

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

RECOMMENDATION

Deadly Weapons: Minor Clean-Up Issues (Part 2)

December 2015

California Law Revision Commission
c/o King Hall Law School
Davis, CA 95616
www.clrc.ca.gov

NOTE

This report includes an explanatory Comment to each section of the recommended legislation. The Comments are written as if the legislation were already operative, since their primary purpose is to explain the law as it will exist to those who will have occasion to use it after it is operative. The Comments are legislative history and are entitled to substantial weight in construing the statutory provisions. For a discussion of cases addressing the use of Law Revision Commission materials in ascertaining legislative intent, see the Commission's most recent *Annual Report*.

Cite this report as *Deadly Weapons: Minor Clean-Up Issues (Part 2)*, 44 Cal. L. Revision Comm'n Reports 471 (2015).

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

c/o King Hall Law School
Davis, CA 95616

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December 10, 2015

To: The Honorable Edmund G. Brown, Jr.
Governor of California, and
The Legislature of California

In June 2009, the Commission completed a recommendation on *Nonsubstantive Reorganization of Deadly Weapon Statutes*. The Legislature implemented the recommendation through its enactment of Chapters 178 and 711 of the Statutes of 2010. This legislation became operative on January 1, 2012.

In the course of its Deadly Weapons study, the Commission identified a number of minor problems that could not be addressed without potentially making a substantive change. Given the nonsubstantive nature of the Commission's initial study, these clean-up issues were not addressed in the June 2009 recommendation, but were instead identified and set aside for future work.

This recommendation proposes amendments to address several of the minor clean-up issues. It also proposes some minor improvements that were not included in the 2009 list of clean-up issues.

This recommendation was prepared pursuant to Resolution Chapter 63 of the Statutes of 2014.

Respectfully submitted,

Taras Kihiczak
Chairperson

DEADLY WEAPONS: MINOR CLEAN-UP ISSUES (PART 2)

In 2006, the Legislature directed the Law Revision Commission to conduct a study and recommend nonsubstantive changes to the statutes relating to control of deadly weapons to simplify and provide better organization to this area of law.¹ The Commission was expressly directed not to make any change that would affect the existing scope of criminal liability.²

In June 2009, the Commission submitted its recommendation on *Nonsubstantive Reorganization of Deadly Weapons Statutes*³ (“Deadly Weapons Recommendation”) to the Legislature. In 2010, the recommendation was enacted, reorganizing the deadly weapons statutes into a new Part 6 of the Penal Code,⁴ structuring the provisions in a more user-friendly form and making conforming revisions to the law.⁵

During the course of the study, the Commission found a number of minor issues that could not be addressed without potentially effecting a substantive change. Consistent with the Commission’s limited mandate, the Commission did not address any of these minor issues in its Deadly Weapons Recommendation. Instead, these minor issues were listed in Appendix B of the Deadly Weapons Recommendation and set aside for possible future work. In the Deadly Weapons Recommendation, the Commission requested authority to study these clean-up issues. The Legislature

1. ACR 73 (McCarthy), 2006 Cal. Stat. res. ch. 128.

2. *Id.*

3. *Nonsubstantive Reorganization of Deadly Weapon Statutes*, 38 Cal. L. Revision Comm’n Reports 217 (2009).

4. All references contained herein are to the Penal Code unless otherwise noted.

5. SB 1080 (Committee on Public Safety), 2010 Cal. Stat. ch. 711; SB 1115 (Committee on Public Safety), 2010 Cal. Stat. ch. 178. See also *Nonsubstantive Reorganization of Deadly Weapon Statutes: Clean-Up Legislation*, 41 Cal. L. Revision Comm’n Reports 135 (2011); 2011 Cal. Stat. ch. 285; 2012 Cal. Stat. ch. 162, §§ 12-14, 203, 207; 2013 Cal. Stat. ch. 76, §§ 145.5, 145.7, 147.3, 147.5, 153.5; 2013 Cal. Stat. ch. 291, § 52.

granted the Commission authority to study and make recommendations on the issues identified in Appendix B.⁶

Pursuant to that authority, the Law Revision Commission now recommends minor clean-up amendments to address some of the issues identified in Appendix B of the Deadly Weapons Recommendation.⁷ This recommendation also includes a few minor improvements that were not identified in Appendix B. They are proposed pursuant to the Commission's general authority to recommend minor technical and substantive reforms.⁸

The proposed reforms are described below.

STANDARDIZED TERMINOLOGY

This recommendation addresses a Penal Code provision that uses inconsistent terminology when referring to a single thing. Such inconsistency can create uncertainty as to the meaning of the law, based on the assumption that different terms must have been intended to have different meanings. The Commission recommends that such terminology be standardized, as discussed below.

Written Firearm Safety Test

Penal Code Section 31640 requires the Department of Justice to develop a written firearm safety test to be administered by a certified instructor. The section uses inconsistent terminology.

The word "test" is used in 17 of 18 references in Section 31640 and related provisions.⁹ In only one instance, the word "examination" is used. The Commission could find no evidence that the term "examination" was intended to have a different

6. 2010 Cal. Stat. ch. 711, § 7 (SB 1080 (Committee on Public Safety)).

7. An earlier recommendation addressed some other issues identified in Appendix B of the Deadly Weapons Recommendation. See *Deadly Weapons: Minor Clean-Up Issues*, 43 Cal. L. Revision Comm'n Reports 63 (2013); 2014 Cal. Stat. ch. 103. Additional issues remain to be addressed in the future.

8. Gov't Code § 8298.

9. Sections 31645-31650.

meaning than “test.” The proposed law would replace “examination” with “test.”

In three of four instances, Section 31640 speaks of a test being “administered.” In one instance, the section refers to a test being “applied.” Again, the Commission could find no evidence showing that this inconsistency was intentional. The proposed law would replace “applied” with “administered.”

CLARIFYING REVISIONS

In two sections, the Commission recommends rewording an existing provision to make its meaning easier to understand, without changing its meaning.

Laboratory Testing of Firearms

Penal Code Section 32010 requires that certain firearms be tested by an independent laboratory to ensure that they meet applicable standards. Under subdivision (b) of that section, the Department of Justice is charged with certifying laboratories to perform that function. The proposed law would restate subdivision (b) to make its meaning clearer, without changing its substance.

Firearm Injury to a Child

Penal Code Section 23685 requires law enforcement to report specified information when a child sustains a firearm injury. The proposed law would restate the section to make its meaning clearer, without changing its substance.

TECHNICAL ERRORS

The recommendation would correct some clear drafting errors, as explained below.

Duplicated Language

Penal Code Section 31700(b)(2) contains superfluous duplicated language (as shown in italics below):

(b) The following persons who take title or possession of a firearm by operation of law in a representative capacity, until or unless they transfer title ownership of the firearm to themselves in a personal capacity, are exempted from the firearm safety certificate requirement in subdivision (a) of Section 31615:

...

(2) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, *or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of*, a default under a security agreement under the Commercial Code.

The proposed law would delete the duplicated language. Section 31700 would also be revised to correct a typographical error.

Erroneous Cross-Reference

Penal Code Section 25850 establishes the offense of carrying a loaded firearm while in a public place.

Penal Code Section 26045 provides a defense to prosecution for that offense. Section 26045 contains an erroneous cross-reference to a *different* provision, Section 25400, which establishes a different firearm offense. The proposed law would correct that error.

Erroneous Use of “Or”

Penal Code Section 26890 regulates the storage of firearms inventory when a licensed dealer is not open for business.

Subdivision (a) of that section requires that the firearms be stored in a secure facility that is part of the licensee’s business premises or that they be secured with a steel rod and lock. Subdivision (b) allows the licensing authority of an unincorporated area of a county or city to impose stricter security requirements than those in subdivision (a).

Subdivision (d) of Section 26890 provides a limited exemption from the requirements of subdivisions (a) and (b) but erroneously

refers to “subdivision (a) *or* (b).” The proposed law would replace “or” with “and.”

SEIZURE OF WEAPON AT DOMESTIC VIOLENCE INCIDENT

Penal Code Sections 18250-18500 provide for the seizure of a firearm or other deadly weapon at the scene of domestic violence. The Commission has identified a number of problems with these provisions, as explained below.

Terminology

With one exception, the weapon seizure provisions use the defined term “domestic violence.”¹⁰ However, there is one provision, Section 18405(b), that uses the term “family violence.”

The use of the term “family violence” appears to have been an accidental hold-over from an earlier version of the section. Prior to 1999, former Section 12028.5 (which was recodified in Sections 18250-18500) consistently used the term “family violence.” In 1999, that section was amended to replace “family violence” with “domestic violence” throughout.¹¹ The Legislative Counsel’s Digest for that bill explained:

Existing law authorizes specified law enforcement officers who are at the scene of a family violence incident involving a threat to human life or physical assault, to take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search. This provision also defines the terms “abuse,” “family violence,” and “family or household member.”

This bill instead would replace the term “family violence” with the term “domestic violence,” would delete the above-mentioned definitions and would replace them with definitions of the terms “abuse” and “domestic violence” that track the definitions of those terms in the Family Code.¹²

10. Section 16490 (“domestic violence” defined).

11. See 1999 Cal. Stat. ch. 662.

12. *Id.*

Despite that intention, the bill left one reference to “family violence” unchanged. The proposed legislation would amend Section 18405 to correct that oversight.

Seizure of “Firearm or Other Deadly Weapon”

In general, the weapon seizure provisions refer to the seizure of a “firearm or other deadly weapon.” However, two of the sections are inconsistent on that point. They initially refer to a “firearm or other deadly weapon,” but later refer only to a “firearm.” That inconsistency could be confusing.

The Commission found no evidence that the inconsistent references were intentional. To avoid any misunderstanding of the effect of the law, the Commission recommends that Sections 18255 and 18260 be amended to consistently include a reference to “other deadly weapons.”

Mailing Address

Section 18405 provides for notice to the owner of a seized weapon, if a petition is filed with the court for forfeiture of the weapon. The notice must be sent to the owner’s last known address. Under Section 18405(b), the last known address is presumed to be the “address provided to the law enforcement officer by that person at the time of the family violence incident.” However, there is nothing in the statutory scheme that expressly provides an opportunity for law enforcement to record the weapon owner’s address.

In order to avoid any confusion on this issue, the proposed law would amend Section 18255 to fill that procedural gap — a police officer would take the weapon owner’s residential mailing address when providing a receipt for a seized weapon.

REFERENCE TO “IMITATION FIREARM” REGULATED BY FEDERAL LAW

Existing Penal Code Section 20155 makes it a California misdemeanor to fail 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.”

That provision is potentially confusing, because of a mismatch between federal and state definitions of key terms. The governing federal statute defines the term “look-alike firearm,” but does not define the term “imitation firearm.”¹³ California law defines “imitation firearm,” but does not define “look-alike firearm.”

While the state and federal definitions are largely the same, the federal definition of “look-alike firearm” is slightly narrower than the state definition of “imitation firearm.” The federal definition excludes BB guns and certain types of replicas. The state definition includes them. This could lead to confusion as to the scope of the rule in Section 20155.

The purpose of Section 20155 is to provide a state penalty for a violation of federal law. This means that the provision only has effect if federal law has been violated. Consequently, the narrower federal definition should be controlling — conduct involving an object that is excluded from the federal definition can never be a violation of the federal statute.

The Commission recommends that Section 20155 be revised to make clear that the federal terminology is controlling.

LIABILITY FOR MINOR’S USE OF TEAR GAS

Under existing Penal Code Section 22815, it is lawful to sell or furnish tear gas or a tear gas weapon to a minor if the minor’s parent or guardian accompanies the minor or has signed a written authorization. Any civil liability that results from the minor’s use of the tear gas may be imposed on the “person, parent, or guardian” who signed a written consent authorizing the minor’s acquisition of the tear gas.

The Commission recommends that Section 22815 be revised to make two improvements:

13. 15 U.S.C. § 5001.

- (1) Under existing law, a person is only liable for injuries caused by a minor's use of tear gas if that person provided *written* authorization to provide tear gas to the minor. The liability rule does not apply to a person who authorizes the minor's acquisition of tear gas by "accompanying" the minor. The proposed law would extend the liability rule to cover the latter case.
 - (2) The reference to the "person, parent, or guardian" is potentially confusing, because parents and guardians are also "persons." The proposed law would replace "person, parent, or guardian" with "parent, guardian, or other person."
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PROPOSED LEGISLATION

Penal Code § 18405 (amended). Notice of proposed forfeiture of seized weapon

SEC. ____ . Section 18405 of the Penal Code is amended to read:

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 domestic 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 is amended to replace an erroneous reference to "family violence" with the defined term "domestic violence." See Section 16490 ("domestic violence" defined). This is a nonsubstantive change.

Penal Code § 18255 (amended). Receipt for seized weapon

SEC. ____ . Section 18255 of the Penal Code is amended to read:

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 or other deadly weapon 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.

(d) The receipt shall include the name and residential mailing address of the owner or person who possessed the firearm or other deadly weapon.

Comment. Section 18255(a) is amended to add an omitted reference to “other deadly weapon.” This is a nonsubstantive change.

Subdivision (d) is new. It provides an opportunity for law enforcement to take the residential mailing address of a person whose weapon is seized. This information is required for the purposes of Section 18405(b).

Penal Code § 18260 (amended). Seizure of weapon by community college or school district peace officer

SEC. ____ . Section 18260 of the Penal Code is amended to read:

18260. Any peace officer, as defined in subdivisions (a) and (b) of Section 830.32, who takes custody of a firearm or other deadly weapon pursuant to this division, shall deliver the firearm or other deadly weapon 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 is amended to add a reference to “other deadly weapon.” This is a nonsubstantive change.

Penal Code § 20155 (amended). Violation of federal law governing look-alike firearms

SEC. ____ . Section 20155 of the Penal Code is amended to read:

20155. Any manufacturer, importer, or distributor of ~~imitation~~ toy, look-alike, or 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. The definition of “imitation firearm” provided in Section 16700 does not apply to this section.

Comment. Section 20155 is amended to make clear that it is governed by the terminology used in the applicable federal law. See 15 U.S.C. § 5001(c) (“look-alike firearm” defined). This is a nonsubstantive change.

Penal Code § 22815 (amended). Providing tear gas weapon to minor

SEC. ____ . Section 22815 of the Penal Code is amended to read:

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, ~~or other person~~ who ~~signed the~~ authorized the provision of tear gas to a minor by signing a statement of consent or accompanying the minor, as specified in subdivision (b). That ~~person~~, parent, ~~or~~ guardian, ~~or other person~~ 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 is amended to make clear that civil liability for a minor's use of tear gas or a tear gas weapon may be imposed on any person who authorized the provision of the tear gas or tear gas weapon to the minor.

Penal Code § 23685 (amended). Firearm injury to child

SEC. ____ . Section 23685 of the Penal Code is amended to read:

23685. 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~~ that 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. The report shall also indicate whether

~~(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 is amended for clarity. This is a nonsubstantive change.

Penal Code § 26045 (amended). Justification for carrying loaded firearm

SEC. ____. Section 26045 of the Penal Code is amended to read:

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 subdivision 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~~ 25850 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. Section 26045 is amended to correct an erroneous cross-reference. This is a nonsubstantive change.

Penal Code § 26890 (amended). Storage of inventory firearms

SEC. ____ . Section 26890 of the Penal Code is amended to read:

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~~ Subdivisions (a) and (b) shall not apply to a licensee organized as a nonprofit public benefit corporation pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, or as a mutual benefit corporation pursuant to Part 3 (commencing with Section 7110) of Division 2 of Title 1 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 handguns.

Comment. Section 26890(d) is amended to correct an erroneous use of "or." This is a nonsubstantive change.

Penal Code § 31640 (amended). Firearm safety test

SEC. ____ . Section 31640 of the Penal Code is amended to read:

31640. (a) The department shall develop a written objective test, in English and in Spanish, and prescribe its content, form, and manner, to be administered by an instructor certified by the department.

(b) If the person taking the test is unable to read, the ~~examination test~~ shall be administered orally. If the person taking the test is unable to read English or Spanish, the test may be ~~applied~~ administered orally by a translator.

(c) The test shall cover, but not be limited to, all of the following:

(1) The laws applicable to carrying and handling firearms, particularly handguns.

(2) The responsibilities of ownership of firearms, particularly handguns.

(3) Current law as it relates to the private sale and transfer of firearms.

(4) Current law as it relates to the permissible use of lethal force.

(5) What constitutes safe firearm storage.

(6) Issues associated with bringing a firearm into the home.

(7) Prevention strategies to address issues associated with bringing firearms into the home.

(d) The department shall update test materials related to this article every five years.

(e) If a dealer licensed pursuant to Sections 26700 to 26915, inclusive, or his or her employee, or where the managing officer or partner is certified as an instructor pursuant to this article, he or she shall also designate a separate room or partitioned area for a person to take the objective test, and maintain adequate supervision to ensure that no acts of collusion occur while the objective test is being administered.

(f) This section shall become operative on January 1, 2015.

Comment. Section 31640 is amended to use consistent terminology. This is a nonsubstantive change.

Penal Code § 31700 (amended). Exemptions from firearm safety certificate requirement

SEC. ____. Section 31700 of the Penal Code is amended to read:

31700. (a) The following persons, properly identified, are exempted from the firearm safety certificate requirement in subdivision (a) of Section 31615:

(1) Any active or honorably retired peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Any active or honorably retired federal officer or law enforcement agent.

(3) Any reserve peace officer, as defined in Section 832.6.

(4) Any person who has successfully completed the course of training specified in Section 832.

(5) A firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, who is acting in the course and scope of that person's activities as a person licensed pursuant to Sections 26700 to 26915, inclusive.

(6) A federally licensed collector who is acquiring or being loaned a firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, who has a current certificate of eligibility issued by the department pursuant to Section 26710.

(7) A person to whom a firearm is being returned, where the person receiving the firearm is the owner of the firearm.

(8) A family member of a peace officer or deputy sheriff from a local agency who receives a firearm pursuant to Section 50081 of the Government Code.

(9) Any individual who has a valid concealed weapons permit issued pursuant to Chapter 4 (commencing with Section 26150) of Division 5.

(10) An active or honorably retired member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States, where individuals in those organizations are properly identified. For purposes of this section, proper identification includes the Armed Forces Identification Card or other written documentation certifying that the individual is an active or honorably retired member.

(11) Any person who is authorized to carry loaded firearms pursuant to Section 26025 or 26030.

(12) Persons who are the holders of a special weapons permit issued by the department 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 this division.

(b) The following persons who take title or possession of a firearm by operation of law in a representative capacity, until or unless they transfer title ownership of the firearm to themselves in a personal capacity, are exempted from the firearm safety certificate requirement in subdivision (a) of Section 31615:

(1) The executor or administrator of an estate.

(2) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, ~~or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of,~~ a default under a security agreement under the Commercial Code.

(3) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(4) A receiver performing the functions of a receiver.

(5) A trustee in bankruptcy performing the duties of a trustee.

(6) An assignee for the benefit of creditors performing the functions of an assignee.

(c) A person, validly identified, who has been issued a valid hunting license that is unexpired or that was issued for the hunting season immediately preceding the calendar year in which the person takes title ~~of~~ or possession of a firearm is exempt from the firearm safety certificate requirement in subdivision (a) of Section 31615, except as to handguns.

(d) This section shall become operative on January 1, 2015.

Comment. Section 31700(b)(2) is amended to delete duplicative language. This is a nonsubstantive change.

Subdivision (c) is amended to correct a typographical error.

Penal Code § 32010 (amended). Laboratory testing of firearm

SEC. ____. Section 32010 of the Penal Code is amended to read:

32010. (a) Any pistol, revolver, or other firearm capable of being concealed upon the person manufactured in this state, imported into the state for sale, kept for sale, or offered or exposed for sale, shall be tested within a reasonable period of time by an independent laboratory certified pursuant to subdivision (b) to determine whether that pistol, revolver, or other firearm capable of being concealed upon the person meets or exceeds the standards defined in Section 31910.

(b) On or before October 1, 2000, the Department of Justice shall certify laboratories to verify compliance with the standards defined in Section 31910. The department may charge ~~any a fee to certify a laboratory that is seeking certification~~ to test any pistol, revolver, or other firearm capable of being concealed upon the person pursuant to Sections 31900 to 32110, inclusive, ~~a fee not exceeding~~ The fee shall not exceed the costs of certification.

(c) The certified testing laboratory shall, at the manufacturer's or importer's expense, test the firearm and submit a copy of the final test report directly to the Department of Justice along with a prototype of the weapon to be retained by the department. The department shall notify the manufacturer or importer of its receipt

of the final test report and the department's determination as to whether the firearm tested may be sold in this state.

(d)(1) Commencing January 1, 2006, no center-fire semiautomatic pistol may be submitted for testing pursuant to Sections 31900 to 32110, inclusive, if it does not have either a chamber load indicator, or a magazine disconnect mechanism if it has a detachable magazine.

(2) Commencing January 1, 2007, no center-fire semiautomatic pistol may be submitted for testing pursuant to Sections 31900 to 32110, inclusive, if it does not have both a chamber load indicator and a magazine disconnect mechanism.

(3) Commencing January 1, 2006, no rimfire semiautomatic pistol may be submitted for testing pursuant to Sections 31900 to 32110, inclusive, if it has a detachable magazine, and does not have a magazine disconnect mechanism.

Comment. Section 32010(b) is amended for clarity. This is a nonsubstantive change.
