) Ammunition designed and intended to be used in an antique firearm.

(2) Blanks.

**Comment.** Subdivision (a) of Section 16650 continues former Section 12323(a), the first clause of Section 12060(b), and the first clause of Section 12318(b)(2) without substantive change.

Subdivision (b) continues the remainder of Section 12060(b) and the remainder of Section 12318(b) without substantive change.

See Sections 16170 (“antique firearm”), 16520 (“firearm”), 16530 (“firearm capable of being concealed upon the person,” “pistol,” and “revolver”).

The enactment of AB 962 also requires **addition of the following new definitions to the Commission’s proposal:**

**§ 16662. “Handgun ammunition vendor”**

16662. As used in this part, “handgun ammunition vendor” means any person, firm, corporation, dealer, or any other business enterprise that is engaged in the retail sale of any handgun ammunition, or that holds itself out as engaged in the business of selling any handgun ammunition.

**Comment.** Section 16662 continues the definition of “handgun ammunition vendor” in former Sections 12060(c) and 12318(b)(3) without substantive change.

See Section 16650 (“handgun ammunition”).

**§ 17315. “Vendor”**

17315. As used in Article 3 (commencing with Section 30345) of Chapter 1 of Division 10 of Title 4, “vendor” means a handgun ammunition vendor.

**Comment.** Section 17315 continues the definition of “vendor” in former Section 12060(c) without substantive change.

See Section 16662 (“handgun ammunition vendor”).

The definition of “handgun ammunition vendor” would be extended to the entirety of proposed new Part 6 of the Penal Code, because every provision that uses that term in existing Title 2 of Part 4 is subject to that definition.

In contrast, the definition of “vendor” would be limited to the provisions that would continue the article entitled “Handgun Ammunition Vendors.” That definition would not apply elsewhere, because other provisions in existing Title 2 of Part 4 use the term “vendor” without definition. To apply the definition from AB 962 to those usages might effect a substantive change.

(3) ASSEMBLY BILL 1129 (HAGMAN)

Under Section 12027.1, a retired peace officer may obtain a certificate (or an endorsement on a certificate) authorizing the officer to carry a concealed and loaded firearm. Under certain circumstances, such authority may be denied or revoked. In the Commission’s proposal, these rules would be recodified as



Chapter 5 (commencing with Section 26300) of Division 5 of Title 4 of Part 6 of the Penal Code.

Assembly Bill 1129 (Hagman) amended Section 12027.1 to provide a procedure for temporary revocation of a retired peace officer's authority to carry a concealed and loaded firearm. To reflect the enactment of that bill, **three provisions in the Commission's proposal need to be revised, as follows:**

**§ 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 on the certificate may be immediately and temporarily revoked by the issuing agency when the conduct of a retired peace officer compromises public safety.

~~(e)~~ (d) An identification certificate authorizing the officer to carry a concealed and loaded firearm or an endorsement may be permanently 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 the first sentence of former Section 12027.1(a)(1)(C) without substantive change.

Subdivision ~~(e)~~ (d) continues former Section 12027.1(a)(1)(B) & (b)(1) without substantive change.

See Section 16520 ("firearm").

**§ 26310. Procedure for denial of privilege to carry concealed and loaded firearm**

26310. (a) ~~An~~ Issuance of 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 permanent 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 permanently 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~~ From the date the ~~agency receives the signed registered receipt~~ retiree signs for the notice 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 a hearing and the authority of the officer to carry a firearm shall be permanently revoked. The retired officer shall immediately return the identification certificate to the issuing agency.

(d) If a hearing is requested, good cause for permanent revocation shall be determined at the hearing, as specified in Section 26320. The hearing shall be held no later than 120 days after the request by the retired officer for a hearing is received.

(e) The retiree may waive the right to a hearing and immediately return the identification certificate to the issuing agency.

**Comment.** Section 26315 continues former Section 12027.1(b)(2) without substantive change.

See Section 16520 (“firearm”).

In addition, **one new provision should be added to the Commission’s proposal, along the following lines:**

**§ 26312. Procedure for, and procedure following, temporary revocation of privilege to carry concealed and loaded firearm**

26312. (a) Notice of a temporary revocation shall be effective upon personal service or upon receipt of a notice that was sent by first-class mail, postage prepaid, return receipt requested, to the retiree’s last known place of residence.

(b) The retiree shall have 15 days to respond to the notification and request a hearing to determine if the temporary revocation should become permanent.

(c) A retired peace officer who fails to respond to the notice of hearing within the 15-day period shall forfeit the right to a hearing and the authority of the officer to carry a firearm shall be permanently revoked. The retired officer shall immediately return the identification certificate to the issuing agency.

(d) If a hearing is requested, good cause for permanent revocation shall be determined at a hearing, as specified in Section 26320. The hearing shall be held no later than 120 days after the request by the retired officer for a hearing is received.

(e) A retiree may waive the right to a hearing and immediately return the identification certificate to the issuing agency.

**Comment.** Section 26312 continues the second through eighth sentences of former Section 12027.1(a)(1)(C) without substantive change.

See Section 16520 (“firearm”).

#### (4) ASSEMBLY BILL 1164 (TRAN)

Assembly Bill 1164 (Tran) is the annual maintenance of the codes bill prepared by the Office of Legislative Counsel. Each year, that bill makes minor stylistic changes, grammatical corrections, and similar minor revisions throughout the codes.

This year, AB 1164 amended three sections located in Title 2 of Part 4 of the Penal Code: Sections 12011, 12071, and 12076. But two of those amendments were chaptered out (i.e., nullified) due to a conflict with another bill amending the same section.

Specifically, the amendment of Section 12071 was chaptered out by Senate Bill 449 (Padilla), which was chaptered after AB 1164. See Gov’t Code § 9605 (in general, statute with higher chapter number prevails over statute with lower chapter number enacted in same legislative session). Similarly, the amendment of Section 12076 was chaptered out by Senate Bill 174 (Strickland), due to the subordination clause in AB 1164, and the exclusion of AB 1164 from the subordination clause in SB 174.

For the most part, the chaptered out revisions were purely stylistic and do not require further discussion. One chaptered out change was more significant: It involved replacing “processing” with “possessing” in Section 12071(b)(3)(D). Fortunately, that correction was also made in SB 449, which will be discussed later in this memorandum.

AB 1164 also made a technical change in Section 12011, which was not chaptered out. In the Commission’s proposal, Section 12011 would be continued in proposed Section 30005. To reflect the enactment of AB 1164, **subdivision (a) of proposed Section 30005 should be revised to replace the reference to the “federal National Instant Check System” with a reference to the “federal National Instant Criminal Background Check System.”**

(5) ASSEMBLY BILL 1286 (HUBER)

Section 12072 was amended by Assembly Bill 1286 (Huber), 2009 Cal. Stat. ch. 144. This amendment was chaptered out by Senate Bill 175 (Aanestad), which also amended Section 12072 and which was chaptered after AB 1286. See Gov’t Code § 9605.

However, the change made by AB 1286 — the addition of Section 12072(a)(9)(B)(xiii) — was incorporated into SB 175. We will discuss that change when we analyze SB 175 later in this memorandum.

(6) ASSEMBLY BILL 1363 (DAVIS)

Assembly Bill 1363 (Davis) amended Sections 12031 and 12050. To reflect the changes made by this bill, a number of provisions in the Commission’s proposal require adjustment.

First, **proposed Section 25850(c)(6) should be revised as shown in ~~strikeout~~ and underscore below:**

(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~~ handgun, 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.

**A similar change should be made in proposed Section 25850(h):**

(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~~ handgun 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~~ handgun.

Along the same lines, the last paragraph of the Comment to Section 25850 should be revised to refer to the definition of “handgun” (instead of the definition of “firearm capable of being concealed upon the person,” “pistol,” and “revolver”):

See also Sections 16520 (“firearm”), 16530 (~~“firearm capable of being concealed upon the person,” “pistol,” and “revolver”~~) 16640 (“handgun”), 16750 (“lawful possession of the firearm”), 17030 (“prohibited area”).

**The eighth paragraph of the same Comment should be deleted altogether.** That paragraph explains that Section 12031(m) became inoperative on January 1, 2005, and thus would not be continued in the Commission’s proposal:

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.

There is no longer any need for such a paragraph, because Section 12031(m) was deleted by AB 1363. For the same reason, **the disposition table entry for Section 12031(m) should also be deleted.**

Next, **proposed Section 26010 should be revised as follows:**

**§ 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~~ handgun by any person who is as 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.”~~ 16640 (“handgun”).

Finally, **three provisions in the Commission’s proposal should be revised to insert the word “only,” as follows:**

**§ 26150. Issuance of license by sheriff**

26150....

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

....

(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 only that county a pistol, revolver, or other firearm capable of being concealed upon the person.

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

26155....

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

....

(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 only that county a pistol, revolver, or other firearm capable of being concealed upon the person.

....

**§ 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:

....

(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 only that county a pistol, revolver, or other firearm capable of being concealed upon the person.

....

(7) SENATE BILL 150 (WRIGHT)

Senate Bill 150 (Wright) amends three sentence enhancement provisions in Title 2 of Part 4 of the Penal Code: Sections 12021.5, 12022.2, and 12022.4. Among other things, the amendments insert a sunset clause at the end of each provision:

This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SB 150 also adds new versions of Sections 12021.5, 12022.2, and 12022.4 to the Penal Code, which would become operative on January 1, 2011.

In preparing its recommendation on *Nonsubstantive Reorganization of Deadly Weapon Statutes*, the Commission deliberately refrained from making any changes to the group of sentence enhancement provisions codified as Sections 12021.5-12022.95. As the Commission stated at page 4 of its pre-print report:

The proposed law would leave these sentence enhancement provisions unchanged, in their current location in the Penal Code. 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 update if the section numbers of the sentence enhancement provisions were changed.

(Footnotes omitted.)

Consistent with this hands-off approach, **the revisions to Sections 12021.5, 12022.2, and 12022.4 made by SB 150, and the new versions of those provisions added by SB 150, should be incorporated verbatim into the Commission's proposal.**

#### (8) SENATE BILL 174 (STRICKLAND)

Senate Bill 174 (Strickland) is a major bill relating to public safety. It affects two provisions in Title 2 of Part 4 of the Penal Code.

First, SB 174 amends Section 12076, which would be continued in proposed Sections 28200-28250 in the Commission's proposal. To reflect the amendment of Section 12076, **the following provisions in the Commission's proposal should be revised as shown in strikeout and underscore below:**

#### § 28210. Use of register

28210....

(c) ....

(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....

(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.

....

**§ 28215. Use of electronic or telephonic transfer**

28215....

(c)....

(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.

....

**§ 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.

....

**§ 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:

....

Second, SB 174 amends Section 12650, which defines “stun gun.” The corresponding provision in the Commission’s proposal is proposed Section 17230. To reflect the revisions made by SB 174, **proposed Section 17230 should be revised as shown in strikeout and underscore below:**



**§ 17230. “Stun gun”**

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

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

See Section 16780 (“less lethal weapon”).

SB 174 refers to a “less lethal weapon, *as defined in Section 12601.*” In contrast, proposed Section 17230 would simply refer to a “less lethal weapon” and cite the definition of “less lethal weapon” in the Comment, which also states that “Section 17230 continues former Section 12650 without substantive change.”

As with many other provisions in the Commission’s proposal, the staff chose this approach because it would further the Legislature’s directive to “[a]void unnecessary use of cross-references” while [n]either expand[ing] nor contract[ing] the scope of criminal liability under current provisions.” 2006 Cal. Stat. res. ch. 128. Because courts give great weight to the Commission’s Comments, we think this would be sufficient to preserve the substance of Section 12650, as revised by SB 174. See 2007-2008 Annual Report, 37 Cal. L. Revision Comm’n Reports 1, 17-23 (2007).

(9) SENATE BILL 449 (PADILLA)

Senate Bill 449 (Padilla) revises Section 12071(b)(18), which would be recodified as Section 26905 in the Commission’s proposal. To reflect the revisions made by SB 449, **proposed Section 26905 should be revised as shown in ~~strikeout and underscore below~~**:

**§ 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) (3) 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) (4) 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.~~

(5) Until July 1, 2010, 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, acquires a handgun, and reports its acquisition pursuant to Section 21628 of the Business and Professions Code.

(6) Commencing July 1, 2010, 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, acquires a handgun, and reports its acquisition pursuant to Section 21628.2 of the Business and Professions Code.

**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”).

Respectfully submitted,

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