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OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
DIVISION OF LAW ENFORCEMENT

1992

PART 4, TITLE 2, California Penal Code

**DANGEROUS WEAPONS'
CONTROL LAW**

(INCLUDES LAW THROUGH THE 1991 PORTION OF THE 1990-91
REGULAR SESSION OF THE CALIFORNIA LEGISLATURE)



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DANGEROUS WEAPONS' CONTROL LAW 1992

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DANGEROUS WEAPONS' CONTROL LAW 1992

PART 4, TITLE 2, CALIFORNIA PENAL CODE

CONTROL OF DEADLY WEAPONS (Includes Penal Code Sections 12000-12809 and Welfare and Institutions Code Sections 8100-8108)

CHAPTER 1. FIREARMS

ARTICLE 1. GENERAL PROVISIONS

12000. This chapter shall be known and may be cited as "The Dangerous Weapons' Control Law."

12001.(a) As used in this title, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 16 inches in length. These terms also include any device which has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

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

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, and 12073 of this code, and Sections 8100 and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of any such weapon.

(d) For the purpose of Sections 12025 and 12031, the term "firearm" also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) (1) For purposes of Sections 12070, 12071,

and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm which is defined as an "antique firearm" in Section 921(a)(16) of Title 18 of the United States Code.

(2) For purposes of Sections 12070, 12071, and subdivisions (b), (c), and (d) of Section 12072, the term "firearm" does not include an unloaded firearm that meets both of the following:

(A) It is not a pistol, revolver, or other firearm capable of being concealed upon the person.

(B) It is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(f) Nothing shall prevent a device defined as a "pistol", "revolver", or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Section 12551, the term "firearm" also shall include any instrument which expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun.

12001.5. Except as expressly provided in Section 12020, and solely in accordance with Section 12020, no person may manufacture, import into this state, keep for sale, offer for sale, give, lend, or possess any short-barreled shotgun or short-barreled rifle, as defined in Section 12020, and nothing else in this chapter shall be construed as authorizing the manufacture, importation into the state, keeping for sale, offering for sale, or giving, lending, or possession of any

short-barreled shotgun or short-barreled rifle, as defined in Section 12020.

*12001.6. As used in this chapter, an offense which involves the violent use of a firearm includes any of the following:

(a) A violation of paragraph (2) or (3) of subdivision (a) of Section 245 or a violation of subsection (c) of Section 245.

(b) A violation of Section 246.

(c) A violation of paragraph (2) of subdivision (a) of Section 417.

(d) A violation of subdivision (b) of Section 417.

12002.(a) Nothing in this chapter prohibits police officers, special police officers, peace officers, or law enforcement officers from carrying any wooden club, baton, or any equipment authorized for the enforcement of law or ordinance in any city or county.

(b) Nothing in this chapter prohibits a uniformed security guard, regularly employed and compensated as such by a person engaged in any lawful business, while actually employed and engaged in protecting and preserving property or life within the scope of his or her employment, from carrying any wooden club or baton if the uniformed security guard has satisfactorily completed a course of instruction certified by the Department of Consumer Affairs in the carrying and use of the club or baton. The training institution certified by the Department of Consumer Affairs to present this course, whether public or private, is authorized to charge a fee covering the cost of the training.

(c) The Department of Consumer Affairs, in cooperation with the Commission on Peace Officer Standards and Training, shall develop standards for a course in the carrying and use of the club or baton.

(d) Any uniformed security guard who successfully completes a course of instruction under this section is entitled to receive a permit to carry and use a club or baton within the scope of his or

her employment, issued by the Department of Consumer Affairs. The department may authorize certified training institutions to issue permits to carry and use a club or baton. A fee in the amount provided by law shall be charged by the Department of Consumer Affairs to offset the costs incurred by the department in course certification, quality control activities associated with the course and issuance of the permit.

(e) Any person who has received a permit or certificate which indicates satisfactory completion of a club or baton training course approved by the Commission on Peace Officer Standards and Training prior to January 1, 1983, shall not be required to obtain a baton or club permit or complete a course certified by the Department of Consumer Affairs.

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

ARTICLE 2. UNLAWFUL CARRYING AND POSSESSION OF CONCEALED WEAPONS

12020.(a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any plastic firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any

* Cross-reference codes commence on page 80

unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition or who carries concealed upon his or her person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles, by police departments, sheriffs' offices, city marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by regular, salaried, full-time members of a police department, sheriff's office, city marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rim fire or

conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also 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.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess such items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12100 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing such firearms or ammunition who obtains title to such items by bequest or intestate succession may retain title for not more than one year, but actual possession of such items at any time shall be punishable pursuant to Section 12021, 12021.1, or 12100 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12100 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more

than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12100 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within that year the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

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

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of, any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than short-barreled rifles and shotguns, when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than short-barreled rifles and short-barreled shotguns, that are sold by, manufactured by,

exposed, or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of, wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(15) Prior to January 1, 1992, the possession of a multiburst trigger activator by a person who is not prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms.

(c)(1) As used in this section, a "short-barreled shotgun" means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a "short-barreled

rifle" means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

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

(4) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(5) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted, or enclosed therein.

(6) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(7) As used in this section, "metal knuckles" means any device or instrument made wholly or

partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, "ballistic knife" means a device that propels a knife-like blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(9) As used in this section, "camouflaging firearm container" means a container which meets all of the following:

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

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

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

"Camouflaging firearm container" does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a "zip gun" means any weapon or device which meets all of the following criteria:

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

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

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216)

and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(E) It has a barrel or barrels less than 18 inches in length or an overall length of less than 26 inches.

(11) As used in this section, a "shuriken" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an "unconventional pistol" means a pistol or revolver that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a "belt buckle knife" is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2 1/2 inches.

(14) As used in this section, a "lipstick case knife" means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a "cane sword" means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a "shobi-zue" means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a "leaded cane" means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an "air gauge knife" means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action

or gravity which locks into place when extended.

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

(20) As used in this section, the term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, the term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number or projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, "plastic firearm" means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms "firearm," "major component," and "Security Exemplar" have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal public buildings in this state

shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting a plastic firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(23) As used in this section, a "multiburst trigger activator" means a device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

12020.5. It shall be unlawful for any person, as defined in Section 12277, in any newspaper, magazine, circular, form letter, or open publication, published, distributed, or circulated in this state, or on any billboard, card, label, or other advertising medium, or by means of any other advertising device, to advertise the sale of any weapon or device whose possession is prohibited by Section 12020, 12220, or 12280.

12021.(a) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c)(1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of

Section 136.5, 140, 171b, 171c, 171d, 241, 243, 244.5, 245, 245.5, 246.3, 247, 417, 417.2, 626.9, subdivision (b) or (d) of Section 12034, subdivision (a) of Section 12100, 12320, or 12590 and who, within 10 years of the conviction, owns, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2).

(2) Any person, whose continued employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction prior to the effective date of the amendments which added this paragraph to this section, at any time until January 1, 1993, may petition the court for relief from this prohibition. The court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate. In making its decision, the court may consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature in enacting this paragraph to permit persons who were convicted of an offense specified in this subdivision prior to the effective date of the amendments which added this paragraph to this section to seek relief from the prohibition imposed by this subdivision.

(d) Any person who, as an express condition of probation, is prohibited or restricted from own-

ing, possessing, controlling, receiving, or purchasing a firearm and who owns, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c) is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both that and imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

*(e) Any person who (1) is alleged to have committed an offense

Institutions Code, (2) is found to be a fit and proper subject to listed in subdivision (b) of Section 707 of the Welfare and be dealt with under the juvenile court law, and (3) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

* *Cross-reference codes commence on page 80*

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars (\$1,000), or received both punishments.

(g) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is subject to a restraining order issued pursuant to subdivision (a) of Section 546 of the Code of Civil Procedure, or paragraph (2) of subdivision (a) of Section 547 of the Code of Civil Procedure, and predicated on paragraph (2), (3), or (6) of subdivision (a) of Section 4359 of the Civil Code, is guilty of a public offense, which shall be punishable by imprisonment in the state prison or in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or both that imprisonment and fine. This subdivision does not apply unless the copy of the restraining order personally served on the person against whom the restraining order is issued contains a notice in bold print stating (1) that the person is prohibited from purchasing or receiving or attempting to purchase or receive a firearm and (2) specifying the penalties for violating this subdivision, or a court has provided actual verbal notice of the firearm prohibition and penalty as provided in subdivision (f) of Section 550 of the Code of Civil Procedure. However, this subdivision does not apply if the firearm is received as part of the disposition of community property pursuant to Section 4800 of the Civil Code.

12021.1. (a) Notwithstanding the provisions of subdivision (a) of Section 12021, any person who has been previously convicted of any of the offenses listed in subdivision (b) and who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony. A dismissal of an accusatory pleading pursuant to Section 1203.4a involving an offense set forth in subdivision (b) does not affect the finding of a previous conviction. If probation is granted, or if the imposition or execution of

sentence is suspended, it shall be a condition of the probation or suspension that the defendant serve at least six months in a county jail.

(b) As used in this section, a violent offense includes any of the following:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape.
- (4) Sodomy by force, violence, duress, menace, or threat of great bodily harm.
- (5) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
- (6) Lewd acts on a child under the age of 14 years.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any other felony in which the defendant inflicts great bodily injury on any person, other than an accomplice, which has been charged and proven, or any felony in which the defendant uses a firearm which use has been charged and proven.
- (9) Attempted murder.
- (10) Assault with intent to commit rape or robbery.
- (11) Assault with a deadly weapon or instrument on a peace officer.
- (12) Assault by a life prisoner on a noninmate.
- (13) Assault with a deadly weapon by an inmate.
- (14) Arson.
- (15) Exploding a destructive device or any explosive with intent to injure.
- (16) Exploding a destructive device or any explosive causing great bodily injury.
- (17) Exploding a destructive device or any explosive with intent to murder.
- (18) Robbery.
- (19) Kidnapping.
- (20) Taking of a hostage by an inmate of a state prison.
- (21) Attempt to commit a felony punishable by death or imprisonment in the state prison for life.
- (22) Any felony in which the defendant personally used a dangerous or deadly weapon.
- (23) Escape from a state prison by use of force or violence.
- (24) Assault with a deadly weapon or force

likely to produce great bodily injury.

(25) Any attempt to commit a crime listed in this subdivision other than an assault.

(26) Any offense enumerated in Section 12001.6.

(c) Any person previously convicted of any of the offenses listed in subdivision (b) which conviction results from certification by the juvenile court for prosecution as an adult in adult court under the provisions of Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony. If probation is granted, or if the imposition or execution of sentence is suspended, it shall be a condition of the probation or suspension that the defendant serve at least six months in a county jail.

(d) The court shall apply the minimum sentence as specified in subdivisions (a) and (c) except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the imprisonment required by subdivisions (a) and (c), or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in subdivisions (a) and (c), in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

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

12022.(a) (1) Except as provided in subdivisions (c) and (d), any person who is armed with a firearm in the commission or attempted commission of a felony shall, upon conviction of such felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one year, unless such arming is an element of the offense of which he or she was convicted. This additional term shall apply to any person who is a principal in the commission or attempted commission of a felony if one or more of the principals is armed with a firearm, whether or not such person is personally armed with a firearm.

(2) Except as provided in subdivision (c), and notwithstanding subdivision (d), if the firearm is an assault weapon, as defined in Section 12276, or a machinegun, as defined in Section 12200, the additional term described in this subdivision shall be three years whether or not the arming is an element of the offense of which he or she was convicted. The additional term provided in this paragraph shall apply to any person who is a principal in the commission or attempted commission of a felony if one or more of the principals is armed with an assault weapon or machinegun whether or not the person is personally armed with an assault weapon or machinegun.

(b) Any person who personally uses a deadly or dangerous weapon in the commission or attempted commission of a felony shall, upon conviction of such felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one year, unless use of a deadly or dangerous weapon is an element of the offense of which he or she was convicted.

When a person is found to have personally used a deadly or dangerous weapon in the commission or attempted commission of a felony as provided in this subdivision and the weapon is owned by that person, the court shall order that the weapon be deemed a nuisance and disposed of in the manner provided in Section 12028.

(c) Notwithstanding the enhancement set forth

in subdivision (a), any person who is personally armed with a firearm in the commission or attempted commission of a violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code, shall, upon conviction of that offense and in addition and consecutive to the punishment prescribed for the offense of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for three, four, or five years in the court's discretion. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

(d) Notwithstanding the enhancement set forth in subdivision (a), any person not personally armed with a firearm who, knowing that another principal is personally armed with a firearm, is a principal in the commission or attempted commission of an offense specified in subdivision (c), shall, upon conviction of that offense, be punished by an additional term of one, two, or three years in the court's discretion. The court shall order the imposition of the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of sentencing.

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

(f) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in subdivision (c) or (d) in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

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

(1) "Primary offense" means a felony offense

for which a person has been released from custody on bail or on his or her own recognizance prior to the judgment becoming final, including the disposition of any appeal, or for which release on bail or his or her own recognizance has been revoked.

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

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

(c) The enhancement allegation provided in subdivision (b) shall be pleaded in the information or indictment which alleges the secondary offense and shall be proved as provided by law. The enhancement allegation may be pleaded in a complaint but need not be proved at the preliminary hearing for the secondary offense.

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

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

(f) If the person is convicted of a felony for the primary offense, is granted probation for the primary offense, and is convicted of a felony for the secondary offense, any state prison sentence for the secondary offense shall be enhanced as

provided in subdivision (b).

(g) If the primary offense conviction is reversed on appeal, the enhancement shall be suspended pending retrial of that felony. Upon retrial and reconviction, the enhancement shall be reimposed. If the person is no longer in custody for the secondary offense upon reconviction of the primary offense, the court may, at its discretion, reimpose the enhancement and order him or her recommitted to custody.

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

(b) Any person who wears a body vest in the commission or attempted commission of a violent offense, as defined in subdivision (b) of Section 12021.1, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony, be punished by an additional term of one, two, or three years. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

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

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

(a) A three, four, or five year enhancement if the person uses a firearm or any other deadly

weapon in the commission of the violation.

(b) A one, two, or three year enhancement if the person is armed with a firearm or any other deadly weapon. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

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

12022.5.(a) Except as provided in subdivisions (b) and (c), any person who personally uses a firearm in the commission or attempted commission of a felony shall, upon conviction of such felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for three, four, or five years, unless use of a firearm is an element of the offense of which he or she was convicted. The court shall order imposition of the middle term unless there are circumstances in aggravation or mitigation. The court shall state its reasons for its enhancement choice on the record at the time of sentencing.

(b)(1) Notwithstanding subdivision (a), any person who is convicted of a felony or an attempt to commit a felony, including murder or at-

tempted murder, in which that person discharged a firearm at an occupied motor vehicle which caused great bodily injury or death to the person of another, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the sentence prescribed for the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for five years.

(2) Notwithstanding subdivision (a), any person who personally uses an assault weapon, as specified in Section 12276, or a machinegun, as defined in Section 12200, in the commission or attempted commission of a felony, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the sentence prescribed for the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for five years.

(c) Notwithstanding the enhancement set forth in subdivision (a), any person who personally uses a firearm in the commission or attempted commission of a violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5 or 11379.6 of the Health and Safety Code, shall, upon conviction of that offense and in addition and consecutive to the punishment prescribed for the offense of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for three, four, or five years in the court's discretion. The court shall order the imposition of middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record.

(d) The additional term provided by this section may be imposed in cases of assault with a firearm under paragraph (2) of subdivision (a) of Section 245, or assault with a deadly weapon which is a firearm under Section 245.

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

provided in Section 12028.

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

12022.55. Notwithstanding Section 12022.5, any person who, with the intent to inflict great bodily injury or death, inflicts great bodily injury, as defined in Section 12022.7, or causes the death of a person, other than an occupant of a motor vehicle, as a result of discharging a firearm from a motor vehicle in the commission of a felony or attempted felony, shall, upon conviction of the felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for five years.

12022.6. When any person takes, damages or destroys any property in the commission or attempted commission of a felony, with the intent to cause such taking, damage or destruction, the court shall impose an additional term as follows:

(a) If the loss exceeds twenty-five thousand dollars (\$25,000), the court shall in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted impose an additional term of one year.

(b) If the loss exceeds one hundred thousand dollars (\$100,000), the court shall in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted impose an additional term of two years.

In any accusatory pleading involving multiple charges of taking, damage, or destruction, the additional terms provided in this section may be imposed if the aggregate losses to the victims from all felonies exceed the amounts specified in this section. All pleadings under this section remain subject to the rules of joinder and severance stated in Section 954.

The additional terms provided in this section shall not be imposed unless the facts of the taking,

damage, or destruction in excess of the amounts provided in this section are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

This section applies to, but is not limited to, property taken, damaged, or destroyed in violation of Section 502 or subdivision (b) of Section 502.7.

(c) This section shall remain in effect only until July 1, 1992, and as of that date is repealed unless a later enacted statute, which is enacted before July 1, 1992, deletes or extends that date.

12022.6 Any person who takes, damages or destroys any property in the commission of a felony, with the intent to cause such taking, damage or destruction, and the loss exceeds:

(a) Twenty-five thousand dollars (\$25,000), the court shall in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted impose an additional term of one year.

(b) One hundred thousand dollars (\$100,000) the court shall, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which the defendant has been convicted, impose an additional term of two years.

The additional terms provided in this section shall not be imposed unless the facts of the taking, damage, or destruction in excess of amounts provided in this section are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

This section applies to, but is not limited to, property or subdivision (b) of Section 502.7.

This section shall become operative on July 1, 1992.

12022.7. Any person who, with the intent to inflict such injury, personally inflicts great bodily injury on any person other than an accomplice in the commission or attempted commission of a felony shall, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he has been convicted, be punished by an additional term of three years, unless infliction of great bodily injury is an

element of the offense of which he is convicted.

As used in this section, great bodily injury means a significant or substantial physical injury.

This section shall not apply to murder or manslaughter or a violation of Section 451 or 452. The additional term provided in this section shall not be imposed unless the fact of great bodily injury is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

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

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

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

(b) Subdivision (a) applies to the following

crimes:

(1) Rape in violation of Section 261.

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

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

(4) Sodomy in violation of Section 286.

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

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

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

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

12023. In the trial of a person charged with committing or attempting to commit a felony against the person of another while armed with any of the weapons mentioned in Section 12020, or while armed with any pistol, revolver, or other firearm capable of being concealed upon the person, without having a license or permit to carry such firearm as provided by this chapter, the fact that he was so armed shall be prima facie evidence of his intent to commit the felony if such weapon was used in the commission of the offense.

12025.(a) Except as otherwise provided in this chapter, any person who carries concealed within any vehicle which is under his or her control or

direction any pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a misdemeanor. Any person convicted under this subdivision who has previously been convicted of any felony, or of any crime made punishable by this chapter, is guilty of a felony, and if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in the county jail for not less than three months.

(b) Any person who carries concealed upon his or her person any pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed one year, or by a fine not to exceed one thousand dollars (\$1,000), or by both such fine and imprisonment, except any person, having been convicted of a crime against the person, property or a narcotics or dangerous drug violation, who carries concealed upon his or her person any pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a public offense and is punishable by imprisonment in a 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 by both such fine and imprisonment. Any person convicted under this subdivision who has previously been convicted of any felony or of any crime made punishable by this chapter, is guilty of a felony, and if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in the county jail for not less than three months.

(c) Firearms carried openly in belt holsters are not concealed within the meaning of this section, nor are knives which are carried openly in sheaths suspended from the waist of the wearer.

(d) Every person convicted under this section who has previously been convicted of a misdemeanor offense enumerated in Section 12001.6

shall be punished by imprisonment in the county jail for at least three months and not exceeding six months, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in the county jail for at least three months.

(e) The court shall apply the three-month minimum sentence as specified in subdivisions (a), (b), and (d) except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in subdivisions (a), (b), and (d) or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in subdivisions (a), (b), and (d), in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

12025.5 A violation of Section 12025 is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This section may not apply when the circumstances involve a reciprocal restraining order issued pursuant to Section 4359 of the Civil 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 defendants charged with violating Section 12025 or of committing other similar offenses.

Upon trial for violating Section 12025, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

12026.(a) Notwithstanding Section 12025, any citizen of the United States or legal resident over

the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021, shall not be prohibited from owning, possessing, keeping, or carrying, either openly or concealed, anywhere within the citizen's or legal resident's place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident any pistol, revolver, or other firearm capable of being concealed upon the person, and no permit or license to purchase, own, possess, keep, or carry, either openly or concealed, any such firearm within the citizen's or legal resident's place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident, shall be required of the citizen or legal resident.

(b) Nothing in this section shall be construed as affecting the application of Section 12031.

12026.1.(a) Section 12025 shall not be construed to prohibit any citizen of the United States over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021, from transporting or carrying any pistol, revolver, or other firearm capable of being concealed upon the person, provided that the following applies to the firearm:

(1) The firearm is within a motor vehicle and it is locked in the vehicle's trunk or in a locked container in the vehicle other than the utility or glove compartment.

(2) The firearm is carried by the person directly to or from any motor vehicle for any lawful purpose and, while carrying the firearm, the firearm is contained within a locked container.

(b) The provisions of this section do not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.

(c) As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device.

12026.2.(a) Section 12025 does not apply to or affect any of the following:

(1) The possession of a firearm by an authorized participant in a motion picture, television, or video production or entertainment event when the participant lawfully uses the firearm as part of that production or event or while going directly to or directly from that production or event.

(2) The possession of a firearm in a locked container by a member of any club or organization, organized for the purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other firearms, while the member is at meetings of the clubs or organizations or while going directly to and coming directly from those meetings.

(3) The transportation of a firearm by a participant when going directly to or coming directly from a recognized safety or hunter safety class, or a recognized sporting event involving that firearm.

(4) The transportation of a firearm by a person mentioned in Section 12026, directly between any of the places mentioned in Section 12026.

(5) The transportation of a firearm by a person when going directly to or coming directly from a fixed place of business or private residential property for the purpose of the lawful repair or the lawful transfer of that firearm.

(6) The transportation of a firearm by a person listed in Section 12026 when going directly from the place where that person lawfully received that firearm to that person's place of residence or place of business or to private property owned or lawfully possessed by that person.

(7) The transportation of a firearm by a person when going directly to or coming directly from a gun show, swap meet, or similar event to which the public is invited, for the purposes of displaying that firearm in a lawful manner.

(8) The transportation of a firearm by an authorized employee or agent of a supplier of firearms when going directly to or coming directly from a motion picture, television, or video production or entertainment event for the purpose of providing that firearm to an authorized participant to lawfully use as a part of that production

or event.

(9) The transportation of a firearm by a person when going directly to or coming directly from a target range, which holds a regulatory or business license, for the purposes of practicing shooting at targets with that firearm at that target range.

(10) The transportation of a firearm by a person when going directly to or coming directly from a place designated by a person authorized to issue licenses pursuant to Section 12050 when done at the request of the issuing agency so that the issuing agency can determine whether or not a license should be issued to that person to carry that firearm.

(11) The transportation of a firearm by a person when going directly to or coming directly from a law enforcement agency for the purpose of a lawful transfer of that firearm pursuant to Section 12084.

(12) The transportation of a firearm by a person when going directly to or coming directly from lawful camping activity for purposes of having that firearm available for lawful personal protection while at the lawful campsite. This paragraph shall not be construed to override the statutory authority granted to the Department of Parks and Recreation or any other state or local governmental agencies to promulgate rules and regulations governing the administration of parks and campgrounds.

(b) In order for a firearm to be exempted under subdivision (a), while being transported to or from a place, the firearm shall be unloaded, kept in a locked container, as defined in subdivision (d), and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.

(c) This section does not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.

(d) As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device. The term "locked container" does not include the utility or glove compartment of a motor vehicle.

12027. Section 12025 does not apply to, or affect, any of the following:

(a) (1) (A) Any peace officer, listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this subdivision.

(B) Any officer retired after January 1, 1981, shall have an endorsement on the identification stating that the issuing agency approves the officer's carrying of a concealed firearm.

(C) No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D), except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a concealed firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(D) A certificate issued pursuant to this paragraph for persons retiring after January 1, 1981, shall be in the following format: it shall be on a 2x3 inch card, bear the photograph of the retiree, the retiree's name, address, date of birth, the date that the retiree retired, name and address of the agency from which the retiree retired, have stamped on it the endorsement "CCW Approved" and the date the endorsement is to be renewed.

(E) For purposes of this section and Section

12031, "CCW" means "carry concealed weapons."

(2) A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for the renewal of his or her privilege to carry a concealed firearm every five years. An honorably retired peace officer, described in paragraph (1), retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a concealed firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of that peace officer, or at any time subsequent thereto, deny or revoke, for good cause the retired officer's privilege to carry a concealed firearm.

(3) An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry concealed firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a concealed firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(b) The possession or transportation of unloaded firearms as merchandise by a person engaged in the business of manufacturing, repairing, or dealing in firearms who is licensed to engage in that business or the authorized representative or authorized agent of that person while engaged in the lawful course of the business.

(c) Members of the Army, Navy, or Marine Corps of the United States, or the National Guard, when on duty, or organizations which are by law authorized to purchase or receive those weapons from the United States or this state.

(d) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.

(e) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, trea-

sure, bullion, bonds, or other thing of value within this state.

(f) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while the members are using pistols, revolvers, or other firearms capable of being concealed upon the person upon the target ranges, or while going to and from the ranges.

(g) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from the hunting or fishing expedition.

(h) Transportation of unloaded firearms by a person operating a licensed common carrier or an authorized agent or employee thereof when transported in conformance with applicable federal law.

(i) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a concealed firearm.

Upon that approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a concealed firearm in accordance with this subdivision. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a concealed firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

12027.1. (a) (1) As specified in subdivision (a) of Section 12027, any peace officer employed by a local agency and listed in Section 830.1 of the Penal Code, retired after January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a concealed firearm.

(2) A retired peace officer may have his or her privilege to carry a concealed 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.

(b) (1) An endorsement may be revoked or denied by the issuing agency only upon a showing of good cause. Good cause shall be determined at a hearing, as specified in subdivision (d).

(2) An endorsement may be revoked only after a hearing, as specified in subdivision (d). Any retired peace officer whose endorsement is to be revoked shall have 15 days to respond to a notice of that hearing, pursuant to this paragraph, as specified in subdivision (d). A retired peace officer who fails to respond to the notice of the hearing, pursuant to this paragraph, shall forfeit his or her right to respond.

(3) An endorsement may be denied prior to the hearing, as specified in subdivision (d). 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 paragraph shall forfeit his or her right to the hearing.

(c) A retired peace officer, when notified of the revocation of his or her privilege to carry a concealed firearm, after the hearing, or upon forfeiting his or her right to a hearing, shall immediately surrender to the issuing agency his or her identification certificate. The issuing agency

shall reissue a new identification without an endorsement.

(d) Any hearing conducted under this section shall be held before a three-member hearing board. One member of the board shall be selected by the local agency and one member shall be selected by the retired peace officer or his or her employee organization. The third member shall be selected jointly by the local agency and the retired peace officer or his or her employee organization.

Any decision by the board shall be binding on the local agency and the retired peace officer.

(e) No peace officer who is retired after January 1, 1989, because of a psychological disability shall be issued an endorsement to carry a concealed firearm pursuant to this section.

12028.(a) The unlawful concealed carrying upon the person or within the vehicle of the carrier of any explosive substance, other than fixed ammunition, dirk, or dagger, as provided in Section 12020, the unlawful concealed carrying upon the person or within the vehicle of the carrier of any weapons in violation of Section 12025, and the unlawful possession or carrying of any item in violation of Section 653k is a nuisance.

(b) A firearm of any nature owned or possessed in violation of Section 12021, 12021.1, or 12101 or used in the commission of any misdemeanor as provided in this code, any felony, or an attempt to commit any misdemeanor as provided in this code or any felony, is, upon a conviction of the defendant or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, a nuisance. A finding that the defendant was guilty of the offense but was insane at the time the offense was committed is a conviction for the purposes of this section.

(c) Any weapon described in subdivision (a), or, upon conviction of the defendant or upon a juvenile court finding that an offense which would be a misdemeanor or felony if committed by an adult was committed or attempted by the juvenile with the use of a firearm, any weapon described in subdivision (b), shall be surrendered

to the sheriff of a county or the chief of police or other head of a municipal police department of any city or city and county or the Commissioner of the Department of the California Highway Patrol. For purposes of this subdivision, the Commissioner of the California Highway Patrol shall receive only weapons that were confiscated by a member of the California Highway Patrol. The officers to whom the weapons are surrendered, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention thereof is necessary or proper to the ends of justice, may annually, between the 1st and 10th days of July, in each year, offer the weapons, which the officers in charge of them consider to have value with respect to sporting, recreational, or collection purposes, for sale at public auction to persons licensed pursuant to Section 12071 to engage in businesses involving any weapon purchased. If any weapon has been stolen and is thereafter recovered from the thief or his or her transferee, or is used in such a manner as to constitute a nuisance pursuant to subdivision (a) or (b) without the prior knowledge of its lawful owner that it would be so used, it shall not be so offered for sale but shall be restored to the lawful owner, as soon as its use as evidence has been served, upon his or her identification of the weapon and proof of ownership.

(d) If, under this section, a weapon is not of the type that can be sold to the public, generally, or is not sold pursuant to subdivision (c), the weapon shall in the month of July, next succeeding, or sooner, if necessary to conserve local resources including space and utilization of personnel who maintain files and security of those weapons, be destroyed so that it can no longer be used as such weapon except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of it is necessary or proper to the ends of justice.

(e) This section does not apply to any firearm in the possession of the Department of Fish and Game or which was used in the violation of any provision of the Fish and Game Code or any regulation adopted pursuant thereto, or which is forfeited pursuant to Section 5008.6 of the Public

Resources Code.

(f) No stolen weapon shall be sold or destroyed pursuant to subdivision (c) or (d) unless reasonable notice is given to its lawful owner, if his or her identity and address can be reasonably ascertained.

12028.5. (a) As used in this section, the following definitions shall apply:

(1) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another.

(2) "Domestic violence" is abuse perpetrated against any of the following:

(A) A spouse, former spouse, cohabitant, former cohabitant, any other adult person related by consanguinity or affinity within the second degree, or a person with whom the respondent has had a dating or engagement relationship.

(B) A person who is the parent of a child and the presumption applies that the male parent is the father of any child of the female pursuant to the Uniform Parentage Act (Part 7 (commencing with Section 7000) of Division 4 of the Civil Code).

(3) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Section 12020.

(b) A sheriff, undersheriff, deputy sheriff, marshal, deputy marshal, or police officer of a city, as defined in subdivision (a) of Section 830.1, a member of the University of California Police Department, as defined in subdivision (c) of Section 830.2, an officer listed in section 830.6 while acting in the course and scope of his or her employment as a peace officer, a member of a California State University Police Department, as defined in subdivision (d) of Section 830.2, and a peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, who is at the scene of a domestic violence incident involving a threat to human life or a physical assault, may take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace

officer or other persons present. Upon taking custody of a firearm or other deadly weapon, the officer shall give the owner or person who possessed the firearm a receipt. The receipt shall describe the firearm or other deadly weapon and list any identification or serial number on the firearm. The receipt shall indicate where the firearm or other deadly weapon can be recovered and the date after which the owner or possessor can recover the firearm or other deadly weapon. No firearm or other deadly weapon shall be held less than 48 hours. Except as provided in subdivision (e), if a firearm or other deadly weapon is not retained for use as evidence related to criminal charges brought as a result of the domestic violence incident or is not retained because it was illegally possessed, the firearm or other deadly weapon shall be made available to the owner or person who was in lawful possession 48 hours after the seizure or as soon thereafter as possible, but no later than 72 hours after the seizure. In any civil action or proceeding for the return of firearms or ammunition or other deadly weapon seized by any state or local law enforcement agency and not returned within 72 hours following the initial seizure, except as provided in subdivision (c), the court shall allow reasonable attorney's fees to the prevailing party.

(c) Any firearm or other deadly weapon which has been taken into custody which has been stolen shall be restored to the lawful owner, as soon as its use for evidence has been served, upon his or her identification of the firearm or other deadly weapon and proof of ownership.

(d) Any firearm or other deadly weapon taken into custody and held by a police, university police, or sheriff's department or by a marshal's office, or by a peace officer of the Department of Parks and Recreation, as defined in subdivision (g) of Section 830.2, for longer than 12 months and not recovered by the owner or person who has lawful possession at the time it was taken into custody, shall be considered a nuisance and sold or destroyed as provided in subdivision (c) of Section 12028. Firearms or other deadly weapons not recovered within 12 months due to an extended hearing process as provided in subdivi-

sion (i), are not subject to destruction until the court issues a decision, and then only if the court does not order the return of the firearm or other deadly weapon to the owner.

(e) In those cases where a law enforcement agency has reasonable cause to believe that the return of a firearm or other deadly weapon would be likely to result in endangering the victim or the person reporting the assault or threat, the agency shall advise the owner of the firearm or other deadly weapon, and within 10 days of the seizure, initiate a petition in superior court to determine if the firearm or other deadly weapon should be returned.

(f) 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 he or she has 30 days from the date of receipt of the notice to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond shall result in a default order forfeiting the confiscated firearm or other deadly weapon. For the purposes of this subdivision, 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 domestic violence incident. 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.

(g) If the person requests a hearing, the court clerk shall set a hearing no later than 30 days from receipt of that request. The court clerk shall notify the person, the law enforcement agency involved, and the district attorney of the date, time, and place of the hearing. Unless it is shown by clear and convincing evidence that the return of the firearm or other deadly weapon would result in endangering the victim or the person reporting the assault or threat, the court shall order the return of the firearm or other deadly weapon and shall award reasonable attorney's fees to the prevailing party.

(h) If the person does not request a hearing or does not otherwise respond within 30 days of the receipt of the notice, the law enforcement agency may file a petition for an order of default and may dispose of the firearm or other deadly weapon as provided in Section 12028.

(i) If, at the hearing, the court does not order the return of the firearm or other deadly weapon to the owner or person who had lawful possession, that person may petition the court for a second hearing within 12 months from the date of the initial hearing. If the owner or person who had lawful possession does not petition the court within this 12-month period for a second hearing or is unsuccessful at the second hearing in gaining return of the firearm or other deadly weapon, the firearm or other deadly weapon may be disposed of as provided in Section 12028.

(j) The law enforcement agency, or the individual law enforcement officer, shall not be liable for any act in the good faith exercise of this section.

12029. Except as provided in Section 12020, blackjacks, slungshots, billies, nunchakus, sandclubs, sandbags, shurikens, metal knuckles, short-barreled shotguns or short-barreled rifles as defined in Section 12020, and any other item which is listed in subdivision (a) of Section 12020 and is not listed in subdivision (a) of Section 12028 are nuisances, and the Attorney General, district attorney, or city attorney may bring an action to enjoin the manufacture of, importation of, keeping for sale of, offering or exposing for sale, giving, lending, or possession of, any of the foregoing items. These weapons shall be subject to confiscation and summary destruction whenever found within the state. These weapons shall be destroyed in the same manner as other weapons described in Section 12028, except that upon the certification of a judge or of the district attorney that the ends of justice will be subserved thereby, the weapon shall be preserved until the necessity for its use ceases.

12030.(a) The officer having custody of any firearms which may be useful to the California

National Guard, the Coast Guard Auxiliary, or to any military or naval agency of the federal or state government, including, but not limited to, the California National Guard military museum and resource center, may, upon the authority of the legislative body of the city, city and county, or county by which he or she is employed and the approval of the Adjutant General, deliver the firearms to the commanding officer of a unit of the California National Guard, the Coast Guard Auxiliary, or any other military agency of the state or federal government in lieu of destruction as required by this chapter. The officer delivering the firearms shall take a receipt for them containing a complete description thereof and shall keep the receipt on file in his or her office as a public record.

(b) Any law enforcement agency which has custody of any firearms, or any parts of any firearms, which are subject to destruction as required by this chapter may, in lieu of destroying the weapons, retain and use any of them as may be useful in carrying out the official duties of the agency, or upon approval of a court, may release them to any other law enforcement agency for use in carrying out the official duties of that agency, or may turn over to the criminalistics laboratory of the Department of Justice or the criminalistics laboratory of a police department, sheriff's office, or district attorney's office any weapons which may be useful in carrying out the official duties of their respective agencies.

(c) Any firearm, or part of any firearm, which, rather than being destroyed, is used for official purposes pursuant to this section shall be destroyed by the agency using the weapon when it is no longer needed by the agency for use in carrying out its official duties. In the case of firearms or weaponry donated to the California National Guard military museum and resource center, they may be disposed of pursuant to Section 179 of the Military and Veterans Code.

(d) Any law enforcement agency which has custody of any firearms, or any parts of any firearms, which are subject to destruction as required by this chapter may, in lieu of destroying the firearms, obtain an order from the superior

court directing the release of the firearms to the sheriff. The sheriff shall enter such weapons into the Automated Firearms System (AFS) with a complete description of each weapon, including the make, type, category, caliber, and serial number of the firearms, and the name of the academy receiving the weapon entered into the AFS miscellaneous field. The sheriff shall then release the firearms to the basic training academy certified by the Commission on Peace Officer Standards and Training, so that the firearms may be used for instructional purposes in the certified courses. As used in this section, the term "firearms" shall not include destructive devices, as defined in Section 12301. All firearms released to an academy shall be under the care, custody, and control of the particular academy.

Any firearms, or part of any firearms, which is not destroyed, and is used for the purposes authorized by this section, shall be returned to the law enforcement agency which had original custody of the firearms when it is no longer needed by the basic training academy, or when the basic training academy is no longer certified by the commission.

(e) Any law enforcement agency that retains custody of any firearm pursuant to this section or that destroys a firearm pursuant to Section 12028 shall notify the Department of Justice of the retention or destruction. This notification shall consist of a complete description of each firearm, including the name of the manufacturer or brand name, model, caliber, and serial number.

12031.(a) (1) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

(2) Notwithstanding subdivisions 2 and 3 of Section 836, a peace officer may make an arrest without a warrant:

(A) When the person arrested has violated this section, although not in the officer's presence.

(B) Whenever the officer has reasonable cause to believe that the person to be arrested has violated this section, whether or not this section has, in fact, been violated.

(3) (A) Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in a county jail, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

(B) The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of those officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this paragraph and paragraph (3).

Any officer retired after January 1, 1981, shall

have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a loaded firearm.

No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a loaded firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027 until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(2) A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer, described in paragraph (1), retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a firearm.

(3) An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry loaded firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of those clubs.

(6) The carrying of pistols, revolvers, or other firearms capable of being concealed upon the person by persons who are authorized to carry those weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(7) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after that date, if they have received a firearms qualification card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(8) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a loaded firearm in accordance with this paragraph. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good

cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also, under the express terms of the charter, (A) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (B) are not less than 18 years of age nor more than 40 years of age, (C) possess physical qualifications prescribed by the commission, and (D) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry the weapons, or by persons who are authorized to carry the weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor police officers designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. The certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as a peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (A) if hired prior to January 1, 1977; or (B) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watch persons employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residences or their places of employment, and security guards and alarm agents en route to or from their residences or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their names.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment.

(e) In order to determine whether or not a

firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section, "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by that person for lawful purposes connected with that business, from having a loaded firearm within the person's place of business, or any person in lawful possession of private property from having a loaded firearm on that property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, provided that the hunting at that place and time is not prohibited by the city council.

(j)(1) Nothing in this section 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 the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of the weapon is necessary for the preservation of that person or property. As used in this subdivision, "immediate" means the brief interval before and after the local law enforce-

ment agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(2) A violation of this section is justifiable when a person who possesses a firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This paragraph may not apply when the circumstances involve a reciprocal restraining order issued pursuant to Section 4359 of the Civil 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 defendants charged with violating Section 12025 or of committing other similar offenses.

Upon trial for violating this section, the trier of fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(l) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

12031.1. Nothing in Section 12031 shall prevent any person from storing aboard any vessel or aircraft any loaded or unloaded rocket, rocket propelled projectile launcher, or similar device designed primarily for emergency or distress signaling purposes, or from possessing such a device while in a permitted hunting area or traveling to or from such area and carrying a valid California permit or license to hunt.

12031.5. (a) Except as provided in subdivision (b), every person who has been convicted previously of violating Section 12031 and who carries a loaded firearm on his or her person or in a

vehicle while in any public place or on any public street in an incorporated city or in a prohibited area of unincorporated territory is guilty of a public offense, punishable by imprisonment in the state prison, or in a county jail not exceeding one year.

(b) Notwithstanding subdivision (a), any person who has been convicted previously of violating Section 12031 and who violates subdivision (a) of this section and who is actively engaged in, or going to or from, a recreational, sport, including, but not limited to, competitive shooting, or hunting activity which may require the use of a firearm is guilty of a misdemeanor. As used in this subdivision, "going to or from" includes a reasonable diversion from the direct route of travel.

(c) A violation of this section which is punished by imprisonment in a county jail not exceeding one year shall not constitute a conviction of a crime punishable by imprisonment for a term exceeding one year for the purposes of determining federal firearms eligibility under Section 922(g)(1) of Title 18 of the United States Code.

12032. Notwithstanding any provision of law or of any local ordinance to the contrary, when any firearm is in the possession of any officer of the state, or of a county, city and county or city, and such firearm is an exhibit filed in any criminal action or proceeding which is no longer needed or is unclaimed or abandoned property, which has been in the possession of the officer for at least 180 days, the firearm shall be sold, or destroyed, as provided for in Section 12028.

2 This section shall not apply to any firearm in the possession of the Department of Fish and Game or which was used in the violation of any provision of law, or regulation thereunder, in the Fish and Game Code.

12033. The Department of Consumer Affairs may issue a certificate to any person referred to in subdivision (d) of Section 12031, upon notification by the school where the course was completed, that the person has successfully completed a course in the carrying and use of firearms

and a course of training in the exercise of the powers of arrest which meet the standards prescribed by the department pursuant to Section 7545 of the Business and Professions Code.

12034.(a) It is a misdemeanor for a driver of any motor vehicle or the owner of any motor vehicle, whether or not the owner of the vehicle is occupying the vehicle, knowingly to permit any other person to carry into or bring into the vehicle a firearm in violation of Section 12031 of this code or Section 2006 of the Fish and Game Code.

(b) Any driver or owner of any vehicle, whether or not the owner of the vehicle is occupying the vehicle, who knowingly permits any other person to discharge any firearm from the vehicle is punishable by imprisonment in the county jail for not more than one year or in state prison for 16 months or two or three years.

(c) Any person who willfully and maliciously discharges a firearm from a motor vehicle at another person other than an occupant of a motor vehicle is guilty of a felony punishable by imprisonment in state prison for three, five, or seven years.

(d) Except as provided in Section 3002 of the Fish and Game Code, any person who willfully and maliciously discharges a firearm from a motor vehicle is guilty of a public offense punishable by imprisonment in the county jail for not more than one year or in the state prison.

12035. (a) As used in this section, the following definitions shall apply:

(1) "Locking device" means a device which temporarily prevents the firearm from functioning.

(2) "Loaded firearm" has the same meaning as set forth in subdivision (g) of Section 12031.

(3) "Child" means a person under 14 years of age.

(4) "Great bodily injury" has the same meaning as set forth in Section 12022.7.

(5) "Locked container" has the same meaning as set forth in subdivision (d) of Section 12026.2.

(b) (1) Except as provided in subdivision (c), a person commits the crime of "criminal storage

of a firearm of the first degree" if he or she keeps any loaded firearm within any premise which is under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child obtains access to the firearm and thereby causes death or great bodily injury to himself, herself, or any other person.

(2) Except as provided in subdivision (c), a person commits the crime of "criminal storage of a firearm of the second degree" if he or she keeps any loaded firearm within any premise which is under his or her custody or control and he or she knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian and the child obtains access to the firearm and thereby causes injury, other than great bodily injury, to himself, herself, or any other person, or exhibits the firearm either in a public place or in violation of Section 417.

(c) Subdivision (b) shall not apply whenever any of the following occurs:

(1) The child obtains the firearm as a result of an illegal entry to any premises by any person.

(2) The firearm is kept in a locked container or in a location which a reasonable person would believe to be secure.

(3) The firearm is carried on the person or within such a close proximity thereto so that the individual can readily retrieve and use the firearm as if carried on the person.

(4) The firearm is equipped with a locking device.

(5) The person is a peace officer or a member of the armed forces or national guard and the child obtains the firearm during, or incidental to, the performance of the person's duties.

(6) The child obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of another person, or persons.

(7) The person who keeps a loaded firearm on any premise which is under his or her custody or control has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premise.

(d) Criminal storage of a firearm is punishable as follows:

(1) Criminal storage of a firearm in the first degree, by imprisonment in the state prison for 16 months, or 2 or 3 years, by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine; or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(2) Criminal storage of a firearm in the second degree, by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(e) If the person who allegedly violated this section is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, the district attorney shall consider, among other factors, the impact of the injury or death on the person alleged to have violated this section when deciding whether to prosecute an alleged violation. It is the Legislature's intent that a parent or guardian of a child who is injured or who dies as the result of an accidental shooting shall be prosecuted only in those instances in which the parent or guardian behaved in a grossly negligent manner or where similarly egregious circumstances exist. This subdivision shall not otherwise restrict, in any manner, the factors that a district attorney may consider when deciding whether to prosecute alleged violations of this section.

(f) If the person who allegedly violated this section is the parent or guardian of a child who is injured or who dies as the result of an accidental shooting, no arrest of the person for the alleged violation of this section shall occur until at least seven days after the date upon which the accidental shooting occurred.

In addition to the limitation contained in this subdivision, a law enforcement officer shall consider the health status of a child who suffers great bodily injury as the result of an accidental shooting prior to arresting a person for a violation of this section, if the person to be arrested is the parent or guardian of the injured child. The intent

of this subdivision is to encourage law enforcement officials to delay the arrest of a parent or guardian of a seriously injured child while the child remains on life-support equipment or is in a similarly critical medical condition.

(g) (1) The fact that the person who allegedly violated this section attended a firearm safety training course prior to the purchase of the firearm that is obtained by a child in violation of this section shall be considered a mitigating factor by a district attorney when he or she is deciding whether to prosecute the alleged violation.

(2) In any action or trial commenced under this section, the fact that the person who allegedly violated this section attended a firearm safety training course prior to the purchase of the firearm that is obtained by a child in violation of this section, shall be admissible.

ARTICLE 3. LICENSES TO CARRY CONCEALED WEAPONS

12050.(a) The sheriff of a county or the chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a resident of the county, may issue to such a person a license to carry concealed a pistol, revolver, or other firearm for any period of time not to exceed one year from the date of the license, or in the case of a peace officer appointed pursuant to Section 830.6, three years from the date of the license.

(b) A license may include any reasonable restrictions or conditions which the issuing authority deems warranted, including restrictions as to the time, place, and circumstances under which the person may carry a concealed firearm.

(c) Any restrictions imposed pursuant to subdivision (b) shall be indicated on any license issued on or after the effective date of the amendments to this section enacted at the 1970 Regular Session of the Legislature.

12051.(a) Applications for licenses shall be filed in writing, signed by the applicant, and shall state the name, occupation, residence and business address of the applicant, his or her age, height, weight, color of eyes and hair, and reason for desiring a license to carry the weapon. Any license issued upon such application shall set forth the foregoing data and shall, in addition, contain a description of the weapon or weapons authorized to be carried, giving the name of the manufacturer, the serial number and the caliber.

Applications and licenses shall be uniform throughout the state, upon forms to be prescribed by the Attorney General. Such forms shall contain a provision whereby the applicant attests to the truth of statements contained in the application.

(b) Any person who files an application required by subdivision (a) knowing that statements contained therein are false is guilty of a misdemeanor. Any person knowingly making a false statement on the application regarding the denial or revocation of a concealed weapons license, a criminal conviction, a finding of not guilty by reason of insanity, the use of a controlled substance, a dishonorable discharge from military service, a commitment to a mental institution, or a renunciation of United States citizenship is guilty of a felony.

12052. The fingerprints of each applicant shall be taken and two copies on forms prescribed by the Department of Justice shall be forwarded to the department. Upon receipt of the fingerprints and the fee as prescribed in Section 12054, the department shall promptly furnish the forwarding licensing authority a report of all data and information pertaining to any applicant of which there is a record in its office. No license shall be issued by any licensing authority until after receipt of such report from the department.

Provided, however, that if the license applicant has previously applied to the same licensing authority for a license to carry concealed firearms and the applicant's fingerprints and fee have been previously forwarded to the Department of Justice, as herein provided, the licensing authority shall note such previous identification numbers

and other data which would provide positive identification in the files of the Department of Justice on the copy of any subsequent license submitted to the department in conformance with Section 12053 and no additional applicant form or fingerprints shall be required.

12053. When any such license is issued a record thereof shall be maintained in the office of the licensing authority. Copies of each license issued shall be filed immediately by the issuing officer or authority with the Department of Justice.

12054. Each applicant for a new license or for the renewal of a license shall pay at the time of filing his application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice for the direct costs of furnishing the report required by Section 12052. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget. The officer receiving the application and the fee shall transmit the fee, with the fingerprints if required, to the Department of Justice. The licensing authority of any city or county may charge an additional fee, not to exceed three dollars (\$3), for processing any such application, and shall transmit such additional fee, if any, to the city or county treasury.

ARTICLE 4. LICENSES TO SELL FIREARMS

12070.(a) No person shall engage in the business of selling, leasing, or transferring firearms unless he or she has been issued a license pursuant to Section 12071. Any person violating this section is guilty of a misdemeanor.

(b) As used in this article, engaging in the business of selling, leasing, or transferring of firearms does not include any of the following:

(1) The sale, lease, or transfer of any firearm

by a person acting pursuant to a court order or pursuant to the Enforcement of Judgments Law (Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure), or by a person who liquidates a personal firearm collection to satisfy a court judgment.

(2) The sale, lease, or transfer of firearms by a person acting pursuant to subdivision (c) of Section 12028.

(3) The sale, lease, or transfer of a firearm by a person who obtains title to the firearm by intestate succession or by bequest, provided the person disposes of the firearm within 60 days of receipt of the firearm.

(4) The infrequent sale, lease, or transfer of firearms.

(5) The sale, lease, or transfer of used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at gun shows or events, as specified in subparagraph (B) of paragraph (1) of subdivision (b) of Section 12071, by a person other than a licensee or dealer, provided the person has a valid federal firearms license and a certificate of eligibility issued by the Department of Justice, as specified in Section 12071, and provided all the sales, leases, or transfers fully comply with subdivision (d) of Section 12072. However, the person shall not engage in the sale, lease, or transfer of used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at more than 12 gun shows or events in any calendar year and shall not sell, lease, or transfer more than 15 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person at any single gun show or event. In no event shall the person sell more than 75 used firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person in any calendar year.

A person described in this paragraph shall be known as a "Gun Show Trader."

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

As used in this paragraph, the term "used

firearm" means a firearm that has been sold previously at retail and is more than three years old.

(6) The activities of a law enforcement agency pursuant to Section 12084.

(c) As used in this section, "infrequent" means:

(1) For pistols, revolvers, and other firearms capable of being concealed upon the person, less than six transactions per calendar year. For this purpose, "transaction" means a single sale, lease, or transfer of any number of pistols, revolvers, or other firearms capable of being concealed upon the person.

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

12071.(a)(1) As used in this chapter, the term "licensee" or "dealer" means a person who has (A) a valid federal firearms license, (B) any regulatory or business license, or licenses, required by local government, (C) a valid seller's permit issued by the State Board of Equalization, (D) a certificate of eligibility issued by the Department of Justice pursuant to paragraph (4), and (E) a license issued in the format prescribed by paragraph (6).

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

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

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

(5) The department shall adopt regulations to

administer the certificate of eligibility program and shall recover the full costs of administering the program by imposing fees assessed to applicants who apply for those certificates.

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

(A) In the form prescribed by the Attorney General.

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

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

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

(b) A license is subject to forfeiture for a breach of any of the following prohibitions and requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the business shall be conducted only in the buildings designated in the license.

(B) A person licensed pursuant to subdivision (a), for purposes of complying with Section 12082, may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a).

A person licensed pursuant to subdivision (a), at gun shows and events, also may engage in the

business of selling, leasing, or transferring firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, provided the person (i) complies with all other applicable law, including, but not limited to, the 15-day waiting period specified in subparagraph (A) of paragraph (3), and (ii) complies with all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

(A) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or

within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity and age to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

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

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of firearms pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivisions (a) and (b) of Section 12072.

(7) The licensee shall post conspicuously within the licensed premises the following warning in block letters not less than three inches in height:

"IF YOU LEAVE A LOADED FIREARM WITHIN THE REACH OR EASY ACCESS OF A CHILD, YOU MAY BE FINED OR IMPRISONED, OR BOTH, IF THE CHILD GAINS ACCESS TO, AND IMPROPERLY USES, THE FIREARM."

(8) Commencing July 1, 1993, no pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered unless

the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(9) Commencing July 1, 1992, the licensee shall offer to provide the purchaser or transferee of a firearm with a copy of the pamphlet described in Section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm.

(10) The licensee shall not commit an act of collusion as defined in Section 12072.

(c) (1) As used in this article, "clear evidence of his or her identity and age" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity and age of the purchaser.

(2) As used in this article, "a basic firearm safety certificate" means a basic firearm certificate issued to the purchaser or transferee by the Department of Justice pursuant to Article 8 (commencing with Section 12800) of Chapter 6.

12071.1.(a) No person shall produce, promote, sponsor, operate, or otherwise organize a gun show or event, as specified in subparagraph (B) of paragraph (1) of subdivision (b) of Section 12071, unless that person possesses a valid certificate of eligibility from the Department of Justice. A certificate of eligibility shall be issued by the department to an applicant unless the department's records indicate that the applicant is a person prohibited from possessing firearms.

(b) The Department of Justice shall adopt regulations to administer the certificate of eligibility program under this section and shall recover the full costs of administering the program by fees assessed applicants who apply for certificates.

(c) A knowing violation of this section shall be a misdemeanor and make the person ineligible for a certificate of eligibility for one year from the date of the violation or conviction, whichever is later.

(d) No later than 24 hours prior to the commencement of a gun show or event, the producer or promoter thereof shall, upon request,

make available within 72 hours, or a later specified time, to the local law enforcement agency a complete and accurate list of all persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms.

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

This subdivision applies to persons, entities, and organizations whether or not they participate in the entire gun show or event, or only a portion thereof.

(e) It is the intent of the Legislature that the certificate of eligibility program established pursuant to this section be incorporated into the certificate of eligibility program established pursuant to Section 12071 to the maximum extent practicable.

12072.(a)(1) Any person, corporation, or firm who shall knowingly supply, sell, or give possession or control of any firearm to any person within any of the classes prohibited by Section 12021 or 12021.1 shall be punished by imprisonment in the state prison, or in a county jail for a period not exceeding one year, or by a fine of not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.

(2) No person, corporation, or dealer shall sell, deliver, or otherwise transfer any firearm to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(b) No person licensed under Section 12071 shall sell, deliver, or transfer any pistol, revolver, or firearm capable of being concealed upon the

person to any person under the age of 21 years or any other firearm to a person under the age of 18 years.

(c) No dealer licensed pursuant to Section 12071, whether or not acting pursuant to Section 12082, shall deliver a firearm to a purchaser or transferee, as follows:

(1) Prior to January 1, 1996, within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later. On or after January 1, 1996, within 10 days of the application for the purchase of any other firearm, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 10 days of the submission to the department of corrected copies of the register, or within 10 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser or transferee presents clear evidence of his or her identity and age, as defined in Section 12071, to the dealer or is personally known to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that the person is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(5) Commencing July 1, 1993, no pistol, revolver, or other firearm capable of being

concealed upon the person shall be delivered unless the purchaser or transferee presents to the dealer a basic firearm safety certificate.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, in order for a person to sell or otherwise transfer a firearm, the parties to the transaction shall complete the transaction through either of the following:

(1) A licensed dealer pursuant to Section 12082.

(2) A law enforcement agency pursuant to Section 12084.

(e) No person may commit an act of collusion relating to Article 8 (commencing with Section 12800) of Chapter 6. For purposes of this section and Section 12071, collusion may be proven by any one of the following factors:

(1) Answering a test applicant's questions during an objective test relating to basic firearms safety.

(2) Knowingly misgrading the examination.

(3) Providing an advance copy of the test to an applicant.

(4) Taking or allowing another person to take the basic firearms safety course for one who is the applicant for the basic firearms safety certificate.

(5) Allowing another to take the objective test for the applicant, purchaser, or transferee.

(6) Allowing others to give unauthorized assistance during the examination.

(7) Reference to materials during the examination and cheating by the applicant.

(8) Providing originals or photocopies of the objective test, or any version thereof, to any person other than as specified in subdivision (f) of Section 12805.

(f) Except as provided in paragraph (1) of subdivision (a), a violation of this section is a misdemeanor. A second or subsequent violation of this section shall be punished in accordance with the penalty and probation provisions of subdivision (c) of Section 12100 concerning subsequent convictions and probation.

12073.(a) Every person engaged in the business of selling, leasing, or otherwise transferring

a firearm, whether the seller, lessor, or transferor is a retail dealer, pawnbroker, or otherwise, except as provided by this chapter, shall keep a register in which shall be entered the information prescribed in Section 12077.

(b) This section shall not apply to wholesale dealers in their business intercourse with retail dealers, nor to wholesale or retail dealers in the regular or ordinary transport of unloaded firearms as merchandise to other wholesale or retail dealers by mail, express or other mode of shipment, to points outside of the city or county wherein they are situated.

*12074. The register shall be prepared by and obtained from the State Printer and shall be furnished by the State Printer to the dealers application at a cost to be determined by the Department of General Services for each 100 leaves in quadruplicate, one original and three duplicates for the making of carbon copies. The original and duplicate copies shall differ in color, and shall be in the form provided by this article.

12075. The State Printer upon issuing a register shall forward to the Department of Justice the name and business address of the dealer together with the series and sheet numbers of the register. The register shall not be transferable. If the dealer moves his business to a different location he shall notify the department of such fact in writing within 48 hours.

12076.(a) The purchaser or transferee of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser or transferee. Any person furnishing a fictitious name or address or knowingly furnishing any

incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register, on the date of sale or transfer, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento. The third copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale or transfer is made. Where the sale or transfer is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale or transfer is made.

The third copy for firearms, other than pistols, revolvers, or other firearms capable of being concealed upon the person shall be destroyed within five days of receipt and no information shall be compiled therefrom.

(c) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

If the department determines that the purchaser or transferee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or county in which the sale or transfer was made, or if the sale or transfer was made in a district in which there is no municipal police department, the sheriff of the county in which the sale or transfer was made, of that fact.

If the department determines that the copies of the register submitted to it pursuant to subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or transferee or the pistol, revolver, or other firearm to be purchased

* Information on obtaining the register is on page 85

or transferred, or if any fee required pursuant to subdivision (d) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (d), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased or transferred, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(d) The Department of Justice may charge the dealer a fee sufficient to reimburse all of the following:

(1)(A) The department for the cost of furnishing this information. All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section and Section 12289.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by the amendments to Section 8103 of the Welfare and Institutions Code, made by the act which also added this paragraph.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by the amendments to Section 8104 of the Welfare and Institutions Code made by the act which also added this paragraph.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (b) of

Section 550 of the Code of Civil Procedure created by the act which also added this paragraph.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by the act which added paragraph (2) to this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by the act which added paragraph (3) to this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by the act which added paragraph (4) to this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (b) of Section 550 of the Code of Civil Procedure created by the act which added paragraph (5) to this subdivision, and the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code created by the act which added paragraph (6) to this subdivision.

(e) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

12077.(a)(1) The Department of Justice shall prescribe the form of the register described in Section 12074. There shall be two forms of the register with the format set forth in paragraph (2) of this subdivision for pistols, revolvers, and other firearms capable of being concealed upon the

person and the format set forth in paragraph (3) of this subdivision for all firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person.

(2) For pistols, revolvers, and other firearms capable of being concealed upon the person, information contained in the register shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, manufacturer's name if stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, color of the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, and a statement that any person signing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the

register is guilty of a misdemeanor.

(3) For firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, information contained in the register shall be the date and time of sale, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, auction or event waiting period exemption pursuant to subdivision (g) of Section 12078, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, and a statement that any person signing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register is guilty of a misdemeanor.

(b)(1) The original of each dealer's record of sale of a firearm document shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of last transaction and

shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General or agents of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification.

(2) Dealers shall use ink to complete each document.

(3) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(4) Each original shall contain instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(5) One firearm transaction shall be reported on each record of sale document.

(c) As used in this section, the following definitions shall control:

(1) "Purchaser" means the purchaser or transferee of a firearm.

(2) "Purchase" means the purchase or transfer of a firearm.

12078.(a) The preceding provisions of this article do not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties, nor to deliveries, transfers, or sales of firearms made to authorized representatives of cities, cities and counties, counties, state or federal governments for use by those governmental agencies. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and authorizing the purchase or transfer. The certification shall be delivered to the seller or transferor at the time of purchase and transfer and the

purchaser or transferee shall identify himself or herself as the person authorized in the certification. On the day the sale, delivery, or transfer is made, where a peace officer is receiving the firearm, and either a dealer is not the seller or transferor, or is not otherwise the person responsible for the delivery of the firearm, or the transfer or sale is not conducted through a law enforcement agency pursuant to Section 12084, the peace officer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the seller or transferor, the buyer or transferee, and the firearm as is indicated in Section 12077. On the day the sale, delivery, or transfer is made, where a dealer is the seller, transferor, or otherwise responsible for delivery of the firearm, the dealer shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer or transferee and the firearm as is indicated in Section 12077. On the day the sale, delivery, or transfer is made, where the transfer is conducted pursuant to Section 12084, the law enforcement agency shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the buyer or transferee and the firearm as is indicated in Section 12084. The reports which peace officers shall complete shall be provided to them by the department at cost. All receipts from the sale of these forms shall be deposited into the Dealer's Record of Sale Special Account of the General Fund. No report need be submitted to the Department of Justice where a peace officer receiving the firearm received it from his or her employer in accordance with the applicable rules, regulations, or procedures of the employer.

(b) Section 12070 and subdivisions (c) and (d) of Section 12072 shall not apply to deliveries, sales, or transfers of firearms between or to importers and manufacturers of firearms licensed to engage in such business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(c) Subdivision (d) of Section 12072 shall not apply to infrequent transfers of firearms by gift,

bequest, intestate succession, or other means by one individual to another where both individuals are members of the same immediate family.

As used in this subdivision, immediate family member includes the third lineal degree of consanguinity.

(d) Subdivision (d) of Section 12072 shall not apply to the infrequent loan of firearms between persons who are personally known to each other for any lawful purpose, if the loan does not exceed 30 days in duration.

(e) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery of a firearm to a gunsmith for service or repair.

(f) Section 12070 shall not apply to the sale, delivery, or transfer of firearms by manufacturers or importers licensed pursuant to Chapter 44 (commencing with Section 921) of Chapter 18 of the United States Code and the regulations issued pursuant thereto to dealers licensed pursuant to Section 12071.

(g) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a pistol, revolver, or other firearm capable of being concealed upon the person, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

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

(2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, if the firearm is donated for an auction or similar event described in paragraph (1) and the firearm is delivered to the

nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 shall not apply to a dealer who delivers a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within 48 hours of the sale, delivery, or transfer, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in paragraph (3) of subdivision (a) of Section 12077.

(h) Section 12070 and subdivision (d) of Section 12072 shall not apply to the loan of a firearm for the purposes of shooting at targets if the loan occurs on the premises of a target facility which holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

***12080.** (a) The Department of Justice shall prepare a pamphlet which summarizes California

firearms laws as they pertain to persons other than law enforcement officers or members of the armed services.

(b) The pamphlet shall include the following matters:

- (1) Lawful possession.
- (2) Licensing procedures.
- (3) Transportation and use of firearms.
- (4) Acquisition of hunting licenses.
- (5) The safe handling and use of firearms.
- (6) Various methods of safe storage and child proofing of firearms.
- (7) The availability of firearms safety programs and devices.
- (8) The responsibilities of firearms ownership.

** Information on obtaining this pamphlet is on page 86*

(9) The operation of various types of firearms.

(10) The lawful use of deadly force.

(c) The department shall offer copies of the pamphlet at actual cost to firearms dealers licensed pursuant to Section 12071 who shall have copies of the most current version available for sale to retail purchasers or transferees of firearms. The cost of the pamphlet, if any, may be added to the sale price of the firearm. Other interested parties may purchase copies directly from the Department of General Services. The pamphlet shall declare that it is merely intended to provide a general summary of laws applicable to firearms and is not designed to provide individual guidance for specific areas. Individuals having specific questions shall be directed to contact their local law enforcement agency or private counsel.

(d) The Department of Justice or any other public entity shall be immune from any liability arising from the drafting, publication, or dissemination of the pamphlet or any reliance upon it. All receipts from the sale of these pamphlets shall be deposited as reimbursements to the support appropriation for the Department of Justice.

12081. (a) A party may sell, deliver, or otherwise transfer a firearm to a person licensed under Section 12071 without waiting to deliver the firearm until the conclusion of the waiting period described in Section 12071 or 12072.

(b) A basic firearms safety certificate shall not be required for any of the following transactions:

(1) The sale, transfer, or delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to a dealer licensed pursuant to Section 12071.

(2) The sale, transfer, or delivery of a pistol, revolver, or other firearm capable of being concealed upon the person between or to importers and manufacturers of firearms licensed to engage in that business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(3) The sale, transfer, or delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to an active member of

the United States Armed Forces, the National Guard, the Air National Guard, and the active reserve components of the United States, who is properly identified. For purposes of this paragraph, proper identification includes the Armed Forces Identification Card, or other written documents certifying that the person is an active member of the United States Armed Forces, the National Guard, the Air National Guard, or the active reserve components of the United States.

(4) The sale, transfer, or delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to any person honorably discharged from the United States Armed Forces, the National Guard, the Air National Guard, or active reserve components of the United States who is properly identified. For purposes of this paragraph, proper identification includes a Retired Armed Forces Identification Card, or other written document certifying the person as being honorably discharged.

(5) The sale, transfer, or delivery of a pistol, revolver, or other firearm capable of being concealed upon the person to any of the following persons who are properly identified:

(A) Any California or federal peace officer who is authorized to carry a firearm while on duty.

(B) Any honorably retired peace officer, as defined in Section 830.1, 830.2, or subdivision (c) of Section 830.5.

(C) Any honorably retired federal officers or agents who were authorized to, and did, carry firearms in the course and scope of their duties and are authorized to carry firearms pursuant to subdivision (i) of Section 12027.

(D) Any persons who have permits to carry concealed weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1.

(E) Any persons who have a certificate of competency or a certificate of completion in hunter safety as provided in Article 2.5 (commencing with Section 3049) of Chapter 1 of Part 1 of Division 4 of the Fish and Game Code, which bears a hunter safety instruction validation stamp affixed thereto.

(F) Any person who holds a valid hunting license issued by the State of California.

(G) Any person who is authorized to carry loaded firearms pursuant to subdivision (c) or (d) of Section 12031.

(H) Any person who has been issued a certificate pursuant to Section 12033.

(I) Any basic firearms safety instructor certified by the department pursuant to Section 12805.

(J) Persons who are properly identified as authorized participants in shooting matches approved by the Director of Civilian Marksmanship pursuant to the applicable provisions of Title 10 of the United States Code.

(K) Persons who have successfully completed the course of training specified in Section 832.

***12082.** A person shall complete any sale or other transfer of a firearm through a dealer licensed pursuant to Section 12071 in accordance with this section in order to comply with subdivision

(d) of Section 12072. The Attorney General shall adopt regulations under this section to allow the seller or transferor and the purchaser or transferee to complete a sale or other transfer through a dealer, and to allow those persons and the dealer to comply with the requirements of this section and of Sections 12071, 12072, 12076, and 12077 and to preserve the confidentiality of records. The register shall state the name and address of the seller or transferor of the firearm

in addition to any other information required by Section 12077. The seller or transferor shall deliver the firearm to the dealer who shall retain possession of that firearm. The dealer shall then deliver the firearm to the purchaser or transferee, if it is not prohibited, in accordance with the provisions of subdivision (c) of Section 12072. If the dealer cannot legally transfer the firearm to the purchaser or transferee, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 12071 and 12072, return the firearm to the transferor or seller. The dealer shall not return the firearm to the seller or transferor when to do so would constitute a violation of subdivision (a) of Section

12072. If the dealer cannot legally return the firearm to the transferor or seller, then the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county who shall then dispose of the firearm in the manner provided by Sections 12028 and 12032. The purchaser or transferee may be required by the dealer to pay a fee not to exceed ten dollars (\$10), plus the fee which the Department of Justice may charge pursuant to subdivision (d) of Section 12076. Nothing in these provisions shall prevent a dealer from charging a smaller fee. The fee that the department may charge is the fee that would be applicable pursuant to subdivision (d) of Section 12076, if the dealer was selling, transferring, or delivering a firearm to a purchaser or transferee without any other parties being involved in the transaction.

A violation of this section by a dealer is a misdemeanor.

12083.(a) The Department of Justice shall undertake a feasibility study concerning proposed changes in firearm statutes, particularly as they relate to this article, which would accomplish the following:

(1) Introduce a system whereby licensed firearm dealers may utilize an 800 hotline telephone number or a 976 telephone number in order to contact the Department of Justice to determine the eligibility of a person to purchase and possess a firearm.

(2) Reduce the current 15-day waiting period to a lesser waiting period as the result of the introduction of automation, computerization, or other devices or means which have increased efficiency in screening the eligibility of persons to purchase and possess firearms.

(3) Establish a licensing procedure allowing individuals who possess particular kinds of identification and have certain personal historical background, including, for example, completion of a hunter safety course, to obtain a firearm without being subject to a background check for eligibility.

(4) If the federal government develops a system

* *Public Policy of State is on page 85*

for immediate and accurate identification of felons, as described in Section 6213 of Public Law 100-690¹, establish a means for the Department of Justice to utilize that system.

(5) Implement a system whereby a firearm purchaser utilizes a record check similar to those checks utilized by private credit reporting agencies.

(6) Incorporate private entities into the background check process by the use of bonding requirements, employing private credit reporting procedures, and by adopting similar methods and procedures.

(7) Revise existing statutory licensing requirements in order that local licensing authorities implement essentially uniform licensing procedures under Section 12071.

(8) Revise the intrafamilial firearms exemption as created by subdivision (c) of Section 12078 to determine whether the exemption needs to be clarified.

(b) The Department of Justice shall provide the results of this feasibility study to the Legislature on or before July 1, 1991.

(c) The intent of this section is to encourage the rapid development and deployment of an alternative background check system by which it may be determined if prospective purchasers of all firearms are ineligible to purchase or possess a firearm. The full deployment of an alternative background check system is highly desirable and may greatly reduce, if not eliminate, the need for California to administer the existing background check system, as authorized by this article.

¹18 U.S.C.A. § 922, note.

12084.(a) As used in this section, the following definitions shall control:

(1) "Agency" means a sheriff's department in a county of less than 200,000 persons, according to the most recent federal decennial census which elects to process purchases, sales, or transfers of firearms.

(2) "Seller" means the seller or transferor of a firearm.

(3) "Purchaser" means the purchaser or transferee of a firearm.

(4) "Purchase" means the purchase, sale, or transfer of a firearm.

(5) "Department" means the Department of Justice.

(6) "LEFT" means the Law Enforcement Firearms Transfer Form consisting of the transfer form utilized to purchase a firearm in accordance with this section.

(b) As an alternative to completing the sale or transfer of a firearm through a licensed dealer pursuant to Section 12082 in order to comply with the provisions of subdivision (d) of Section 12072, the parties to the purchase of a firearm may complete the transaction through an agency in accordance with this section in order to comply with the provisions of subdivision (d) of Section 12072.

(c) (1) LEFTs shall be prepared by the State Printer and shall be furnished to agencies on application at a cost to be determined by the Department of General Services for each 100 leaves in quintuplicate, one original and four duplicates for the making of carbon copies. The original and duplicate copies shall differ in color, and shall be in the form provided by this section. The State Printer, upon issuing the LEFT, shall forward to the department the name and address of the agency together with the series and sheet numbers on the LEFT. The LEFT shall not be transferable.

(2) The department shall prescribe the form of the LEFT. It shall be in the same exact format set forth in Sections 12077 and 12082, with the same distinct formats for firearms that are pistols, revolvers, and other firearms capable of being concealed upon the person and for firearms that are not pistols, revolvers, and other firearms capable of being concealed upon the person, except that instead of the listing of information concerning a dealer, the LEFT shall contain the name, telephone number, and address of the law enforcement agency.

(3) The original of each LEFT shall be retained in consecutive order. Each book of 50 originals shall become the permanent record of transactions that shall be retained not less than three years from the date of the last transaction and shall be

provided for the inspection of any peace officer, department employee designated by the Attorney General, or agents of the federal Bureau of Alcohol, Tobacco and Firearms upon the presentation of proper identification.

(4) Ink shall be used to complete each LEFT. The agency shall ensure that all information is provided legibly. The purchaser and seller shall be informed that incomplete or illegible information delays purchases.

(5) Each original LEFT shall contain instructions regarding the procedure for completion of the form and the routing of the form. The agency shall comply with these instructions which shall include the information set forth in this subdivision.

(6) One firearm transaction shall be reported on each LEFT.

(d) The following procedures shall be followed in processing the purchase:

(1) Without waiting for the conclusion of any waiting period to elapse, the seller shall immediately deliver the firearm to the agency solely to complete the LEFT. Upon completion of the LEFT, the firearm shall be immediately returned by the agency to the seller without waiting for the waiting period to elapse.

(2) The purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the agency. The agency shall require the purchaser to complete the original and one copy of the LEFT. An employee of the agency shall then affix his or her signature as a witness to the signature and identification of the purchaser.

(3) Two copies of the LEFT shall, on that date of purchase, be placed in the mail, postage prepaid to the department at Sacramento. The third copy shall be provided to the purchaser and the fourth copy to the seller.

(4) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 or

the Welfare and Institutions Code.

(5) If the department determines that the copies of the LEFT submitted to it pursuant to paragraph (3) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the firearm to be purchased, or if any fee required pursuant to paragraph (6) is not submitted by the agency in conjunction with submission of the copies of the LEFT, or if the department determines that the person is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the agency of that fact. Upon notification by the department, the purchaser shall submit any fee required pursuant to paragraph (6), as appropriate, and if notification by the department is received by the agency at any time prior to delivery of the firearm, the delivery of the firearm shall be withheld until the conclusion of the waiting period described in paragraph (7).

(6) The department and the agency may both charge a fee not to exceed the actual cost of processing the purchaser sufficient to reimburse both of the following:

(A) The agency for processing the transfer.

(B) The department for providing the information. The department shall charge the same fee as it would charge a dealer pursuant to Section 12082. All sums received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund.

(7) The firearm shall not be delivered to the purchaser as follows:

(A) Prior to January 1, 1996, within 15 days of application for the purchase or, after notice by the department pursuant to paragraph (5), within 15 days of the submission to the department of any fees required pursuant to this subdivision, or within 15 days of a corrected LEFT, whichever is later. On or after January 1, 1996, within 15 days of the application for the purchase of a pistol, revolver, or other firearm capable of being concealed upon the person, or after notice by the department pursuant to paragraph (5), within 15

days of the submission to the department of any fees required pursuant to this subdivision, or within 15 days of the submission to the department of corrected copies of the LEFT, whichever is later. On or after January 1, 1996, within 10 days of the application for purchase of a firearm other than a pistol, revolver, or other firearm capable of being concealed upon the person, or after notice by the department pursuant to paragraph (5), or within 10 days of submission to the department of any fees required pursuant to this subdivision, or within 10 days of the submission to the department of corrected copies of the LEFT, whichever is later.

(B) Unless unloaded.

(C) In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, unless securely wrapped or in a locked container.

(D) Unless the purchaser presents clear evidence of his or her identity and age to the agency.

(E) Whenever the agency is notified by the department that the person is in a prohibited class described in Section 12021 or 12021.1 or Section 8100 or 8103 of the Welfare and Institutions Code.

(F) Unless done at the agency's premises.

(G) In the case of a pistol, revolver, or other firearm capable of being concealed upon the person, commencing July 1, 1993, unless the purchaser presents to the seller a basic firearm safety certificate.

(e) The action of a law enforcement agency acting pursuant to Section 12084 shall be deemed to be a discretionary act within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(f) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, its acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(g) Any person furnishing a fictitious name or

address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the LEFT is guilty of a misdemeanor.

ARTICLE 5. OBLITERATION OF IDENTIFICATION MARKS

12090. Any person who changes, alters, removes or obliterates the name of the maker, model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice on any pistol, revolver, or any other firearm, without first having secured written permission from the department to make such change, alteration or removal shall be punished by imprisonment in the state prison.

12091. Possession of any pistol or revolver upon which the name of the maker, model, manufacturer's number or other mark of identification has been changed, altered, removed, or obliterated, shall be presumptive evidence that the possessor has changed, altered, removed, or obliterated the same.

12092. The Department of Justice upon request may assign a distinguishing number or mark of identification to any pistol or revolver whenever it is without a manufacturer's number, or other mark of identification or whenever the manufacturer's number or other mark of identification or the distinguishing number or mark assigned by the department has been destroyed or obliterated.

12093. Any person may place or stamp on any pistol, revolver, or other firearm any number or identifying indicium, provided the number or identifying indicium does not change, alter, remove, or obliterate the manufacturer's name, number, model, or other mark of identification. This section does not prohibit restoration by the owner of the name of the maker, model, or the original manufacturer's number or other mark of

identification when such restoration is authorized by the department, nor prevent any manufacturer from placing in the ordinary course of business the name of the maker, model, manufacturer's number, or other mark of identification upon a new firearm.

12094. Any person with knowledge of any change, alteration, removal, or obliteration described herein, who buys, receives, disposes of, sells, offers for sale, or has in his possession any pistol, revolver, or other firearm which has had the name of the maker, model, or the manufacturer's number or other mark of identification including any distinguishing number or mark assigned by the Department of Justice changed, altered, removed, or obliterated is guilty of a misdemeanor.

ARTICLE 6. PERMITS

12095.(a) If it finds that it does not endanger the public safety, the Department of Justice may issue permits initially valid for a period of one year, and renewable annually thereafter, for the manufacture, possession, transportation, or sale, of short-barreled shotguns or short-barreled rifles upon a showing that good cause exists for the issuance thereof to the applicant for the permit. No permit shall be issued to a person who is under 18 years of age.

(b) Good cause, for the purposes of this section, shall be limited to only the following:

(1) The permit is sought for the manufacture, possession, or use with blank cartridges, of a short-barreled rifle or short-barreled shotgun, solely as props for a motion picture, television, or video production or entertainment event.

(2) The permit is sought for the manufacture of, exposing for sale, keeping for sale, sale of, importation or lending of short-barreled rifles or short-barreled shotguns to the entities listed in paragraph (1) of subdivision (b) of Section 12020 by persons who are licensed as dealers or manufacturers under the provisions of Chapter 53 (commencing with Section 5801) of Title 26 of the

United States Code, as amended, and the regulations issued pursuant thereto.

12096. Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the short-barreled shotguns or short-barreled rifles are to be put.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

12097.(a) Every person, firm or corporation to whom a permit is issued shall keep it on his or her person or at the place where the short-barreled shotguns or short-barreled rifles are kept. The permit shall be open to inspection by any peace officer or any other person designated by the authority issuing the permit.

(b) Every short-barreled shotgun or short-barreled rifle possessed pursuant to the provisions of this article shall bear a unique identifying number. If a weapon does not bear a unique identifying number, the Department of Justice shall assign such a number which shall be placed or stamped on that weapon.

12098. Permits issued in accordance with this article may be revoked by the issuing authority at any time when it appears that the need for the short-barreled shotguns or short-barreled rifles has ceased or that the holder of the permit has used the short-barreled shotguns or short-barreled rifles for purposes other than those allowed by the permit or that the holder of the permit has not exercised great care in retaining custody of any weapons possessed under the permit.

ARTICLE 7. JUVENILES

12100.(a) No person or corporation shall sell any pistol, revolver, or other firearm capable of being concealed upon the person to any minor.

(b) No person or corporation shall furnish, give, or otherwise transfer possession of any pistol, revolver, or other firearm capable of being concealed upon the person to any minor without the prior written consent or implied permission of a parent or legal guardian. The written consent shall be presented to the person or corporation at the time of the furnishing, giving, or other transfer of legal possession.

(c) (1) Every person who violates this section is guilty of a misdemeanor.

(2) A person is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, if one of the following applies:

(A) He or she violates this section or Section 12072 and has been convicted previously of violating this section or Section 12072.

(B) He or she violates this section or Section 12072 and has been convicted previously of violating Section 8101 of the Welfare and Institutions Code or of a crime set forth in subdivision (b) of Section 12021.1 or in Section 12020, 12220, 12520, or 12560.

(C) He or she violates this section or Section 12072 and is in a prohibited class described in Section 12021 or 12021.1 of this code or in Section 8100 or 8103 of the Welfare and Institutions Code.

(3) A person convicted of a second or subsequent violation of this section, Section 12072 of this code, or Section 8101 of the Welfare and

Institutions Code may be granted probation only in an unusual case where the interests of justice would best be served. When probation is granted, the court shall specify on the record and shall enter in the minutes the circumstances indicating that the interests of justice would best be served by that disposition. Except as provided in this paragraph, probation shall not be granted, nor shall the execution or imposition of sentence be suspended for any person who has been convicted previously of this section, Section 12072 of this code, or Section 8101 of the Welfare and Institutions Code.

12101.(a) A minor may not possess a pistol, revolver, or other firearm capable of being concealed upon the person unless he or she has the written consent of his or her parent or legal guardian or unless he or she is accompanied by his or her parent or legal guardian, while he or she has such firearm in his or her possession.

(b) A minor may not possess live ammunition unless he or she has the written consent of his or her parent or legal guardian or is accompanied by his or her parent or legal guardian, except while going to or from an organized lawful recreational or competitive shooting activity or lawful hunting activity.

(c) Every minor who violates this section is guilty of a misdemeanor. Every minor who violates this section is punishable upon the second and each subsequent conviction by imprisonment in a state prison or in a county jail not exceeding one year. Every minor who violates this section, upon a second or subsequent conviction, and every minor who violates this section and who has been convicted previously of a crime set forth in subdivision (b) of Section 12021.1 or in Section 12020, 12220, 12520, or 12560, is punishable by imprisonment in a state prison or in a county jail not exceeding one year.

NOTE: A minor is any person under 18 years of age. (Civil Code Section 25.)

CHAPTER 2. MACHINE GUNS

ARTICLE 1. GENERAL PROVISIONS

12200. The term "machinegun" as used in this chapter means any weapon which shoots, or is designed to shoot, automatically, more than one shot, without manual reloading, by a single function of the trigger, and includes any frame or receiver which can only be used with that weapon. The term also includes any part or combination of parts designed and intended for use in converting a weapon into a machinegun. The term also includes any weapon deemed by the federal Bureau of Alcohol, Tobacco, and Firearms as readily convertible to a machinegun under Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code.

12201. Nothing in this chapter shall prohibit the sale to, purchase by, or possession of machineguns by police departments, sheriff's offices, city marshal's offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this State or of the United States for use in the discharge of their official duties; nor shall anything in this chapter prohibit the possession of machineguns by regular, salaried, full-time members of a police department, sheriff's office, city marshal's office, the California Highway Patrol, or the Department of Justice when on duty and their use is within the scope of their duties.

ARTICLE 2. UNLAWFUL POSSESSION OF MACHINE GUNS

12220.(a) Any person, firm or corporation, who within this state possesses or knowingly transports a machinegun, except as authorized by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison, or by a fine not to exceed ten thousand dollars (\$10,000), or by both such fine and imprisonment.

(b) Any person, firm, or corporation who within this state intentionally converts a firearm into a machinegun, or who sells, or offers for sale,

or knowingly manufactures a machinegun, except as authorized by this chapter, is punishable by imprisonment in the state prison for four, six, or eight years.

ARTICLE 3. PERMITS

12230. The Department of Justice may issue permits for the possession, manufacture, and transportation or possession, manufacture, or transportation of machineguns, upon a satisfactory showing that good cause exists for the issuance thereof to the applicant for the permit but no permit shall be issued to a person who is under 18 years of age.

12231. Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the firearms are to be put.

Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

12232. Every person, firm or corporation to whom a permit is issued shall keep it on his person or at the place where the firearms are kept. The

permit shall be open to inspection by any peace officer or any other person designated by the authority issuing the permit.

12233. Permits issued in accordance with this chapter may be revoked by the issuing authority at any time when it appears that the need for the firearms has ceased or that the holder of the permit has used the firearms for purposes other than those allowed by the permit or that the holder of the permit has not exercised great care in retaining custody of any weapons possessed under the permit.

ARTICLE 4. LICENSES TO SELL MACHINE GUNS

12250.(a) The Department of Justice may grant licenses in a form to be prescribed by it effective for not more than one year from the date of issuance, to permit the sale at the place specified in the license of machineguns subject to all of the following conditions, upon breach of any of which the license shall be revoked:

1. The business shall be carried on only in the place designated in the license.

2. The license or a certified copy thereof must be displayed on the premises in a place where it may easily be read.

3. No machinegun shall be delivered to any person not authorized to receive the same under the provisions of this chapter.

4. A complete record must be kept of sales made under the authority of the license, showing the name and address of the purchaser, the descriptions and serial numbers of the weapons purchased, the number and date of issue of the purchaser's permit, if any, and the signature of the purchaser or purchasing agent. This record shall be open to the inspection of any peace officer or other person designated by the Attorney General.

(b) Applications for licenses shall be filed in writing, signed by the applicant if an individual or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state

the name, business in which engaged, business address and a full description of the use to which the firearms are to be put.

Applications and licenses shall be uniform throughout the state on forms prescribed by the Department of Justice.

Each applicant for a license shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A license granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a license renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

12251. It shall be a public nuisance to possess any machinegun in violation of this chapter, and the Attorney General, any district attorney or any city attorney may bring an action before the superior court to enjoin the possession of any such machinegun.

Any such machinegun found to be in violation of this chapter shall be surrendered to the Department of Justice, and the department shall destroy such machinegun so as to render it unusable and unrepairable as a machinegun, except upon the filing of a certificate with the department by a judge or district attorney stating that the preservation of such machinegun is necessary to serve the ends of justice.

CHAPTER 2.3. ROBERTI-ROOS ASSAULT WEAPONS CONTROL ACT OF 1989

ARTICLE 1. GENERAL PROVISIONS

12275. This chapter shall be known as the Roberti-Roos Assault Weapons Control Act of 1989.

12275.5. The Legislature hereby finds and declares that the proliferation and use of assault weapons poses a threat to the health, safety, and security of all citizens of this state. The Legislature has restricted the assault weapons specified in Section 12276 based upon finding that each firearm has such a high rate of fire and capacity for firepower that its function as a legitimate sports or recreational firearm is substantially outweighed by the danger that it can be used to kill and injure human beings. It is the intent of the Legislature in enacting this chapter to place restrictions on the use of assault weapons and to establish a registration and permit procedure for their lawful sale and possession. It is not, however, the intent of the Legislature by this chapter to place restrictions on the use of those weapons which are primarily designed and intended for hunting, target practice, or other legitimate sports or recreational activities.

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

(a) All of the following specified rifles:

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

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

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

(C) Poly Technologies AKS and AK47.

(D) MAADI AK47 and ARM.

(2) UZI and Galil.

(3) Baretta AR-70.

(4) CETME Sporter.

(5) Colt AR-15 series.

(6) Daewoo K-1, K-2, Max 1, Max 2, AR 100,

and AR110C.

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

(8) MAS 223.

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

(10) The following MAC types:

(A) RPB Industries Inc. sM10 and sM11.

(B) SWD Incorporated M11.

(11) SKS with detachable magazine.

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

(13) Springfield Armory BM59 AND SAR-48.

(14) Sterling MK-6.

(15) Steyer AUG.

(16) Valmet M62S, M71S, and M78S.

(17) Armalite AR-180.

(18) Bushmaster Assault Rifle.

(19) Calico M-900.

(20) J&R ENG M-68.

(21) Weaver Arms Nighthawk.

(b) All of the following specified pistols:

(1) UZI.

(2) Encom MP-9 and MP-45.

(3) The following MAC types:

(A) RPB Industries Inc. sM10 and sM11.

(B) SWD Incorporated M-11.

(C) Advance Armament Inc. M-11.

(D) Military Armament Corp. Ingram M-11.

(4) Intratec TEC-9.

(5) Sites Spectre.

(6) Sterling MK-7.

(7) Calico M-950.

(8) Bushmaster Pistol.

(c) All of the following specified shotguns:

(1) Franchi SPAS 12 and LAW 12.

(2) Striker 12.

(3) The Streetsweeper type S/S Inc. SS/12.

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

(e) The term "series" includes all other models that are only variations, with minor differences, of those models listed in subdivision (a), regardless of the manufacturer.

(f) This section is declaratory of existing law, as amended, and a clarification of the law and the Legislatures's intent which bans the weapons

enumerated in this section, the weapons included in the list promulgated by the Attorney General pursuant to Section 12276.5, and any other models which are only variations of those weapons with minor differences, regardless of the manufacturer. The Legislature has defined assault weapons as the types, series, and models listed in this section because it was the most effective way to identify and restrict a specific class of semiautomatic weapons.

12276.5.(a) Upon request by the Attorney General filed in a verified petition in a superior court of a county with a population of more than 1,000,000, the superior court shall issue a declaration of temporary suspension of the manufacture, sale, distribution, transportation, or importation into the state, or the giving or lending of a firearm alleged to be an assault weapon within the meaning of Section 12276 because the firearm is either of the following:

(1) Another model by the same manufacturer or a copy by another manufacturer of an assault weapon listed in subdivision (a), (b), or (c) of Section 12276 which is identical to one of the assault weapons listed in those subdivisions except for slight modifications or enhancements including, but not limited to: a folding or retractable stock; adjustable sight; case deflector for left-handed shooters; shorter barrel; wooden, plastic or metal stock; larger magazine size; different caliber provided that the caliber exceeds .22 rimfire; or bayonet mount. The court shall strictly construe this paragraph so that a firearm which is merely similar in appearance but not a prototype or copy can not be found to be within the meaning of this paragraph.

(2) A firearm first manufactured or sold to the general public in California after June 1, 1989, which has been redesigned, renamed, or renumbered from one of the firearms listed in subdivision (a), (b), or (c) of Section 12276, or which is manufactured or sold by another company under a licensing agreement to manufacture or sell one of the firearms listed in subdivision (a), (b), or (c) of Section 12276, regardless of the company of production or distribution, or the

country or origin.

(b) Upon the issuance of a declaration of temporary suspension by the superior court and after the Attorney General has completed the notice requirements of subdivisions (c) and (d), the provisions of subdivision (a) of Section 12280 shall apply with respect to those weapons.

(c) Upon declaration of temporary suspension, the Attorney General shall immediately notify all police, sheriffs, district attorneys, and those requesting notice pursuant to subdivision (d), shall notify industry and association publications for those who manufacture, sell, or use firearms, and shall publish notice in not less than 10 newspapers of general circulation in geographically diverse sections of the state of the fact that the declaration has been issued.

(d) The Attorney General shall maintain a list of any persons who request to receive notice of any declaration of temporary suspension and shall furnish notice under subdivision (c) to all these persons immediately upon a superior court declaration. Notice shall also be furnished by the Attorney General by certified mail, return receipt requested (or substantial equivalent if the person who is to receive the notice resides outside the United States), to any known manufacturer and California distributor of the weapon which is the subject of the temporary suspension order or their California statutory agent for service. The notice shall be deemed effective upon mailing.

(e) After issuing a declaration of temporary suspension under this section, the superior court shall set a date for hearing on a permanent declaration that the weapon is an assault weapon. The hearing shall be set no later than 30 days from the date of issuance of the declaration of temporary suspension. The hearing may be continued for good cause thereafter. Any manufacturer or California distributor of the weapon which is the subject of the temporary suspension order has the right, within 20 days of notification of the issuance of the order, to intervene in the action. Any manufacturer or California distributor who fails to timely exercise its right of intervention, or any other person who manufactures, sells, or owns the assault weapon may, in the court's

discretion, thereafter join the action as amicus curiae.

(f) At the hearing, the burden of proof is upon the Attorney General to show by a preponderance of evidence that the weapon which is the subject of the declaration of temporary suspension is an assault weapon. If the court finds the weapon to be an assault weapon, it shall issue a declaration that it is an assault weapon under Section 12276. Any party to the matter may appeal the court's decision. A declaration that the weapon is an assault weapon shall remain in effect during the pendency of the appeal unless ordered otherwise by the appellate court.

(g) The Attorney General shall prepare a description for identification purposes, including a picture or diagram, of each assault weapon listed in Section 12276, and any firearm declared to be an assault weapon pursuant to this section, and shall distribute the description to all law enforcement agencies responsible for enforcement of this chapter. Those law enforcement agencies shall make the description available to all agency personnel.

(h) The Attorney General shall promulgate a list that specifies all firearms designated as assault weapons in Section 12276 or declared to be assault weapons pursuant to this section. The Attorney General shall file that list with Secretary of State for publication in the California Code of Regulations. Any declaration that a specified firearm is an assault weapon shall be implemented by the Attorney General who, within 90 days, shall promulgate an amended list which shall include the specified firearm declared to be an assault weapon. The Attorney General shall file the amended list with the Secretary of State for publication in the California Code of Regulations.

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

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

12277. As used in this chapter, "person" means an individual, partnership, corporation, association, or any other group or entity, regardless of how it was created.

ARTICLE 2. UNLAWFUL ACTIVITIES

12280.(a)(1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in a county jail, not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to the date it was specified as an assault weapon, and has since either registered the firearm and any other lawfully obtained firearm subject to this chapter pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction punishable by a fine of up to five hundred dollars (\$500), but not less than three hundred fifty dollars (\$350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) Notwithstanding Section 654 or any other provision of law, any person who commits another

crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(d) Subdivisions (a) and (b) shall not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Department of Corrections, the California Highway Patrol, the California State Police, district attorneys' offices, or the military or naval forces of this state or of the United States for use in the discharge of their official duties; nor shall anything in this chapter prohibit the possession or use of assault weapons by sworn members of these agencies when on duty and the use is within the scope of their duties.

(e) Subdivision (b) shall not apply to the possession of an assault weapon by any person during the 1990 calendar year, or during the 90-day period immediately after the date it was specified as an assault weapon, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon by January 1, 1991.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989, or prior to the date it was specified as an assault weapon.

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

(f) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (d).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of

other states.

(6) Foreign governments and agencies approved by the United States State Department.

(g) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 which is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(h) Subdivision (b) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285, if the assault weapon is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(i) Subdivision (a) shall not apply to:

(1) A person who lawfully possesses and has registered an assault weapon pursuant to this chapter who lends that assault weapon to another if all the following apply:

(A) The person to whom the assault weapon is lent is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person to whom the assault weapon is lent remains in the presence of the registered possessor of the assault weapon.

(C) The assault weapon is possessed at any of the following locations:

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

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

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

(2) The return of an assault weapon to the registered possessor which is lent by the same

pursuant to paragraph (1).

(j) Subdivision (b) shall not apply to the possession of an assault weapon by a person to whom an assault weapon is lent pursuant to subdivision (i).

(k) As used in this chapter, the date a firearm is "specified as an assault weapon" is the earliest of the following:

(1) The effective date of an amendment to Section 12276 which adds the designation of the specified firearm.

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

ARTICLE 3. REGISTRATION AND PERMITS

12285.(a) Any person who lawfully possesses an assault weapon, as defined in Section 12276, prior to June 1, 1989, shall register the firearm by January 1, 1991, and any person who lawfully possessed an assault weapon prior to the date it was specified as an assault weapon pursuant to Section 12276.5 shall register the firearm with 90 days, with the Department of Justice pursuant to those procedures which the department may establish. The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information as the department may deem appropriate. The department may charge a fee for registration of up to twenty dollars (\$20) per person but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act.

(b) No assault weapon possessed pursuant to this section may be sold or transferred on or after January 1, 1990, to anyone within this state other than to a licensed gun dealer, as defined in

subdivision (c) of Section 12290, or as provided in Section 12288. Any person who (1) obtains title to an assault weapon registered under this section by bequest or intestate succession, (2) moves into the state in lawful possession of an assault weapon, or (3) lawfully possessed a firearm subsequently declared to be an assault weapon pursuant to Section 12276.5, shall, within 90 days, either render the weapon permanently inoperable, sell the weapon to a licensed gun dealer, obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, or remove the weapon from this state. A person who lawfully possessed a firearm which was subsequently declared to be an assault weapon pursuant to Section 12276.5 may alternatively register the firearm within 90 days of the declaration issued pursuant to subdivision (f) of Section 12276.5.

(c) A person who has registered an assault weapon under this section may possess it only under the following conditions unless a permit allowing additional uses is first obtained under Section 12286:

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

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

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

(4) While on the premises of a shooting club which is licensed pursuant to the Fish and Game Code.

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

(6) While transporting the assault weapon between any of the places mentioned in this subdivision, or to any licensed gun dealer, as

defined in subdivision (c) of Section 12290, for servicing or repair pursuant to subdivision (b) of Section 12290, if the assault weapon is transported as required by Section 12026.1.

(d) No person who is under the age of 18 years, no person who is prohibited from possessing a firearm by Section 12021 or 12021.1 of this code, and no person described in Section 8100 or 8103 of the Welfare and Institutions Code may register or possess an assault weapon.

(e) The department's registration procedures shall provide the option of joint registration for assault weapons owned by family members residing in the same household.

(f) For 90 days following the effective date of Senate Bill 263 of the 1991-92 Regular Session, a forgiveness period shall exist to allow persons specified in subdivision (b) of Section 12280 to register with the Department of Justice assault weapons which they lawfully possessed prior to June 1, 1989.

(g) Any person who registers his or her assault weapon during the 90-day forgiveness period described in subdivision (f), and any person whose registration form was received by the Department of Justice after January 1, 1991, and who was issued a temporary registration prior to the end of the forgiveness period, shall not be charged with a violation of subdivision (b) of Section 12280, if law enforcement becomes aware of that violation only as a result of the registration of the assault weapon. This subdivision shall have no effect upon persons charged with a violation of subdivision (b) of Section 12280 of the Penal Code prior to the effective date of this bill, provided that law enforcement was aware of the violation before the weapon was registered.

12286. Any person who lawfully acquired an assault weapon before June 1, 1989, and wishes to use it in a manner different than specified in subdivision (c) of Section 12285, any person who lawfully acquired an assault weapon between June 1, 1989, and January 1, 1990, and wishes to keep it after January 1, 1990, or any person who wishes to acquire an assault weapon after January 1, 1990, shall first obtain a permit from the Depart-

ment of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

12287.(a) The Department of Justice may, upon a finding of good cause, issue permits for the manufacture of assault weapons to federally licensed manufacturers of firearms for the sale to, purchase by, or possession of assault weapons by, any of the following:

(1) The agencies listed in subdivision (d) of Section 12280.

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal law enforcement and military agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(b) Application for the permits, the keeping and inspection thereof, and the revocation of permits shall be undertaken in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

12288. Any individual may arrange in advance to relinquish an assault weapon to a police or sheriff's department. The assault weapon shall be transported in accordance Section 12026.1.

12289. The Department of Justice shall conduct a public education and notification program regarding the registration of assault weapons, including outreach to local law enforcement agencies and utilization of public service announcements in a variety of media approaches, to ensure maximum publicity of the limited forgiveness period of the registration requirement specified in subdivision (f) of Section 12285 and the consequences of nonregistration. The department shall develop posters describing gunowners' responsibilities under this chapter which shall be

posted in a conspicuous place in every licensed gun store in the state during the forgiveness period.

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

ARTICLE 4. LICENSED GUN DEALERS

12290.(a) Any licensed gun dealer, as defined in subdivision (c), who lawfully possesses an assault weapon pursuant to Section 12285, in addition to the uses allowed in Section 12285, may transport the weapon between dealers or out of the state, display it any gun show licensed by a state or local governmental entity, sell it to a resident outside the state, or sell it to a person who has been issued a permit pursuant to section 12286. Any transporting allowed by this section must be done as required by Section 12026.1.

(b)(1) Any licensed gun dealer, as defined in subdivision (c), may take possession of any assault weapon for the purposes of servicing or repair from any person to whom it is legally registered or who has been issued a permit to possess it pursuant to this chapter.

(2) Any licensed gun dealer may transfer possession of any assault weapon received pursuant to paragraph (1), to a gunsmith for purposes of accomplishing service or repair of the same. Transfers are permissible only to the following persons:

(A) A gunsmith who is in the dealer's employ.

(B) A gunsmith with whom the dealer has contracted for gunsmithing services. In order for this subparagraph to apply, the gunsmith receiving the assault weapon must hold all of the following:

(i) A dealer's license issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(ii) Any business license required by a state or local governmental entity.

(c) The term "licensed gun dealer," as used in this article means a person who has a federal firearms license, any business license required by a state or local governmental entity, and a seller's permit issued by the State Board of Equalization.

CHAPTER 2.5. DESTRUCTIVE DEVICES

12301.(a) The term "destructive device," as used in this chapter, shall include any of the following weapons:

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

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

(3) Any weapon of a caliber greater than .60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun, shotgun ammunition, or an antique cannon. For purposes of this section, the term "antique cannon" means any cannon manufactured before January 1, 1899, which has been rendered incapable of firing or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

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

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

for the purpose of illumination.

(b) The term "explosive," as used in this chapter, shall mean any explosive defined in Section 12000 of the Health and Safety Code.

12302. Nothing in this chapter shall prohibit the sale to, purchase by, possession of, or use of destructive devices by:

(a) Any peace officer listed in Section 830.1 or 830.2, or any peace officer in the Department of Justice authorized by the Attorney General, while on duty and acting within the scope and course of his employment.

(b) Any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of his employment.

Nothing in this chapter shall prohibit the sale to, purchase by, possession by, or use by any person who is a regularly employed and paid officer, employee or member of a fire department or fire protection or firefighting agency of the federal government, the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state, while on duty and acting within the scope and course of his employment, of any equipment used by such department or agency in the course of fire suppression.

12303. Any person, firm, or corporation who, within this state, possesses any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, except as provided by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the county jail for a term not to exceed one year, or in state prison, or by a fine not to exceed ten thousand dollars (\$10,000) or by both such fine and imprisonment.

12303.1. Every person who willfully does any of the following is guilty of a felony and is punishable by imprisonment in the state prison for two, four, or six years:

(a) Carries any explosive or destructive device on any vessel, aircraft, car, or other vehicle that

transports passengers for hire.

(b) Places or carries any explosive or destructive device, while on board any such vessel, aircraft, car or other vehicle, in any hand baggage, roll, or other container.

(c) Places any explosive or destructive device in any baggage which is later checked with any common carrier.

12303.2. Every person who recklessly or maliciously has in his possession any destructive device or any explosive on a public street or highway, in or near any theater, hall, school, college, church, hotel, other public building, or private habitation, in, on, or near any aircraft, railway passenger train, car, cable road or cable car, vessel engaged in carrying passengers for hire, or other public place ordinarily passed by human beings is guilty of a felony, and shall be punishable by imprisonment in the state prison for a period of two, four, or six years.

12303.3. Every person who possesses, explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to injure, intimidate, or terrify any person, or with intent to wrongfully injure or destroy any property, is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

12303.6. Any person, firm or corporation who, within this state, sells, offers for sale, or knowingly transports any destructive device, other than fixed ammunition of a caliber greater than .60 caliber, except as provided by this chapter, is guilty of a felony and is punishable by imprisonment in the state prison for two, three or four years.

12304. Any person, firm or corporation who, within this state, sells, offers for sale, possesses or knowingly transports any fixed ammunition of a caliber greater than .60 caliber, except as provided in this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the county jail for a term not to

exceed six months or by a fine not to exceed one thousand dollars (\$1000), or by both such fine and imprisonment.

A second or subsequent conviction shall be punished by imprisonment in the county jail for a term not to exceed one year, or by imprisonment in the state prison, or by a fine not to exceed three thousand dollars (\$3000), or by both such fine and imprisonment.

12305.(a) Every dealer, manufacturer, importer, and exporter of any destructive device, or any motion picture or television studio using destructive devices in the conduct of its business, shall obtain a permit for the conduct of that business from the Department of Justice.

(b) Any person, firearm, or corporation not mentioned in subdivision (a) shall obtain a permit from the Department of Justice in order to possess or transport any destructive device.

(c) Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the destructive devices are to be put.

(d) Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice.

(e) Each applicant for a permit shall pay at the time of filing his or her application a fee not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient in amount to cover processing costs, the amount of the fees shall only increase at a rate not to exceed the legislatively approved cost-of-living adjustment for the department.

12307. The possession of any destructive device in violation of this chapter shall be deemed

to be a public nuisance and the Attorney General or district attorney of any city, county, or city and county may bring an action before the superior court to enjoin the possession of any such destructive device.

Any such destructive device found to be in violation of this chapter shall be surrendered to the Department of Justice, and the department shall destroy such destructive device so as to render it unusable and unrepairable as a destructive device, except upon the filing of a certificate with the department by a judge or district attorney stating that the preservation of such destructive device is necessary to serve the ends of justice.

12308. Every person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to commit murder is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of five, seven, or nine years.

12309. Every person who willfully and maliciously explodes or ignites any destructive device or any explosive which causes bodily injury to any person is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of five, seven, or nine years.

12310.(a) Every person who willfully and maliciously explodes or ignites any destructive device or any explosive which causes the death of any person is guilty of a felony, and shall be punished by imprisonment in the state prison for life without the possibility of parole.

(b) Every person who willfully and maliciously explodes or ignites any destructive device or any explosive which causes mayhem or great bodily injury to any person is guilty of a felony, and shall be punished by imprisonment in the state prison for life.

12311. No person convicted of a violation of this chapter shall be granted probation, and the execution of the sentence imposed upon such person shall not be suspended by the court.

12312. Every person who possesses any substance, material, or any combination of substances or materials, with the intent to make any destructive device or any explosive without first obtaining a valid permit to make such destructive device or explosive, is guilty of a felony, and is punishable by imprisonment in the state prison for two, three, or four years.

CHAPTER 2.6. AMMUNITION DESIGNED PRIMARILY TO PENETRATE METAL OR ARMOR

12320. Any person, firm, or corporation who, within this state knowingly possesses any handgun ammunition designed primarily to penetrate metal or armor is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for a term not to exceed one year, or by a fine not to exceed five thousand dollars (\$5,000), or by both such fine and imprisonment.

12321. Any person, firm, or corporation who, within this state, manufactures, imports, sells, offers to sell, or knowingly transports any handgun ammunition designed primarily to penetrate metal or armor is guilty of a felony and upon conviction thereof shall be punished by imprisonment in state prison, or by a fine not to exceed five thousand dollars (\$5,000), or by both such fine and imprisonment.

12322. Nothing in this chapter shall prohibit the sale to, purchase by, possession of, or use of any ammunition by any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of his or her employment, or any police agency or forensic laboratory or any person who is the holder of a valid permit issued pursuant to Section 12305.

12323. As used in this chapter, "handgun ammunition" means ammunition principally for use in pistols and revolvers, as defined in Section

12001, notwithstanding that the ammunition may also be used in some rifles.

12324. Nothing in this chapter shall prohibit the possession, importation, sale, attempted sale, or transport of ammunition from which the propellant has been removed and the primer has been permanently deactivated.

12325. Nothing in this chapter shall prohibit the manufacture of ammunition under contracts approved by agencies of the state or federal government.

CHAPTER 3.2 BOOBYTRAPS

12355.(a) Except as provided in Chapter 2.5 (commencing with Section 12301), any person who assembles, maintains, places, or causes to be placed a boobytrap device as described in subdivision (c) is guilty of a felony punishable by imprisonment in the state prison for two, three, or five years.

(b) Possession of any device with the intent to use the device as a boobytrap is punishable by imprisonment in state prison, or in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars (\$5,000), or by both that fine and imprisonment.

(c) For purposes of this section, "boobytrap" means any concealed or camouflaged device designed to cause great bodily injury when triggered by an action of any unsuspecting person coming across the device. Boobytraps may include, but are not limited to, guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wire with hooks attached.

CHAPTER 3.5. BODY ARMOR VEST CERTIFICATION

12360. No body armor shall be acquired by the commissioner pursuant to Section 2259.5 of the Vehicle Code unless, pursuant to subdivision (a)

of Section 12361, the Department of Justice has certified such body armor.

12361.(a) Before a body armor may be purchased for use by state peace officers the Department of Justice, after consultation with the Department of the California Highway Patrol and the California State Police Division, shall establish minimum ballistic performance standards, and shall determine that such armor satisfies such standards.

(b) Only body armor that meets state requirements under subdivision (a) for acquisition or purchase shall be eligible for testing for certification under the ballistic performance standards established by the Department of Justice; and only body armor that is certified as acceptable by the department shall be purchased for use by state peace officers.

12362. Any person engaged in the manufacture or sale of body armor may apply to the Department of Justice for certification that a particular type of body armor manufactured or sold by that person is acceptable. The applicant shall reimburse the state for any actual expenses incurred by the state in testing and certifying a particular type of body armor.

12363. Any application submitted pursuant to Section 12362 shall contain all of the following:

(a) Full written reports of any investigation conducted for the purpose of determining whether such body armor is acceptable.

(b) A full written statement of the design of such body armor.

(c) A full written statement of the methods used in, and the facilities and controls used for, the manufacture of such body armor.

(d) Such samples of body armor and its components as the department may require.

(e) Specimens of the instructions and advertisements used or proposed to be used for such body armor.

12364. The Department of Justice, in cooperation with the Office of Procurement of the

Department of General Services, shall establish a schedule for ballistic testing for certification pursuant to subdivision (b) of Section 12361.

12365. The department shall issue an order refusing to certify a body armor as acceptable if, after due notice to the applicant, the department finds any of the following:

(a) That the body armor does not satisfy the ballistic performance standards established by the department pursuant to subdivision (b) of Section 12361.

(b) That the application contains any misrepresentation of a material fact.

(c) That the application is materially incomplete.

(d) That the applicant has failed to reimburse the state as required by Section 12362.

12366. The department shall issue an order revoking certification if, after due notice to the applicant, the department finds any of the following:

(a) That the experience or additional testing show that the body armor does not comply with the department's ballistic performance standards.

(b) That the application contains any misrepresentation of a material fact.

(c) The body armor must be retested for certification under new department standards.

12367. The department shall adopt and promulgate regulations for the fair and efficient enforcement of this chapter.

12368.(a) All purchases of certified body armor under the provisions of this chapter shall be made by the Department of General Services on behalf of an authorized state agency or department. Purchases of such body armor shall be based upon written requests submitted by an authorized state agency or department to the Department of General Services.

(b) The Department of General Services shall make certified body armor available to peace officer members of the California State Police Division as defined by Section 830.2 of the Penal

Code, and to peace officers of the Department of Justice as defined by Section 830.3 of the Penal Code, while engaged in enforcement activities.

12369. The Department of General Services shall, pursuant to departmental regulation, after consultation with the Department of the California Highway Patrol and the California State Police Division, define the term "enforcement activities" for purposes of this chapter, and develop standards regarding what constitutes sufficient wear on body armor to necessitate replacement thereof.

CHAPTER 4. TEAR GAS WEAPONS

ARTICLE 1. GENERAL PROVISIONS

12401. "Tear gas" as used in this chapter shall apply to and include all liquid, gaseous, or solid substances intended to produce temporary physical discomfort or permanent injury through being vaporized or otherwise dispersed in the air, but does not apply to, and shall not include, any substance registered as an economic poison as provided in Chapter 2 (commencing with Section 12751) of Division 7 of the Agricultural Code provided that such substance is not intended to be used to produce discomfort or injury to human beings.

12402. The term "tear gas weapon" as used in this chapter shall apply to and include:

(a) Any shell, cartridge, or bomb capable of being discharged or exploded, when the discharge or explosion will cause or permit the release or emission of tear gases.

(b) Any revolvers, pistols, fountain pen guns, billies, or other form of device, portable or fixed, intended for the projection or release of tear gas except those regularly manufactured and sold for use with firearm ammunition.

12403. Nothing in this chapter shall prohibit any person who is a peace officer as defined in Chapter 4.5 (commencing with Section 830) of

Title 3 of Part 2 from purchasing, possessing, transporting, or using any tear gas weapon, if the weapon has been certified as acceptable under Article 5 (commencing with Section 12450) of this chapter and if the person has satisfactorily completed a course of instruction approved by the Commission on Peace Officers Standards and Training in the use of tear gas.

12403.1. Nothing in this chapter shall prohibit any member of the military and naval forces of this state or of the United States or any federal law enforcement officer from purchasing, possessing, or transporting any tear gas or tear gas weapon for official use in the discharge of his duties.

12403.5. Notwithstanding any other provision of law, a person, holding a license as a private investigator or private patrol operator issued pursuant to Chapter 11 (commencing with Section 7500), Division 3 of the Business and Professions Code, or uniformed patrolmen employees of a private patrol operator, may purchase, possess, or transport any tear gas weapon, if it is solely used for defensive purposes in the course of the activity for which the license was issued and if such person has satisfactorily completed a course of instruction approved by the Commission on Peace Officer Standards and Training in the use of tear gas.

12403.6. Provisions within this chapter shall not be construed to prohibit any Department of Justice or Department of Health employee, while acting within the scope of his duties, from possessing any tear gas or tear gas weapon for the purposes of examination, testing, or court appearance or any other official activity undertaken pursuant to the provisions of this chapter.

12403.7.(a) Notwithstanding any other provision of law, any person may purchase, possess or use tear gas and tear gas weapons for the projection or release of tear gas if such tear gas and tear gas weapons are approved by the Department of Justice and are used solely for self-defense purposes, subject to the following re-

quirements:

(1) No person convicted of a felony or any crime involving an assault under the laws of the United States, of the State of California, or any other state, government, or country or convicted of misuse of tear gas under paragraph (8) shall purchase, possess, or use tear gas or tear gas weapons.

(2) No person who is addicted to any narcotic drug shall purchase, possess, or use tear gas or tear gas weapons.

(3) No person shall sell or furnish any tear gas or tear gas weapon to a minor.

(4) No person who is a minor shall purchase, possess, or use tear gas or tear gas weapons.

(5)(A) No person shall purchase, possess or use any tear gas weapon which expels a projectile, or which expels the tear gas by any method other than an aerosol spray, or which is of a type, or size of container, other than authorized by regulation of the Department of Justice.

(B) The department, with the cooperation of the State Department of Health Services, shall develop standards and promulgate regulations regarding the type of tear gas and tear gas weapons which may lawfully be purchased, possessed, and used pursuant to this section.

(C) The regulations of the department shall include a requirement that every tear gas container and tear gas weapon which may be lawfully purchased, possessed, and used pursuant to this section have a label which states: "WARNING: The use of this substance or device for any purpose other than self-defense is a felony under the law. The contents are dangerous - use with care."

(D) The regulations of the department shall include a requirement that after January 1, 1984, every tear gas container and tear gas weapon which may be lawfully purchased, possessed, and used pursuant to this section have a label which discloses the date on which the useful life of the tear gas weapon expires.

(6)(A) No person shall purchase, possess, or use any tear gas or any tear gas weapon who has not completed a course certified by the Department of Justice in the use of tear gas and tear gas

weapons pursuant to which a card is issued identifying the person who has completed such a course. Such a course shall be taken under the auspices of any institution approved by the Department of Justice to offer tear gas training. Such a training institution is authorized to charge a fee covering the actual cost of such training. The requirements of this paragraph shall not apply to a person who is a retired peace officer, as peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, if the person prior to retirement had satisfactorily completed a course of instruction approved by the Commission on Peace Officer Standards and Training in the use of tear gas and tear gas weapons.

(B) The Department of Justice, in cooperation with the Commission on Peace Officer Standards and Training, shall develop standards for a course in the use of tear gas and tear gas weapons.

(7) If the purchase of tear gas or any tear gas weapon is denied, the vendor denying such purchase shall inform the person in writing of the reason for such denial. The valid identification card specified in paragraph (6) shall be carried on the person when carrying tear gas or tear gas weapons and shall be presented for examination to the vendor from whom any tear gas or tear gas weapons are purchased. The sale of tear gas or tear gas weapons by a vendor to a person who fails to present a valid identification card specified in paragraph (6) is a violation of Section 12420.

(8) Any person who uses tear gas or tear gas weapons except in self-defense or as authorized for training purposes by the department is guilty of a public offense and is punishable by imprisonment in a state prison for 16 months, or two or three years or in a county jail not to exceed one year or by fine not to exceed one thousand dollars (\$1,000) or by both such fine and imprisonment, except that if such use is against a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 Part 2, engaged in the performance of his or her official duties and the person committing the offense knows or reasonably should know that the victim is a peace officer, the offense is punishable by imprisonment in a state prison for 16 months or two or

three years or by fine of one thousand dollars (\$1,000) or by both such fine and imprisonment.

(b) Such identification card as specified in paragraph (6) of subdivision (a) shall be valid so long as the person meets the requirements in subdivision (a), and shall be nontransferable.

All forms, cards, and other documentation necessary to administer the provisions of this section shall be uniform throughout the state as prescribed by the Department of Justice.

The Department of Justice may adopt and promulgate such regulations concerning the purchase and disposal of self-defense tear gas weapons, the standards for tear gas training courses, and the approval of facilities at which such training shall occur as are necessary to insure the safe use and possession of such tear gas weapons.

(c) Any person who successfully completes training under this section for which the course and training facility must be approved by the Department of Justice is entitled to receive a certificate of completion issued by the Department of Justice. A fee shall be charged by the Department of Justice for the certificate. The fee shall be no more than is necessary to reimburse the Department of Justice for the costs of approving the courses, the facilities, maintaining control of the quality of the courses, and issuing the certificate of completion. The Department of Justice may provide by regulation the manner in which the fee is collected and paid.

12403.8.(a) Notwithstanding the provisions of paragraph (4) of subdivision (a) of Section 12403.7, a minor who has attained the age of 16 may purchase, possess, and use tear gas or tear gas weapons pursuant to the provisions of this chapter if he or she has completed a course of instruction certified by the Department of Justice and has obtained the written consent of his or her parent or guardian.

(b) Notwithstanding the provisions of paragraph (3) of subdivision (a) of Section 12403.7, a person may sell or furnish tear gas or a tear gas weapon to a minor who has attained the age of 16 and who presents a valid identification card containing a statement of consent to the purchase

signed by the minor's parent or guardian and indicating that the minor has completed a course certified by the Department of Justice in the use of tear gas and tear gas weapons.

(c) The Department of Justice shall prescribe the form of the identification card required by subdivision (b). The card shall be issued as provided in Section 12403.7.

12404. Nothing in this chapter authorizes the possession of tear gas or tear gas weapons in any institution described in Section 4574, or within the grounds belonging or adjacent to any such institution, except where authorized by the person in charge of such institution.

ARTICLE 2. UNLAWFUL POSSESSION AND SALE

12420. Any person, firm, or corporation who within this state knowingly sells or offers for sale, possesses, or transports any tear gas or tear gas weapon, except as permitted under the provisions of this chapter, is guilty of a public offense and upon conviction thereof shall be punishable by imprisonment in the county jail for not exceeding one year or by a fine not to exceed two thousand dollars (\$2,000), or by both.

12421. Each tear gas weapon sold, transported or possessed under the authority of this chapter shall bear the name of the manufacturer and a serial number applied by him.

12422. Any person who changes, alters, removes or obliterates the name of the manufacturer, the serial number or any other mark of identification on any tear gas weapon is guilty of a public offense and, upon conviction, shall be punished by imprisonment in the state prison or by a fine of not more than two thousand dollars (\$2,000) or by both.

Possession of any such weapon upon which the same shall have been changed, altered, removed, or obliterated, shall be presumptive evidence that such possessor has changed, altered, removed, or obliterated the same.

ARTICLE 3. PERMITS

12423. The Department of Justice may issue a permit for the possession and transportation of tear gas or tear gas weapons upon proof that good cause exists for the issuance thereof to the applicant for such permit. The permit may also allow the applicant to install, maintain, and operate a protective system involving the use of tear gas or tear gas weapons in any place which is accurately and completely described in the application for the permit.

12424. Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address, and a full description of the place or vehicle in which the tear gas or tear gas weapons are to be transported, kept, installed, or maintained.

If the tear gas or tear gas weapons are to be used in connection with, or to constitute, a protective system, the application shall also contain the name of the person who is to install the protective system.

Applications and permits shall be uniform throughout the state upon forms prescribed by the Department of Justice.

Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for the processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

12424.5. Notwithstanding Section 12423, a bank, a savings and loan association, a credit union, or an industrial loan company which maintains more than one office or branch may make a single annual application for a permit. In addition to the requirements set forth in this article, that application shall separately state the business address and a full description of each office or branch in which the tear gas or tear gas weapons are to be kept, installed, or maintained. Any location additions or deletions as to offices or branches shall be reported to the department within 60 days of the change.

A single permit issued under this section shall allow for the possession, operation, and maintenance of tear gas at each office or branch named in the application, including location changes.

12425. Every person, firm or corporation to whom a permit is issued shall either carry the permit upon his person or keep it in the place described in the permit. The permit shall be open to inspection by any peace officer or other person designated by the authority issuing the permit.

12426. Permits issued in accordance with this article may be revoked or suspended by the issuing authority at any time when it appears that the need for the possession or transportation of the tear gas or tear gas weapons or protective system involving the use thereof, has ceased, or that the holder of the permit has engaged in an unlawful business or occupation or has wrongfully made use of the tear gas or tear gas weapons or the permit issued or that the holder of the permit was in the possession of tear gas or tear gas weapons not authorized under the provisions of this chapter.

ARTICLE 4. LICENSES TO SELL

12435. The Department of Justice may grant licenses in a form to be prescribed by it effective for not more than one year from the date of issuance, to permit the sale at retail of tear gas or tear gas weapons, and to permit the installation

and maintenance of protective systems involving the use of tear gas or tear gas weapons subject to all of the following conditions upon breach of any of which the license shall be subject to forfeiture:

(a) Under a sales license for the sale of tear gas or tear gas weapons issued by the department, the business shall be carried on only in the building designated in the license, except that self-defense products may be sold at the place of instruction.

(b) The license or certified copy thereof shall be displayed at each sales premises in a place where it may easily be read.

(c) No tear gas or tear gas weapon shall be delivered to any person not authorized to possess or transport the same under the provisions of this chapter. No protective system involving the use of tear gas or tear gas weapons shall be installed, nor shall supplies be sold for the maintenance of such system, unless the licensee has personal knowledge of the existence of a valid permit for the operation and maintenance of the system.

(d) A permanent complete sales register shall be kept of self-defense tear gas and tear gas weapons sales made under the authority of the license, showing all of the following:

(1) The purchaser's name, date of birth, and address; the purchaser's identification card number and date of issue; the purchaser's response to questions pertaining to his or her eligibility to purchase tear gas or tear gas weapons pursuant to the requirements of subdivision (a) of Section 12403.7.

(2) The quantity and description, including serial numbers of articles purchased.

(3) The business name, address, and telephone number; the business retail tear gas sales license number; and the name and signature of the person making the sales.

(4) The date and time of sale.

(e) This sales register shall be open to the inspection of any peace officer or other person designated by the Attorney General.

(f) The original copy of the sales register shall be retained as part of the vendor's permanent record of sales. The duplicate copy of the sales register of each transaction shall, on the date of

sale, be placed in the mail, postage prepaid, and properly addressed to the chief of police or sheriff who has jurisdiction over the purchaser's place of residence.

(g) The sales register requirements of this section shall not apply to wholesale or retail dealers in their normal business intercourse with other wholesale or retail dealers.

(h) The sales register required for each tear gas weapon sale shall be prepared by and obtained from the Department of General Services and shall be furnished by the Department of General Services to the licensed vendor on application at a cost to be determined by the Department of General Services for each 100 leaves in duplicate, one original and one duplicate for the making of one carbon copy. The original and duplicate copy shall differ in color, and shall be in a form prescribed by the Department of Justice.

The Department of General Services upon issuing a register shall forward to the Department of Justice the name and business address of the vendor together with the series and sheet numbers of the register. The register shall not be transferable. If the vendor moves his business to a different location he shall notify the Department of Justice of such fact in writing within 48 hours.

(i) Each applicant for the tear gas sales license described in this section shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A license granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a license renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

**ARTICLE 5. CERTIFICATION OF
ACCEPTABILITY**

12450. No tear gas or tear gas weapon shall be possessed, sold or transported in this state after January 1, 1971, unless, pursuant to the provisions of this article, the Department of Justice has certified that particular type and brand of tear gas or tear gas weapon to be acceptable.

12451. The term "acceptable" as used in this article when referring to tear gas or a tear gas weapon, means that such tear gas or tear gas weapon is reasonably free from any undue hazard when used by, or upon a human being taking into consideration such factors as the following:

(a) The reasonable safety, availability, and effectiveness of other devices, including other tear gas or tear gas weapons, capable of being used under the same circumstances and for the same purposes, including such factors as anticipated effective storage life for the particular product.

(b) The amount of hazard inherent in the use of the tear gas or tear gas weapon when weighed against the amount of hazard inherent in the kinds of conduct the tear gas or tear gas weapon is designed to control.

(c) The manner in which the tear gas or tear gas weapon can be expected to be used as well as the manner in which the manufacturer or seller thereof has recommended that it be used.

12452.(a) Any manufacturer of tear gas or tear gas weapons may apply to the Department of Justice, hereinafter referred to as the "department" in this article, for certification that a particular type and brand of tear gas or tear gas weapon manufactured or assembled by that person is acceptable.

(b) The term "manufacturer" as used in this article means any person, firm, or corporation which makes tear gas or tear gas weapons, or which assembles raw materials or components to create tear gas or tear gas weapons.

(c) No device submitted for certification by a party other than the actual manufacturer prior to January 1, 1985, shall be sold after January 1,

1986; unless the device has been recertified pursuant to the provisions of this section as amended during the 1984 portion of the 1983-84 Regular Session of the Legislature.

12453. Any application submitted pursuant to Section 12452 shall contain all of the following:

(a) Full reports of any investigation conducted by any public or private agency for the purpose of determining whether such tear gas or tear gas weapon is acceptable.

(b) A full statement of the composition of each component of such tear gas or tear gas weapon.

(c) A full statement of the methods used in, and the facilities and controls used for, the manufacture, processing and packing of such tear gas or tear gas weapon.

(d) Such samples of such tear gas or tear gas weapon and its components as the bureau may require.

(e) Specimens of the labeling, instructions, and advertisements used or proposed to be used for such tear gas or tear gas weapon.

12454. Within 180 days after the filing of an application as provided for in Section 12452, or such additional period as may be agreed upon by the department and the applicant, the department shall either:

(a) Issue an order certifying such tear gas or tear gas weapon as acceptable.

(b) Give the applicant notice for an opportunity for a hearing before the department on the question whether such tear gas or tear gas weapon is acceptable. If the applicant elects to accept the opportunity for hearing by written request within 30 days after such notice, such hearing shall commence not more than 60 days after receiving such request unless the department and the applicant otherwise agree. Such hearing shall be heard on an expedited basis and the department shall issue an order granting or denying certification within 90 days after the date fixed by the department for filing final briefs.

12455. The department shall issue an order refusing to certify or recertify or terminating a

previously granted certification of any tear gas or tear gas weapon as acceptable if after due notice to the applicant the department finds any of the following:

(a) That the tear gas or tear gas weapon is not acceptable, for any reason, including the following:

(1) That the tear gas or tear gas weapon creates a risk of unreasonable danger to the life or health of human beings which outweighs the social utility of the use of such tear gas or tear gas weapon.

(2) That upon evaluation or reevaluation¹ the tear gas or tear gas weapon is found not to meet the current criteria of the rules and regulations promulgated by the department.

(3) That the effective life of the tear gas or tear gas weapon is found not to meet the criteria of the department.

(4) That the tear gas or tear gas weapon is found to be nonfunctioning or is otherwise found to be ineffective as provided in the rules and regulations promulgated by the department.

(b) That the application contains any misrepresentation of a material fact.

(c) That the application is materially incomplete.

12456. The department shall issue an order revoking certification if, after due notice to the applicant, the department finds any of the following:

(a) That experience or additional testing show that the tear gas or tear gas weapon is not acceptable as defined in Section 12451.

(b) That the application contains any misrepresentation of a material fact.

12457. That department may adopt and promulgate all regulations necessary for the fair and efficient enforcement of the provisions of this chapter.

12457.1. The department shall have and exercise the powers expressly granted in this chapter, together with such other powers as are reasonably implied therefrom and necessary and proper to

carry out the objects and purposes of this chapter.

Such powers include but are not limited to the authority to do the following:

(a) Periodically make tests of and review the certification of each type of tear gas or tear gas weapon as provided in the rules and regulations promulgated by the department pursuant to this chapter.

(b) Require the manufacturer of any tear gas or tear gas weapon to submit to the department complete written laboratory reports detailing the specifications of such tear gas or tear gas weapon for the purposes of testing, inspection, evaluation or reevaluation in accordance with the rules and regulations promulgated by the department.

(c) Cause any tear gas or tear gas weapon to be submitted by a manufacturer to the department for certification to be submitted to any laboratory of the department's choice.

(d) Consider the reports or other materials submitted by the manufacturer or by any other laboratory, private or public, in accordance with the rules and regulations promulgated by the department.

(e) Certify or refuse to certify any such tear gas or tear gas weapon pursuant to this chapter.

(f) Require reimbursement by the manufacturer to the department for any actual expenses incurred in conducting such testing, evaluation, and inspection of any such tear gas or tear gas weapon, or in reviewing and considering any report the manufacturer has caused to be submitted to the department pursuant to this chapter.

(g) Caused every type or brand of tear gas or tear gas weapon certified prior to January 1, 1976, to be reevaluated pursuant to the provisions of this article by January 7, 1978.

(h) Define acceptability of testing, evaluating and inspecting procedures and standards of proficiency in the rules and regulations promulgated by the department.

12458. Prior to certification of any tear gas or tear gas weapon, the department shall request from the State Department of Health a report on each type and brand of tear gas or the contents of

each type and brand of tear gas weapon submitted to it by the department. At the Attorney General's discretion, the State Department of Health shall prepare and transmit such report to the department, and shall also submit supplemental reports whenever the facts warrant such action. All the reports shall be for the purpose of aiding the department in determining whether the type and brand of tear gas or the contents of the dispensed material of the particular type and brand of tear gas weapon are harmful, toxic, or present any health hazards to human beings, and shall be based on any one or more of the following:

(a) Investigations conducted by the facilities of the State Department of Health.

(b) Investigations conducted by independent laboratories.

(c) Any other investigations approved by the State Department of Health.

The applicant shall reimburse the State Department of Health and the Department of Justice for any actual expenses incurred by such departments in connection with such reports.

CHAPTER 5. FIREARM DEVICES

ARTICLE 1. GENERAL PROVISIONS

12500. The term "silencer" as used in this chapter means any device or attachment of any kind designed, used or intended for use in silencing, diminishing, or muffling the report of a firearm. The term "silencer" also includes any combination of parts, designed or redesigned, and intended for use in assembling a silencer or fabricating a silencer and any part intended only for use in such assembly or fabrication.

12501. Section 12520 shall not apply to, or affect, any of the following:

(a) The sale to, purchase by, or possession of silencers by agencies listed in Section 830.1, or the military or naval forces of this state or of the United States for use in the discharge of their official duties.

(b) The possession of silencers by regular,

salaried, full-time peace officers who are employed by an agency listed in Section 830.1, or by the military or naval forces of this state or of the United States when on duty and when the use of silencers is authorized by the agency and is within the course and scope of their duties.

(c) The manufacture, possession, transportation, or sale or other transfer of silencers to an entity described in subdivision (a) by dealers or manufacturers registered under Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code, and the regulations issued pursuant thereto.

ARTICLE 2. UNLAWFUL POSSESSION OF FIREARM SILENCERS

12520. Any person, firm, or corporation who within this state possesses a silencer is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison or by a fine not to exceed ten thousand dollars (\$10,000) or by both.

CHAPTER 6. MISCELLANEOUS

ARTICLE 1. MINORS

12551. Every person who sells to a minor any firearm is guilty of a misdemeanor.

12552. Every person who furnishes any firearm, air gun, or gas-operated gun, designed to fire a bullet, pellet or metal projectile, to any minor, without the express or implied permission of the parent or legal guardian of the minor, is guilty of a misdemeanor.

12553. As used in this article, "firearm" means any firearm except any pistol, revolver, or other firearm capable of being concealed upon the person.

NOTE: A minor is any person under 18 years of age. (Civil Code Section 25.)

ARTICLE 4. BLOWGUNS

12580. "Blowgun," as used in this article, means a hollow tube designed and intended to be used as a tube through which a dart is propelled by the force of the breath of the user.

12581. "Blowgun ammunition," as used in this article, means a dart designed and intended for use in a blowgun.

12582. Any person who knowingly manufactures, sells, offers for sale, possesses, or uses a blowgun or blowgun ammunition in this state is guilty of a misdemeanor.

12583. Nothing in this article shall prohibit the sale to, purchase by, possession of, or use of blowguns or blowgun ammunition by zookeepers, animal control officers, Department of Fish and Game personnel, humane officers whose names are maintained in the county record of humane officers pursuant to Section 607f of the Civil Code, or veterinarians in the course and scope of their business in order to administer medicine to animals.

ARTICLE 5. PICKETING

12590.(a) Any person who does any of the following acts while engaged in picketing, or other informational activities in a public place relating to a concerted refusal to work, is guilty of a misdemeanor:

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

(2) Carries a loaded firearm upon his or her person or within any vehicle which is under his or her control or direction.

(3) Carries a deadly weapon.

(4) Wears the uniform of a peace officer, whether or not the person is a peace officer.

(b) This section shall not be construed to authorize or ratify any picketing or other infor-

mational activities not otherwise authorized by law.

(c) Section 12027 shall not be construed to authorize any conduct described in paragraph (1) of subdivision (a), nor shall subdivision (b) of Section 12031 be construed to authorize any conduct described in paragraph (2) of subdivision (a).

ARTICLE 6. LESS LETHAL WEAPONS

12600. A person who is a peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 may if authorized by and under such terms and conditions as are specified by his or her employing agency purchase, possess, or transport any less lethal weapon or ammunition therefor, for official use in the discharge of his or her duties.

12601.(a) "Less lethal weapon" shall apply to and include any device which is designed to or which has been converted to expel or propel less lethal ammunition by any action, mechanism, or process for the purpose of incapacitating, immobilizing, or stunning a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort. It is not necessary that a weapon leave any lasting or permanent incapacitation, discomfort, pain, or other injury or disability in order to qualify as a less lethal weapon.

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

(1) Pistol, revolver, or firearm defined in Section 12001.

(2) Machine gun defined in Section 12200.

(3) Rifle or shotgun using fixed ammunition consisting of standard primer and powder and not capable of being concealed upon the person.

(4) Pistols, rifles, and shotguns which are firearms having a barrel less than 0.18 inches in

diameter and which are designed to expel a projectile by any mechanical means or by compressed air or gas.

(5) When used as designed or intended by the manufacturer, any weapon commonly regarded as a toy gun, and which as such is incapable of inflicting any impairment of physical condition, function, or senses.

(6) A destructive device defined in Section 12301.

(7) A tear gas weapon defined in Section 12402.

(8) A bow or crossbow designed to shoot arrows.

(9) A device commonly known as a slingshot.

(10) A device designed for the firing of stud cartridges, explosive rivets, or similar industrial ammunition.

(11) A device designed for signaling, illumination, or safety.

(c) "Less lethal ammunition" means any ammunition which (1) is designed to be used in any less lethal weapon or any other kind of weapon (including, but not limited to, firearms, pistols, revolvers, shotguns, rifles, and spring, compressed air, and compressed gas weapons) and (2) when used in such less lethal weapon or other weapon is designed to immobilize or incapacitate or stun a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort.

ARTICLE 7. STUN GUNS

12650. "Stun gun" as used in this chapter shall include any item, except a taser, used or intended to be used as either an offensive or defensive weapon capable of temporarily immobilizing a person by the infliction of an electrical charge.

12651. Notwithstanding any other provision of law, any person may purchase, possess, or use a stun gun, subject to the following requirements:

*(a) No person convicted of a felony or any crime involving an assault under the laws of the United States, of the State of California, or

any other state, government, or country or convicted of misuse of a stun gun under Section 244.5, shall

purchase, possess, or use stun guns.

(b) No person who is addicted to any narcotic drug shall purchase, possess, or use a stun gun.

(c) No person shall sell or furnish any stun gun to a minor unless the minor is at least 16 years of age and has the written consent of his or her parent or legal guardian.

Violation of this subdivision shall be a public offense punishable by a fifty dollar (\$50) fine for the first offense. Any subsequent violation of this subdivision is a misdemeanor.

(d) No minor shall possess any stun gun unless the minor is at least 16 years of age and has the written consent of his or her parent or legal guardian.

12652. Each stun gun sold shall contain both of the following:

(a) The name of the manufacturer stamped on the stun gun.

(b) The serial number applied by the manufacturer.

12653. Unless otherwise specified, any violation of this article is a misdemeanor.

12654. Each stun gun sold in this state shall be accompanied by an instruction booklet.

Violation of this section shall be a public offense punishable by a fifty dollar (\$50) fine for each weapon sold without the booklet.

ARTICLE 8. BASIC FIREARM SAFETY INSTRUCTION AND CERTIFICATE

12800. (a) The Legislature finds and declares as follows:

(1) Although California has a 15-day waiting period and background check for the acquisition and purchase of pistols, revolvers, and firearms capable of being concealed upon the person, a demonstrated knowledge of firearms safety is not

* Cross reference codes commence on page 80

required. Therefore, a person is able to obtain one of these firearms in California without having any idea of how to safely use, handle, or store it.

(2) In contrast, it is necessary for an individual to complete a firearms-related hunter safety course before a hunting license is issued. It has been documented that this program has saved lives, and has been beneficial to sportsmen and firearms owners.

(3) It is inconsistent for a person to have to go through a firearms-related hunter safety course before being able to use a firearm to hunt, yet not be required to have any basic knowledge about the safe handling and operation of pistols, revolvers, and other firearms capable of being concealed upon the person before acquiring them.

(b) The Legislature further finds and declares as follows:

(1) It has been documented that firearms accidents are one of the leading causes of accidental deaths for children ages 14 years and under. Almost all of the firearms involved in these accidents are pistols, revolvers, or other firearms capable of being concealed upon the person.

(2) On average, one child 18 years of age or under is accidentally killed, and 10 are injured, by a firearm every day across the United States.

(3) Firearm wounds to children who are 16 years of age and under have increased 300 percent in major urban areas since 1986.

(4) In 1987, the last year for which statistics are available, there were 44 accidental firearms deaths among California children 18 years of age and younger.

(5) Although statistics are not kept for injuries resulting from accidental shootings, it is estimated that for every firearms death, there are at least five nonfatal firearms injuries. Using this figure, it is estimated that approximately 220 California children were injured in nonfatal accidental shootings in 1987.

(6) Research has indicated that easy access in homes to loaded pistols, revolvers, and other firearms capable of being concealed upon the person is a chief contributing factor in uninten-

tional shootings of children. Nearly 8,700,000 youngsters in the United States have access to pistols, revolvers, and other firearms capable of being concealed upon the person.

(7) Educating purchaser and transferees of pistols, revolvers, and other firearms capable of being concealed upon the person would make them more aware of their responsibilities as gun owners and help to eliminate the ignorance or neglect that lead to children playing with a loaded pistol, revolver, and other firearms capable of being concealed upon the person.

(c) It is, therefore, the intent of the Legislature, in enacting this article, to require in this state that purchasers and transferees of pistols, revolvers, and other firearms capable of being concealed upon the person obtain a basic familiarity with those firearms, including, but not limited to, the safe handling and storage of those firearms, methods for childproofing those firearms, and the responsibilities associated with ownership of those firearms.

(d) It is further the intent of the Legislature, in enacting this article, to establish a program that would help to eliminate the potential for accidental deaths and injuries, particularly those involving children, which are caused by the unsafe handling of pistols, revolvers, and other firearms capable of being concealed upon the person.

12801. As used in this article, "basic firearms safety certificate" means the certificate issued to persons who have complied with this article.

12802. (a) No basic firearms safety certificate shall be issued to any person unless that person has complied with this article. Proof of compliance with this article shall be forwarded to the Department of Justice as frequently as the department may determine.

(b) It is the intent of the Legislature to require a basic firearms safety certificate for persons who anticipate the purchase or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person. This requirement of a certificate is not intended to be a requirement for the mere possession of a firearm.

12803. (a) Beginning on January 1, 1993, and prior to July 1, 1993, the Department of Justice shall do all of the following:

(1) Develop the course content and instructional materials for a basic firearms safety course. The course shall consist of not less than two, nor more than four, hours of instruction, including, but not limited to, instruction in the following areas as they pertain to pistols, revolvers, and other firearms capable of being concealed upon the person:

(A) The safe use, handling, and storage of those firearms.

(B) Methods for childproofing those firearms.

(C) The laws applicable to the carrying and handling of those firearms.

(D) The responsibilities of ownership of those firearms.

(2) Develop an instructional manual and, if the department deems necessary, audiovisual materials, to be issued to an instructor certified by the department. The department shall make the instructional manual available to firearms dealers licensed pursuant to Section 12071, who shall have it available to the general public. Essential portions of the manual may be included in the pamphlet described in Section 12080.

(3) Prescribe a minimum level of skill, knowledge, and competency to be required of all basic firearms safety instructors, and develop and provide the guidelines to be used to certify the instructors.

(4) Develop an objective test on the subject matter of the basic firearms safety course. The objective test shall be based on the instructional manual referred to in paragraph (2). There shall be no less than five distinct versions of the objective test. The purpose of the objective test shall be to ensure knowledge of basic firearms safety. The test shall consist of not less than 20, nor more than 30, questions. An applicant shall respond successfully to at least 75 percent of the total number of questions in order to pass the test.

(b) The department shall solicit input from any reputable association or organization which has, as one of its objectives, the promotion of firearms safety in the development of the basic firearms

safety course.

(c) The department shall periodically update the curriculum of the basic firearms safety course, instructional materials, the basic firearms safety manual, the objective test, and guidelines for certifying basic firearms safety instructors, as needed.

(d) The department shall develop basic firearms safety certificates to be issued by the department, or an instructor certified by the department, to those persons who have complied with this article.

(e) The department shall ensure that the course shall be available to persons at convenient times and locations in a person's county of residency by June 1, 1993.

(f) The Department of Justice shall be immune from any liability arising from implementing this section.

12804.(a) The department shall maintain adequate records on who has successfully completed the basic firearms safety course or otherwise complied with this article.

(b) Proficiency in the use of any pistol, revolver, or other firearm capable of being concealed upon the person shall not be a prerequisite to acquiring the basic firearms safety certificate.

(c) No person shall be required to complete the course more than once, except that any person who has completed the course and is unable to produce the certificate shall be required to take the course again unless a duplicate certificate is issued pursuant to Section 12807.

12805.(a) The department shall designate as a basic firearms safety instructor any person certified by a nationally recognized organization that fosters safety in firearms or any person found by the department to be competent to give instruction in the basic firearms safety course established pursuant to this article, if the person is otherwise qualified pursuant to Section 12803.

(b) The department shall designate as a basic firearms safety instructor, dealers licensed pursuant to Section 12071 or their employees if they

otherwise are qualified to act as instructors. Where the license is issued in the name of a corporation or partnership, then the managing officer or partner shall be designated as instructors if they are otherwise qualified pursuant to Section 12803.

(c) The department shall revoke the certification of any instructor when the department determines that it is in the best interests of the state to do so.

(d) Upon successful completion of the basic firearms safety course, which shall be conditioned solely upon the attendance of the course as specified in Section 12803, a person shall immediately be issued a basic firearms safety certificate by the instructor.

(e) The instructor may also administer the objective test referred to in Section 12809 at the site where the basic firearms safety course is given. Any person receiving a passing grade, as specified in Section 12803, on the test shall be immediately issued a basic firearms safety certificate by the instructor. Any person who fails to pass the test administered by the course instructor, shall be given additional instructional materials by the instructor and be told that they may not retake the test under any circumstance until 24 hours have elapsed.

(f) Instructors shall forward to the department the names of those persons who have received basic firearms safety certificates, the method by which the person obtained the basic firearms safety certificate, and assure that originals or photocopies of the objective test, or any version thereof, are not made available to applicants for the objective test, whether or not they pass the objective test.

(g) Instructors shall notify applicants for the basic firearms safety certificate that they may be issued a basic firearms safety certificate by attending the basic firearms safety course, by passing the objective test, or are exempt from this article by virtue of subdivision (b) of Section 12081.

12806.(a) A fee to cover the costs of giving the basic firearms safety course instruction and issuance of the basic firearm safety certificate

may be charged by the instructor to each person participating and receiving instruction in basic firearms safety. The department may impose a charge not to exceed ten dollars (\$10) for each person participating and receiving instruction in the basic firearms safety course to cover the department's cost in carrying out this article as determined annually by the department. The instructor of the course shall collect and submit the charge to the department to be deposited into the Firearms Safety Training Fund Special Account as provided in subdivision (b).

(b) All money received by the department pursuant to this article shall be deposited in the Firearms Safety Training Fund Special Account, which is hereby created in the General Fund and continuously appropriated for expenditure by the department for the costs incurred pursuant to this article.

12807.(a) In case of loss or destruction of a basic firearms safety certificate, a duplicate certificate shall be issued by the department.

(b) A fee, not to exceed five dollars (\$5), may be charged by the department to each person applying for a duplicate certificate.

12808. Upon application to the department, the department shall certify any existing firearms safety course or program which provides, as a minimum, as part of its curriculum, instruction in all of the subject matters in accordance with the basic firearms safety course established pursuant to this article, and shall authorize the course or program to issue basic firearms safety certificates to those who complete the course or program.

12809.(a) Any person who has reason to believe that he or she does not need to complete the basic firearms safety course may take an objective test on the subject matter of the basic firearms safety course from an instructor certified by the department. The objective test shall contain written notice to the applicant on the top of the first page that he or she may not take the test more than twice within a six-month period.

(b) Any person receiving a passing grade on the test shall be immediately issued a basic firearms

safety certificate by the instructor. When the objective test is being administered, the certified instructor may only give administrative instructions. Any person who fails to pass the objective test upon the first attempt shall be given additional instructional materials by the instructor such as a videotape or booklet. The person may not retake the objective test under any circumstances until 24 hours have elapsed after the failure to pass the objective test upon the first attempt. The person failing the test on the first attempt shall take another version of the test upon the second attempt. All tests shall be taken from the same instructor except upon permission of the department, which shall be granted only for good cause shown. The instructor shall make himself or herself available to the applicant during regular business hours in order to retake the test. If the person fails the objective test upon a second attempt, then the person shall attend the basic firearms safety course pursuant to Section 12805 in order to be issued a basic firearms safety certificate.

(c) The Department of Justice shall set the fee for taking the objective test and issuance of the basic firearms safety certificate at an amount commensurate with the actual cost to the department, but not to exceed twenty dollars (\$20), ten dollars (\$10) of which shall be forwarded to the department to cover its costs. The fee paid shall entitle the applicant to take the objective test twice if necessary. Commencing with the 1992-93 fiscal year, the department may submit a budget change proposal to the Department of Finance if funds beyond those funds otherwise appropriated to the department are required for the startup costs of the programs specified in this article. The Department of Finance shall transfer funds from a nongeneral fund special account used by the Department of Justice to the Firearms Safety Training Fund Special Account as a loan of those funds. Any funds received by the department pursuant to the budget change proposal submitted pursuant to this section shall be immediately reimbursed from the Firearms Safety Training Fund Special Account as funds in that account are available back to the nongeneral fund

special account from which the funds were borrowed.

(d)(1) If a dealer licensed pursuant to Section 12071 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 comply with all of the following provisions:

(A) Designate a separate room or partitioned area for a person to take the objective test.

(B) Maintain adequate supervision to assure that no acts of collusion occur while the objective test is being administered.

(C) If the firearm is a pistol, revolver, or other firearm capable of being concealed upon the person, it shall not be delivered unless the dealer provides the purchaser or transferee instructions at the time of delivery on how to operate the firearm, including, but not limited to methods of loading and unloading the firearm, and the location of any safety on the firearm and how the safety operates.

(2) If the provisions specified in subparagraphs (A) and (B) of paragraph (1) cannot be complied with, the applicant shall be advised that he or she may take the objective test wherever the basic firearms safety course is being offered.

WELFARE AND INSTITUTIONS CODE SECTIONS

CHAPTER 3. FIREARMS

8100.(a) A person shall not have in his or her possession or under his or her custody or control, or purchase or receive, or attempt to purchase or receive, any firearms whatsoever or any other deadly weapon, if on or after January 1, 1992, he or she has been admitted to a facility and is receiving inpatient treatment and, in the opinion of the attending health professional who is primarily responsible for the patient's treatment of a mental disorder, is a danger to self or others, as specified by Section 5150, 5250, or 5300, even though the patient has consented to that treatment. A person is not subject to this subdivision

once he or she is discharged from the facility.

(b) (1) A person shall not have in his or her possession or under his or her custody or control, or purchase or receive, or attempt to purchase or receive, any firearms whatsoever or any other deadly weapon for a period of six months whenever, on or after January 1, 1992, he or she communicates to a licensed psychotherapist, as defined in subdivisions (a) to (e), inclusive, of Section 1010 of the Evidence Code, a serious threat of physical violence against a reasonably identifiable victim or victims. The six-month period shall commence from the date that the licensed psychotherapist reports to the local law enforcement agency the identity of the person making the communication. The prohibition provided for in this subdivision shall not apply unless the licensed psychotherapist notifies a local law enforcement agency of the threat by that person. The person, however, may own, possess, have custody or control over, or receive or purchase any firearm if a superior court, pursuant to paragraph (3) and upon petition of the person, has found, by a preponderance of the evidence, that the person is likely to use firearms or other deadly weapons in a safe and lawful manner.

(2) Upon receipt of the report from the local law enforcement agency pursuant to subdivision (c) of Section 8105, the Department of Justice shall notify by certified mail, return receipt requested, a person subject to this subdivision of the following:

(A) That he or she is prohibited from possessing, having custody or control over, receiving, or purchasing any firearm or other deadly weapon for a period of six months commencing from the date that the licensed psychotherapist reports to the local law enforcement agency the identity of the person making the communication. The notice shall state the date when the prohibition commences and ends.

(B) That he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(3) Any person who is subject to paragraph (1) may petition the superior court of his or her

county of residence for an order that he or she may own, possess, have custody or control over, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The people of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or upon its own motion, the superior court may transfer the petition to the county in which the person resided at the time of the statements, or the county in which the person made the statements. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in Section 8105 with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney is notified of the hearing date by the clerk of the court. Notwithstanding any other provision of law, declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this paragraph. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court shall order that the person may have custody or control over, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the department shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

(c) "Discharge," for the purposes of this section, does not include a leave of absence from a facility.

(d) "Attending health care professional," as used in this section, means the licensed health care professional primarily responsible for the person's treatment who is qualified to make the decision that the person has a mental disorder and has

probable cause to believe that the person is a danger to self or others.

(e) "Deadly weapon," as used in this section and in Sections 8101, 8102, and 8103, means any weapon, the possession or concealed carrying of which is prohibited by Section 12020 of the Penal Code.

(f) "Danger to self," as used in subdivision (a), means a voluntary person who has made a serious threat of, or attempted, suicide with the use of a firearm or other deadly weapon.

(g) A violation of subdivision (a) of, paragraph (1) of subdivision (b) of, this section shall be a public offense, punishable by imprisonment in the state prison, or in a county jail for not more than one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(h) The prohibitions set forth in this section shall be in addition to those set forth in Section 8103.

(i) Any person admitted and receiving treatment prior to January 1, 1992, shall be governed by this section, as amended by Chapter 1090 of the Statutes of 1990, until discharged from the facility.

8101. Any person who shall knowingly supply, sell, give, or allow possession or control of any firearm or deadly weapon to any person described in Section 8100 or 8103 shall be punishable by imprisonment in a state prison, or in a county jail for a period of not exceeding one year, by a fine of not exceeding one thousand dollars (\$1,000), or by both such fine and imprisonment. "Deadly weapon," as used in this section has the meaning prescribed by Section 8100.

8102.(a) Whenever a person who has been detained or apprehended for examination of his or her mental condition or who is a person described in Section 8100 or 8103, is found to own, have in his or her possession or under his or her control, any firearm whatsoever, or any other deadly weapon, the firearm or other deadly weapon shall be confiscated by any law enforcement agency or peace officer, who shall retain

custody of the firearm or other deadly weapon.

"Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

(b) Upon confiscation of any firearm or other deadly weapon from a person who has been detained or apprehended for examination of his or her mental condition, the peace officer or law enforcement agency shall notify the person of the procedure for the return of any firearm or other deadly weapon which has been confiscated.

Where the person is released without judicial commitment, the professional person in charge of the facility, or his or her designee, shall notify the person of the procedure for the return of any firearm or other deadly weapon which may have been confiscated.

Health facility personnel shall notify the confiscating law enforcement agency upon release of the detained person, and shall make a notation to the effect that the facility provided the required notice to the person regarding the procedure to obtain return of any confiscated firearm.

(c) Upon the release of a person without judicial commitment as described in subdivision (b), the confiscating law enforcement agency shall have 10 days, unless good cause is shown, to initiate a petition in the superior court for a hearing to determine whether the return of a firearm or other deadly weapon would be likely to result in endangering the person or others, and to send a notice advising the person of his or her right to a hearing on this issue.

(d) The law enforcement agency shall inform the person that he or she has 30 days to respond to the court clerk to confirm his or her desire for a hearing, and that the failure to respond will result in a default order forfeiting the confiscated firearm or weapon. For the purpose of this subdivision, the person's last known address shall be the address provided to the law enforcement officer by the person at the time of the person's detention or apprehension.

(e) If the person responds and requests a hearing, the court clerk shall set a hearing, no later than 30 days from receipt of the request. The court clerk shall notify the person and the district

attorney of the date, time, and place of the hearing.

(f) If the person does not respond within 30 days of the notice, the law enforcement agency may file a petition for order of default.

(g) If the law enforcement agency does not initiate proceedings within the 10-day period, it shall make the weapon available for return.

8103.(a)(1) No person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of mental disorder or mental illness, or who has been adjudicated to be a mentally disordered sex offender, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession, custody, or control any firearm or any other deadly weapon unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm or any other deadly weapon without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

(2) The court shall immediately notify the Department of Justice of the court order finding the individual to be a person described in paragraph (1). The court shall also notify the Department of Justice of any certificate issued as described in paragraph (1).

(b)(1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision (2) or (3) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a

violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States which includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1).

(c)(1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of any crime other than those described in subdivision (b) shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon unless the court of commitment has found the person to have recovered sanity, pursuant to Section 1026.2 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her sanity.

(d)(1) No person found by a court to be mentally incompetent to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code or the law of any other state or the United States, shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon, unless there has been a finding with respect to the person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code

or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be mentally incompetent as described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her competence.

(e)(1) No person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon while under the conservatorship if, at the time the conservatorship was ordered or thereafter, the court which imposed the conservatorship found that possession of a firearm or any other deadly weapon by the person would present a danger to the safety of the person or to others. Upon placing any person under conservatorship, and prohibiting firearm or any other deadly weapon possession by the person the court shall notify the person of this prohibition.

(2) The court shall immediately notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm or any other deadly weapon possession by the person as described in paragraph (1). The notice shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm or any other deadly weapon by the person would no longer present a danger to the safety of the person or others, the court shall immediately notify the Department of Justice.

(3) All information provided to the Department of Justice pursuant to paragraph (2) shall be kept confidential, separate, and apart from all other records maintained by the department, and shall be used only to determine eligibility to

purchase or possess firearms or other deadly weapons. Any person who knowingly furnishes any such information for any other purpose is guilty of a misdemeanor. All such information concerning any person shall be destroyed upon receipt by the Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

(f)(1) No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself, herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if, at or prior to being released, the person is certified by the professional person in charge of the facility or his or her designee to be a person who is likely to use firearms in a safe and lawful manner or if the superior court has, pursuant to paragraph (4), upon petition of the person, found, by a preponderance of the evidence, that the person is likely to use firearms in a safe and lawful manner.

(2) For each person subject to this subdivision, the facility shall immediately, on the date of admission, submit a report to the Department of Justice, on a form prescribed by the department, containing information which includes, but is not limited to, the identity of the person and the legal grounds upon which the person was admitted to the facility.

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm. The state summary criminal history may state that the person is prohibited from owning, possessing, controlling, receiving, or purchasing a firearm

under this subdivision or any other provision of the law.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may petition a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm.

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in Section 8103 with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. Notwithstanding any other provision of law, declarations, police reports, including criminal history information, and any other material and relevant evidence which is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or

purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state summary criminal history information.

(g) (1) No person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years.

Any person who meets the criteria contained in subdivision (e) or (f) who is released from intensive treatment shall nevertheless, if applicable, remain subject to the prohibition contained in subdivision (e) or (f).

(2) For each person certified for intensive treatment under paragraph (1), the facility shall immediately submit a report to the Department of Justice, on a form prescribed by the department, containing information regarding the person, including, but not limited to, the legal identity of the person and the legal grounds upon which the person was certified. Any report submitted pursuant to this paragraph shall only be used for the purposes specified in paragraph (2) of subdivision (f).

(3) Prior to, or concurrent with, the discharge of each person certified for intensive treatment under paragraph (1), the facility shall inform the person of that information specified in paragraph (3) of subdivision (f).

(4) Any person who is subject to the prohibition contained in paragraph (1) may fully invoke the provisions of paragraph (4) of subdivision (f).

(h) For all persons identified in subdivisions (f) and (g), facilities shall report to the Department of Justice as specified in those subdivisions, except facilities shall not report persons under subdivision (g) if the same persons previously have been reported under subdivision (f).

Additionally, all facilities shall report to the Department of Justice upon the discharge of persons from whom reports have been submitted pursuant to subdivision (f) or (g).

(i) Every person who owns or possesses or has

under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section is guilty of a felony which is punishable by imprisonment in the state prison, or in the county jail for not more than one year, and which is subject to subdivision (b) of Section 17 of the Penal Code.

(j) "Deadly Weapon," as used in this section, has the meaning prescribed by Section 8100.

8104. The State Department of Mental Health shall maintain in a convenient central location and shall make available to the Department of Justice those records which the State Department of Mental Health has in its possession which are necessary to identify persons who come within the provisions of Section 8100 or 8103. These records shall be made available to the Department of Justice upon request. The Department of Justice shall make such requests only with respect to its duties with regard to applications for permits for, or the purchase or transfer of, explosives as defined in Section 12000 of the Health and Safety Code, devices defined in Section 12001 of the Penal Code, machineguns as defined in Section 12200 of the Penal Code, short-barreled shotguns or short-barreled rifles as defined in Section 12020 of the Penal Code, assault weapons as defined in Section 12276 of the Penal Code, and destructive devices as defined in Section 12301 of the Penal Code. These records shall not be furnished or made available to any person unless the department determines that disclosure of any information in the records is necessary to carry out its duties with respect to applications for permits for, or the purchase or transfer of, explosives, destructive devices, devices as defined in Section 12001 of the Penal Code, short-barreled shotguns, short-barreled rifles, assault weapons, and machineguns.

8105.(a) The Department of Justice shall request each public and private mental hospital, sanitarium, and institution to submit to the department that information which the department deems necessary to identify those persons

who are within the provisions of subdivision (a) of Section 8100, in order to carry out its duties in relation to firearms, destructive devices, and explosives.

(b) Upon request of the Department of Justice pursuant to subdivision (a), each public and private mental hospital, sanitarium, and institution shall submit to the department that information which the department deems necessary to identify those persons who are within the provisions of subdivision (a) of Section 8100, in order to carry out its duties in relation to firearms, destructive devices, and explosives.

(c) A licensed psychotherapist shall immediately report to a local law enforcement agency the identity of a person subject to subdivision (b) of Section 8100. Upon receipt of the report, the local law enforcement agency, on a form prescribed by the Department of Justice, shall immediately notify the department of the person who is subject to subdivision (b) of Section 8100.

(d)(1) Except as provided in paragraph (2), all information provided to the Department of Justice pursuant to this section shall be kept confidential, separate, and apart from all other records maintained by the department, and shall be used by the department only to determine eligibility to acquire, carry, and possess firearms, destructive devices, and explosives.

(2) Except for purposes of the court proceedings described in subdivision (b) of Section 8100 and for determining the eligibility of the person to acquire, carry, and possess firearms, destructive devices, and explosives, all information provided to the Department of Justice pursuant to this subdivision shall be kept confidential, separate, and apart from all other records maintained by the department. The information shall be used solely for the purposes of the court proceedings described in subdivision (b) of Section 8100 and by the department only to determine the eligibility of persons to acquire, carry, and possess firearms, destructive devices, and explosives.

(e) Reports shall not be required or requested under this section where the same person has been previously reported pursuant to Section 8103 or 8104.

8108. Mental hospitals, health facilities, or other institutions, or treating health professionals or psychotherapists who provide reports subject to this chapter shall be civilly immune for making any report required or authorized by this chapter. This section is declaratory of existing law.

CROSS REFERENCES AND OTHER INFORMATION

Stun Guns

244.5(a) As used in this section, "stun gun" means any item, except a taser, 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.

(b) Every person who commits an assault upon the person of another with a stun gun or a taser shall be punished by imprisonment in a county jail for a term not exceeding one year, or by imprisonment in the state prison for 16 months, two, or three years.

(c) Every person who commits an assault upon the person of a peace officer or firefighter with a stun gun or taser, who knows or reasonably should know that the person is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the county jail for a term not exceeding one year, or by imprisonment in the state prison for two, three, or four years.

(d) This section shall not be construed to preclude or in any way limit the applicability of Section 245 in any criminal prosecution.

Assault with a Deadly Weapon/Force

245.(a)(1) Every person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury is punishable by imprisonment in the state

prison for two, three or four years, or in a county jail not exceeding one year, or by fine not exceeding ten thousand dollars (\$10,000), or by both such fine and imprisonment.

(2) Every person who commits an assault upon the person of another with a firearm is punishable by imprisonment in the state prison for two, three, or four years, or in a county jail for a term of not less than six months and not exceeding one year, or by both a fine not exceeding ten thousand dollars (\$10,000) and imprisonment.

(3) Every person who commits an assault upon the person of another with a machinegun, as defined in Section 12200, or an assault weapon, as defined in Section 12276, shall be punished by imprisonment in the state prison for 4, 8, or 12 years.

(b) Every person who commits an assault upon the person of another with a semiautomatic rifle shall be punished by imprisonment in the state prison for three, six, or nine years.

(c) Every person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a peace officer or fireman, and who knows or reasonably should know that the victim is a peace officer or fireman engaged in the performance of his or her duties, when such peace officer or fireman is engaged in the performance of his or her duties shall be punished by imprisonment in the state prison for three, four, or five years.

(d)(1) Every person who commits an assault with a firearm upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) Every person who commits an assault upon the person of a peace officer or firefighter with a semiautomatic rifle and who knows or reasonably should know that the victim is a peace officer or firefighter, who is engaged in the performance of his or her duties, when such peace officer or

firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(3) Every person who commits an assault with a machinegun, as defined in Section 12200, or an assault weapon, as defined in Section 12276, upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for 6, 9, or 12 years.

(e) When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument or firearm, and the weapon or instrument or firearm is owned by that person, the court shall order that the weapon or instrument or firearm be deemed a nuisance and it shall be confiscated and disposed of in the manner provided by Section 12028.

(f) As used in this section, "peace officer" refers to any person designated as a peace officer in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

Discharge of Firearm

246. Any person who shall maliciously and willfully discharge a firearm at an inhabited dwelling house, occupied building, occupied motor vehicle, occupied aircraft, inhabited housecar, as defined in Section 362 of the Vehicle Code, or inhabited camper, as defined in Section 243 of the Vehicle Code, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for three, five, or seven years, or by imprisonment in the county jail for a term of not less than six months and not exceeding one year.

As used in this section, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

Drawing/Exhibiting a Deadly Weapon/Firearm

417.(a)(1) Every person who, except in self-defense, in the presence of any other person,

draws or exhibits any deadly weapon whatsoever, other than a firearm, in a rude, angry, or threatening manner, or who in any manner, unlawfully uses the same in any fight or quarrel is guilty of a misdemeanor punishable by imprisonment in the county jail for a term of not less than 30 days.

(2) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any firearm, whether loaded or unloaded, in a rude, angry, or threatening manner, or who in any manner, unlawfully uses the same in any fight or quarrel is guilty of a misdemeanor punishable by imprisonment in the county jail for a term of not less than three months.

(b) Every person who, except in self-defense, in the presence of any other person, draws or exhibits any loaded firearm in a rude, angry, or threatening manner, or who, in any manner, unlawfully uses any loaded firearm in any fight or quarrel upon the grounds of any day care center, as defined in Section 1596.76 of the Health and Safety Code, or any facility where programs, including day care programs or recreational programs, are being conducted for persons under 18 years of age, including programs conducted by a nonprofit organization, during the hours in which the center or facility is open for use, shall be punished by imprisonment in the state prison for one, two, or three years, or by imprisonment in a county jail for a term of not less than three months, nor more than one year.

(c) Every person who, in the immediate presence of a peace officer, draws or exhibits any firearm, whether loaded or unloaded, in a rude, angry, or threatening manner, and who knows or reasonably should know that the victim is a peace officer engaged in the performance of his or her duties, and that peace officer is engaged in the performance of his or her duties is guilty of a felony punishable by imprisonment in the county jail for a term of not less than nine months and not to exceed one year, or in the state prison.

As used in this section, "peace officers" refers to any person designated as a peace officer by Section 830.1, Section 830.2, subdivision (a) of Section 830.3, or Section 830.5.

707. (a) In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any criminal statute or ordinance except those listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit, the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

- (1) The degree of criminal sophistication exhibited by the minor.
- (2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.
- (3) The minor's previous delinquent history.
- (4) Success of previous attempts by the juvenile court to rehabilitate the minor.
- (5) The circumstances and gravity of the offense alleged to have been committed by the minor.

A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth above, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea which may already have been entered shall constitute evidence at the hearing.

(b) Subdivision (c) shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the viola-

tion, when he or she was 16 years of age or older, of one of the following offenses:

- (1) Murder.
- (2) Arson of an inhabited building.
- (3) Robbery while armed with a dangerous or deadly weapon.
- (4) Rape with force or violence or threat of great bodily harm.
- (5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.
- (6) Lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.
- (7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
- (8) Any offense specified in Section 289 of the Penal Code.
- (9) Kidnapping for ransom.
- (10) Kidnapping for purpose of robbery.
- (11) Kidnapping with bodily harm.
- (12) Assault with intent to murder or attempted murder.
- (13) Assault with a firearm or destructive device.
- (14) Assault by any means of force likely to produce great bodily injury.
- (15) Discharge of a firearm into an inhabited or occupied building.
- (16) Any offense described in Section 1203.09 of the Penal Code.
- (17) Any offense described in Section 12022.5 of the Penal Code.
- (18) Any felony offense in which the minor personally used a weapon listed in subdivision (a) of Section 12020 of the Penal Code.
- (19) Any felony offense described in Section 136.1 or 137 of the Penal Code.
- (20) Manufacturing, compounding, or selling one-half ounce or more of any salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.
- (21) Any violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which would also constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.
- (22) Escape, by the use of force or violence, from any county juvenile hall, home, ranch,

camp, or forestry camp in violation of subdivision (b) of Section 871 where great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(23) Torture as described in Sections 206 and 206.1 of the Penal Code.

(24) Aggravated mayhem as described in Section 205 of the Penal Code.

(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 16 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the following criteria:

(1) The degree of criminal sophistication exhibited by the minor.

(2) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(3) The minor's previous delinquent history.

(4) Success of previous attempts by the juvenile court to rehabilitate the minor.

(5) The circumstances and gravity of the offenses alleged to have been committed by the minor.

A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth above, and findings therefor recited in the order

as to each of the above criteria that the minor is fit and proper under each and every one of the above criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of the above criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may already have been entered shall constitute evidence at the hearing.

(d) If, subsequent to a finding that a minor is an unfit subject to be dealt with under the juvenile court law, the minor is convicted in a court of criminal jurisdiction of an offense listed in subdivision (b) of this section or listed in paragraph (24) of subdivision (c) of Section 1192.7 of the Penal Code, the finding of unfitness which preceded the conviction is applicable to the violation of any law or ordinance defining crime which is alleged to have been committed subsequent to the conviction if the violation would otherwise cause the minor to be a person described in Section 602. The probation officer shall not be required to investigate or submit a report regarding the fitness of a minor for any such subsequent charge. This subdivision shall not be construed to affect the right to appellate review of a finding of unfitness or the duration of the jurisdiction of the juvenile court as specified in Section 607.

OTHER CONTROLLED WEAPONS AND DEVICES

Replica/Imitation Firearms

417.2(a) Every person who, except in self-defense, draws or exhibits a replica of a firearm in a threatening manner against another in such a way as to cause a reasonable person apprehension or fear of bodily harm is guilty of a misdemeanor punishable by imprisonment in the county jail for a term of not less than 30 days. As used in this subdivision, "a replica of a firearm" means any device with the apparent capability of expelling a projectile by the force of air or an

explosion and which is reasonably perceived by the person against whom the device is drawn or exhibited to be an actual firearm, including starter pistols and air guns.

(b) Commencing January 1, 1989, any person who sells, manufactures, or distributes an imitation firearm in violation of this section shall be liable for a civil fine in an action brought by the city attorney of the city or the district attorney of the county of not more than ten thousand dollars (\$10,000) for each violation.

As used in this section, "imitation firearm" means a replica of a firearm which is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

The manufacture, sale, or distribution of imitation firearms is permitted if the device is manufactured, sold, or distributed (1) solely for export in interstate or foreign commerce, (2) solely for lawful use in theatrical productions, including motion picture, television, and stage productions, (3) for use in a certified or regulated athletic event or competition, (4) for use in military or civil defense activities, or (5) for public displays authorized by public or private schools.

(c) As used in this section, "imitation firearm" does not include (1) a nonfiring collector's replica of an antique firearm which was designed prior to 1898, is historically significant, and is offered for sale in conjunction with a wall plaque or presentation case; (2) a nonfiring collector's replica of a firearm which was designed after 1898, is historically significant, was issued as a commemorative by a nonprofit organization, and is offered for sale in conjunction with a wall plaque or presentation case; or (3) a device, as defined in subdivision (g) of Section 12001.

Sniperscopes

468. Any person who knowingly buys, sells, receives, disposes of, conceals, or has in his possession a sniperscope shall be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment

in the county jail for not more than one year, or by both such fine and imprisonment.

As used in this section, sniperscope means any attachment, device or similar contrivance designed for or adaptable to use on a firearm which, through the use of a projected infrared light source and electronic telescope, enables the operator thereof to visually determine and locate the presence of objects during the nighttime.

This section shall not prohibit the authorized use or possession of such sniperscope by a member of the armed forces of the United States or by police officers, peace officers, or law enforcement officers authorized by the properly constituted authorities for the enforcement of law or ordinances; nor shall this section prohibit the use or possession of such sniperscope when used solely for scientific research or educational purposes.

Switchblade Knives

653k. Every person who possesses in the passenger's or driver's area of any motor vehicle in any public place or place open to the public, carries upon his or her person, and every person who sells, offers for sale, exposes for sale, loans, transfers, or gives to any other person a switchblade knife having a blade over two inches in length is guilty of a misdemeanor.

For purposes of this section a "switchblade knife" is a knife having the appearance of a pocketknife, and shall include a spring-blade knife, snap-blade knife, gravity knife or any other similar type knife, the blade or blades of which are two or more inches long and which can be released automatically by a flick of a button, pressure on the handle, flip of the wrist or other mechanical device, or is released by the weight of the blade or by any type of mechanism whatsoever.

For purposes of this section "passenger's or driver's area" means that part of a motor vehicle which is designed to carry the driver and passengers, including any interior compartment or space therein.

PUBLIC POLICY OF STATE

Pursuant to Chapter 1180 of the Statutes of 1988

Sec. 1. The Legislature finds and declares as follows:

(a) The law on the transfer of firearms as defined in Section 12001 of the Penal Code is unclear as it relates to nondealer transfers between private parties. It has been stated in judicial decisions that on pure private transfers the 15-day statutory waiting period must elapse prior to delivery of the firearm and that the parties must personally know each other. Therefore, subdivision (e) as added to Section 12072 of the Penal Code by this act is merely declaratory of existing law.

(b) The Legislature further recognizes that there is no explicitly recognized statutory procedure whereby law-abiding citizens may transfer a pistol, revolver, or other firearm capable of being concealed upon the person through dealers and obtain the protection afforded by law. A procedure for the transfer of these firearms is recognized under federal law and in other states and has been found to be of benefit to firearm owners, law enforcement, and the general community. Therefore, the Legislature in amending subdivision (d) of Section 12072 of the Penal Code and adding Section 12082 to the Penal Code intends to give law abiding citizens the express statutory option of going through dealers to process their firearm transfers and to encourage the use of that process.

Section 12 of Chapter 951 of the Statutes of 1991 amends Section 2 of Chapter 1180 of the Statutes of 1988 as follows:

Sec. 2. The Legislature declares the following to be the public policy of this state:

(a) No person who buys or is transferred a firearm that was conducted through a person acting under Section 12082 or 12084 of the Penal Code shall incur any civil liability for any illicit use or possession of the firearm prior to his or her taking possession of the firearm if the person had

no knowledge of that conduct.

(b) No person holding a license under Section 12071 of the Penal Code when transferring firearms pursuant to Section 12082 of the Penal Code shall assume any civil liability beyond that existing at the time of the effective date of this section when the person sells or transfers any firearms out of his or her own stock, if that person otherwise complies with Section 12082 of the Penal Code. No person acting as a dealer pursuant to Section 12071 of the Penal Code who is transferring firearms for third parties pursuant to Section 12082 of the Penal Code and which firearms are not out of his or her own stock shall assume any civil liability for any defects in those firearms unless he or she has actual knowledge of the defect.

(c) No person who transfers a firearm through a dealer licensed pursuant to Section 12071 of the Penal Code in accordance with Section 12082 of the Penal Code, or through a local law enforcement agency pursuant to Section 12084 of the Penal Code, and otherwise complies with Article 3 (commencing with Section 12070) of Chapter 1 of Title 2 of Part 4 of the Penal Code shall incur any civil liability for subsequent misuse of the firearm by the transferee of that firearm if he or she had no knowledge of the misuse prior to the transfer.

(d) The declarations contained in this section are declaratory of existing law.

ORDERING DEALER'S RECORD OF SALE REGISTERS

A Dealer's Record of Sale Register, referred to in Penal Code Section 12073, may be obtained by contacting the Publications Section of the Department of General Services at (916) 973-3700 for cost of the register and remitting a check or money order in that amount to the State of California, Publications Section, P. O. Box 1015, North Highlands, California 95660. Make checks or money orders payable to the State of California.

To insure prompt service when ordering registers:

1. Include a copy of your Federal Firearms License in your order.

2. Type or print "DROS Register" below your return address on the envelope.

3. Specify that you are ordering either the register for pistols, revolvers or other firearms capable of being concealed upon the person or for firearms other than those, or both.

4. Use your business address as a return address and *not* your P.O. Box since registers are shipped by common carrier.

ORDERING "CALIFORNIA FIREARMS LAWS" PAMPHLET

Pursuant to Section 12080 of the California Penal Code the "California Firearms Laws" pamphlet is available from the Office of the Attorney General for \$2.00 per copy (the price includes the cost of postage and handling). To order copies please remit a check or money order to:

California Firearms Laws
Office of the Attorney General
P.O. Box 944255, 5th Floor
Sacramento, CA 94244-2550

Make checks or money orders payable to the Office of the Attorney General.