

# California Firearms Laws



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# CALIFORNIA FIREARMS LAWS

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## ADDENDUM - SUMMARY OF NEW LAWS

Effective January 1, 2007, the California Firearms Laws booklet is revised to include

amendments to existing code sections of the California Penal Code and Welfare and Institutions Code and to add new sections as a result of legislative action occurring during 2006. This addendum only provides a brief summary of these changes. For more detailed information, please refer to the complete text of the bills available via the Internet at: <http://www.leginfo.ca.gov/> or you may contact the Legislative Bill Room at (916) 445-2323 to obtain copies of these bills (order by statute year and chapter number). *Additional information regarding firearms laws, including the full text of the Dangerous Weapons Control Law, is available on the Internet at the Department of Justice (DOJ) Bureau of Firearms website at <http://www.ag.ca.gov/firearms>.*

**AB 2111 (Stats. 2006, ch. 71) (Haynes)**

- *Allows the delivery of a handgun by a dealer to a purchaser despite the fact, during the pendency of the DROS, the handgun is removed from the roster of not unsafe handguns due to nonpayment (PC § 12131).*
- *Provides that if the handgun, prior to the completion of the transfer, is removed from the roster because of a failure during retesting, the handgun cannot legally be delivered to the purchaser (PC § 12131).*

**AB 2521 (Stats. 2006, ch. 784) (Jones)**

- *Establishes the Centralized List of Exempted Federal Firearms Licensees (FFLs) (PC § 12072) as of January 1, 2008.*
- *As of July 1, 2008, requires both in-state and out of state FFLs to obtain approval (a unique verification number) from the California Department of Justice (DOJ) prior to shipping firearms to any California FFL (PC § 12072). A subsequent DOJ Information Bulletin will be forwarded regarding this new law.*

**SB 1239 (Stats. 2006, ch.52) (Hollingsworth)**

- *Authorizes firearms dealers to provide a copy of a DROS in a private party transaction to the seller, as well as the purchaser, of the firearm (PC § 12076).*
- *Requires the redaction of personal information about the firearm seller from the copy of the document provided to the purchaser, and information regarding the purchaser from the copy of the document provided to the seller (PC § 12076).*

**SB 1538 (Stats. 2006, ch.668) (Scott)**

- Provides that any person who is prohibited from obtaining a firearm who knowingly furnishes a fictitious name or address, knowingly furnishes any incorrect information, or knowingly omits any information required on the Dealer's Record of Sale (DROS) is guilty of a crime punishable by imprisonment in a county jail not exceeding one year, or imprisonment in state prison for 8, 12 or 18 months (PC § 12076).

**AB 2129 (Stats. 2006, ch. 474) (Spitzer)**

- Requires a person subject to a temporary restraining order to surrender his or her firearm(s) within 24 hours of being served with the order or injunction without regard to whether the person appeared in court at the time the order was issued (Civil Code § 527.9).
- Requires a person subject to a temporary restraining order to present a receipt to the court acknowledging the surrender of his or her firearms within 48 hours after receipt of the temporary restraining order or injunction (Civil Code § 527.9).

**AB 2521 (Stats. 2006, ch. 784) (Jones)**

- Establishes the Centralized List of Exempted Federal Firearms Licensees (FFLs) (PC § 12072) as of January 1, 2008.
- As of July 1, 2008, requires both in-state and out of state FFLs to obtain approval (e.g., a unique verification number) from the California Department of Justice (CDOJ) prior to shipping firearms to any California FFL (PC § 12072).

**AB 2728 (Stats. 2006, ch. 793) (Klehs)**

- Repeals DOJ's authority under Penal Code §12276.1 to identify Colt AR-15 and AK-47 type "series" assault weapons by name, or to seek a judicial declaration that a firearm is identical to an assault weapon listed in Penal Code section 12276.
- Authorizes the Attorney General, any district attorney, or any city attorney to bring an action in superior court, in lieu of criminal prosecution, to enjoin the possession of the assault weapon or .50 BMG rifle, seek destruction of the weapon as a public nuisance, and to obtain civil fines (PC § 12282(b)).
- Requires the destruction of any assault weapon or any .50 BMG rifle declared by a court to be a public nuisance, or upon a conviction for "any misdemeanor or felony involving the illegal possession or use of an assault weapon." (PC § § 12282(c); 12282(d)).
- Authorizes law enforcement to obtain a court order to preserve an assault weapon or .50 BMG rifle for law enforcement purposes "in the interests of justice." (PC § 12282(c)).

**SB 532 (Stats. 2006, ch. 180) (Torlakson)**

- Expands the scope of the offense of discharging a firearm in a grossly negligent manner that could result in injury or death to a person to include a BB device, and makes the offense involving a BB device punishable by imprisonment in a county jail, not exceeding one year (PC § 246.3).

**SB 585 (Stats. 2006, ch. 467) (Kehoe)**

- *Requires that persons subject to a protective court order which includes the relinquishment of firearms to immediately surrender his or her firearm in a safe manner, upon the request of any law enforcement officer, or within 24 hours when no request for relinquishment is made by a law enforcement officer (FC § 6389).*
- *Requires that persons who are subject to a protective order file a receipt with the court acknowledging the surrender of his or her firearms within 48 hours after being served with the order and provides that the failure to timely file a receipt constitutes a violation of the protective order (FC § 6389).*

**SB 1538 (Stats. 2006, ch.668 ) (Scott)**

- *Provides that any person who is prohibited from obtaining a firearm who knowingly furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required on the Dealer's Record of Sale (DROS) be punished by imprisonment in a county jail not exceeding one year or imprisonment in state prison for 8, 12 or 18 months (PC § 12076).*

## INTRODUCTION

This pamphlet contains a general summary of California laws that govern common possession and use of firearms by persons other than law enforcement officers, firearms dealers, or members of the armed forces. It is not designed to provide individual guidance for specific situations, nor does it attempt to summarize federal law. The legality of any specific act of possession or use will ultimately be determined by applicable federal and state statutory and case law. For more information on specific state statutes, please refer to the full text of the California Penal Code sections referenced herein, available via the Internet at: <http://www.leginfo.ca.gov/>. Persons having specific questions are encouraged to seek legal advice from an attorney, or consult their local law enforcement agency or law library. The California Department of Justice and all other public entities are immune from any liability arising from the drafting, publication, or dissemination of this pamphlet, or any reliance upon it. (Penal Code § 12080.)

## DEFINITIONS

### Firearms

The term *firearm* includes rifles, shotguns, revolvers, pistols, or any other device designed to be used as a weapon from which a projectile is expelled by the force of any explosion or other form of combustion. The term *firearm* includes the frame or receiver of any such weapon. (Penal Code § 12001.)

For the purposes of sections 12025 and 12031, the term firearm also includes any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes. (Penal Code § 12001.)

### Handguns

A *handgun* is any pistol, revolver, or other firearm capable of being concealed upon the person that has a barrel length of less than 16 inches. The term also applies to any device that has a barrel length of 16 inches or more which is designed to be interchanged with a barrel less than 16 inches. (Penal Code § 12001(a).)

### Exceptions

The term *firearm* does not apply to a federally defined “antique” firearm for the purpose of dealer licensing requirements, sales or loans between private parties, or requirements to obtain a Handgun Safety Certificate pursuant to Penal Code sections 12070, 12071, subdivisions (b) (c) or (d) of 12072, or 12073. The term *firearm* does not apply to federally defined “curio” or “relic” long guns over 50 years old for the purpose of transfers between private parties. (Penal Code §§ 12001(e), 12078(t)(2).)

## 1. PROHIBITED FIREARMS, AMMUNITION, AND RELATED DEVICES

It is unlawful for any person to own, possess, lend, manufacture, import, sell, or offer to sell any **short-barreled shotgun** or **short-barreled rifle**, any **firearm that is not immediately recognizable as a firearm**, any **camouflaging firearm container**, any **cane or wallet gun**, any **undetectable firearm**, any **ammunition that contains or consists of a flechette dart**, any **bullet that contains or carries an explosive agent**, any **zip gun**, any **unconventional pistol**, any **multi-burst trigger activator**, any **nunchaku**, any **metal knuckles**, any **belt buckle knife**, any **lead cane**, any **lipstick case knife**, any **cane sword**, any **shobi-zue**, any **air gauge knife**, any **ballistic knife**, any **shuriken**, any **writing pen knife**, and any **metal military practice hand grenade or metal replica hand grenade**. It is unlawful for any person to carry a concealed **dirk or dagger**. (Penal Code §§ 12001.5, 12020(a)(1).)

It is unlawful for any person to commercially manufacture or cause to be commercially manufactured, or knowingly import into the state for commercial sale, keep for commercial sale, or offer or expose for commercial sale, any **hard plastic knuckles**. (Penal Code § 12020.1.)

It is unlawful for any person to manufacture, cause to be manufactured, import into the state, keep for sale, or offer or expose for sale, or give or lend, any **large-capacity magazine**. (Penal Code § 12020(a)(2).)

*A short-barreled shotgun* means a firearm designed or redesigned to fire a fixed shotgun shell that has a barrel or barrels of less than 18 inches in length or an overall length of less than 26 inches; any weapon made from a shotgun which meets the barrel length or overall length criteria; any device which may be restored to fire a fixed shotgun shell and which meets the barrel length or overall length criteria; or any part or combination of parts designed and intended to convert a device into a short-barreled shotgun or which would permit an individual to readily assemble a short-barreled shotgun. (Penal Code § 12020(c)(1).)

*A short-barreled rifle* means a rifle having a barrel length of less than 16 inches or an overall length of less than 26 inches; any weapon made from a rifle which meets the barrel length or overall length criteria; any device which may be restored to fire a fixed cartridge and which meets the barrel length or overall length criteria; or any part or combination of parts designed and intended to convert a device into a short-barreled rifle or which would permit an individual to readily assemble a short-barreled rifle. (Penal Code § 12020(c)(2).)

*A camouflaging firearm container* means a container designed to enclose a firearm, making it unrecognizable, and is capable of being fired by external controls while enclosed in the container. The term excludes camouflage gear used in hunting. (Penal Code § 12020(c)(9).)

*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. (Penal Code § 12020(c)(5).)

*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. (Penal Code § 12020(c)(4).)

An *undetectable firearm* means any weapon (after grips, stocks and magazines are removed) which is less detectable than the security test devices which are used to calibrate and set walk-through metal detectors; or a weapon which has a major component made of barium sulfate or other compounds which do not generate an image accurately depicting the component on the x-ray machines commonly used at airports. (Penal Code § 12020(c)(22).)

A *flechette dart* means a dart one inch in length that is capable of being fired from a firearm and has tail fins that take up approximately five-sixteenths of an inch of the body. (Penal Code § 12020(c)(6).)

A *zip gun* means a weapon or device made or altered to expel a projectile by the force of an explosion or other form of combustion which was not imported by a person licensed pursuant to federal law, not designed as a firearm by a manufacturer licensed pursuant to federal law and on which no federal tax was paid nor exemption from federal tax granted. (Penal Code § 12020(c)(10).)

An *unconventional pistol* means a firearm that does not have a rifled bore and has a barrel or barrels less than 18 inches in length and an overall length of less than 26 inches. (Penal Code § 12020(c)(12).)

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, or a manual or power-driven trigger activating device constructed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm. (Penal Code § 12020(c)(23).)

The term *bullet containing or carrying an explosive agent* does not include tracer ammunition manufactured for use in shotguns. (Penal Code § 12020(b)(6).)

A *dirk or dagger* means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury. A non-locking folding knife, a folding knife not prohibited by section 653k, or a pocketknife, is considered a dirk or dagger only if the blade of the knife is exposed and locked into position. (Penal Code § 12020(c)(24).)

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. (Penal Code § 12020(c)(3).)

A *metal knuckle* means a device or instrument made wholly or partially of metal to be worn in or on the hand while striking a blow to increase the force of the impact. (Penal Code § 12020(c)(7).)

The term *hard plastic knuckles* means any device or instrument made wholly or partially of plastic that is not a metal knuckle as defined in paragraph (7) of subdivision (c) of Section 12020, that is worn for purposes of offense or defense in or on the hand, and that either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The plastic contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs that would contact the individual receiving a blow. (Penal Code § 12020.1.)

A *ballistic knife* means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. (Penal Code § 12020(c)(8).)

A *shuriken* means an instrument without handles consisting of metal having three or more radiating points with one or more sharp edges, used as a weapon for throwing. (Penal Code § 12020(c)(11).)

A *belt buckle knife* means a knife which is an integral part of a belt buckle and has a blade of at least 2-1/2 inches in length. (Penal Code § 12020(c)(13).)

A *lipstick case knife* means a knife enclosed within and made an integral part of a lipstick case. (Penal Code § 12020(c)(14).)

A *cane sword* means a cane, stick, staff, rod, pole, or similar device having a concealed blade that may be used as a sword. (Penal Code § 12020(c)(15).)

A *shobi-zue* means a staff, crutch, rod, or pole concealing a knife or blade which may be exposed by a flip of the wrist or mechanical action. (Penal Code § 12020(c)(16).)

A *leaded cane* means a staff, crutch, stock, rod, pole or similar device unnaturally weighted with lead. (Penal Code § 12020(c)(17).)

An *air gauge knife* means a device that appears to be an air gauge, but has a concealed pointed metallic shaft designed to be a stabbing instrument when exposed by mechanical action or gravity, and locks into place when extended. (Penal Code § 12020(c)(18).)

A *writing pen knife* means a device that appears to be a writing pen, but has a concealed pointed metallic shaft designed to be a stabbing instrument when exposed by mechanical action or gravity, and locks into place when extended. (Penal Code § 12020(c)(19).)

A *metal military practice hand grenade or metal replica hand grenade* means a device that is readily usable as a grenade or may be easily modified for ready use as a grenade, and does not include any plastic toy hand grenade or any metal military practice hand grenade that is a relic, curio, memorabilia, or display item that has been filled with a permanent inert substance or has otherwise been permanently altered in a manner that prevents ready modification for use as a grenade. (Penal Code §§ 12020(a), 12020(b)(15).)

A *large capacity magazine* means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds, a tubular magazine that is contained in a lever-action firearm, or a .22 caliber tube ammunition feeding device. (Penal Code § 12020(c)(25).)

## **Exceptions**

The general prohibition in this section does not apply to any instrument, ammunition, weapon, or device other than a short-barreled rifle or short-barreled shotgun that is found and possessed by a person who is not prohibited by law from possessing firearms or ammunition and who possessed the instrument, ammunition, weapon, or device no longer than was necessary to transport it to a law

enforcement agency for disposition according to law.

In the case of a firearm, prior notice must be given to the law enforcement agency prior to transporting it to that agency for disposition, and the firearm must be transported unloaded and in a locked container, as defined by Penal Code section 12026.2(d). (Penal Code §§ 12020(b)(15) and (16).)

The general prohibition in this section does not include antique firearms. An *antique firearm* is defined as any firearm that was manufactured in or before 1898 and is not designed or redesigned to use rimfire or conventional center fire ignition with fixed ammunition. This includes any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, regardless of the date of manufacture. Firearms manufactured in or before 1898 that use fixed ammunition which is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade are also considered antiques. (Penal Code § 12020(b)(5).)

This general prohibition also does not include any firearm or ammunition that is a *curio or relic* as defined in section 478.11 of Title 27 of the Code of Federal Regulations and 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. (Penal Code § 12020(b)(7).)

## **Machineguns**

It is unlawful for any person to sell, offer for sale, possess, or knowingly transport any machinegun. (Penal Code § 12220.)

The term *machinegun* means any weapon that shoots or is designed to shoot more than one shot automatically (without manual reloading) by a single function of the trigger. The term also includes any frame or receiver of a machinegun and any part or combination of parts designed and intended for use in converting an otherwise legal weapon into a machinegun. The term also includes any weapon deemed by the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives as readily convertible to a machinegun under Chapter 53 (commencing with section 5801) of Title 26 of the United States Code. (Penal Code § 12200.)

These prohibitions do not apply to (a) persons having a permit or license issued by the California Department of Justice to possess, transport, or sell machineguns (Penal Code §§ 12230, 12231, 12233, 12250); or (b) federal or state military or naval forces or law enforcement officers acting within the scope of their duties. (Penal Code § 12201.)

## **Assault Weapons and .50 BMG Rifles**

It is a felony for any person to manufacture, distribute, transport, import into California, or keep or offer for sale, or give or lend, an assault weapon or .50 BMG rifle. (Penal Code § 12280.)

Any person who lawfully possesses an assault weapon or .50 BMG rifle must have registered it as such with the Department of Justice. (Penal Code § 12285.)

The term *assault weapon* means the following designated semiautomatic firearms as defined by Penal Code section 12276:

(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) Beretta 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, and 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, and 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 —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 Legislature’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.

The term “*assault weapon*” also means any firearm that falls under one of the following definitions pursuant to Penal Code section 12276.1:

- (1) A semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and any one of the following:
  - (A) A pistol grip that protrudes conspicuously beneath the action of the weapon.
  - (B) A thumbhole stock.
  - (C) A folding or telescoping stock.
  - (D) A grenade launcher or flare launcher.
  - (E) A flash suppressor.
  - (F) A forward pistol grip.
- (2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds.
- (3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.
- (4) A semiautomatic pistol that has the capacity to accept a detachable magazine and any one of the following:
  - (A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.
  - (B) A second handgrip.
  - (C) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning his or her hand, except a slide that encloses the barrel.
  - (D) The capacity to accept a detachable magazine at some location outside of the pistol grip.
- (5) A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds.
- (6) A semiautomatic shotgun that has both of the following:
  - (A) A folding or telescoping stock.
  - (B) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.
- (7) A semiautomatic shotgun that has the ability to accept a detachable magazine.

(8) Any shotgun with a revolving cylinder.

The following definitions shall apply relative to defining assault weapons:

(1) "Magazine" shall mean any ammunition feeding device.

(2) "Capacity to accept more than 10 rounds" shall mean capable of accommodating more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.

(3) "Antique firearm" means any firearm manufactured prior to January 1, 1899.

The term "assault weapon" does not include any of the following:

(1) Any antique firearm.

(2) The following pistols sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, and that are used for Olympic target shooting purposes.

(Penal Code § 12276.1.):

| <u>MANUFACTURER</u> | <u>MODEL</u> | <u>CALIBER</u> |
|---------------------|--------------|----------------|
| BENELLI             | MP90         | .22LR          |
| BENELLI             | MP90         | .32 S&W LONG   |
| BENELLI             | MP95         | .22LR          |
| BENELLI             | MP95         | .32 S&W LONG   |
| HAMMERLI            | 280          | .22LR          |
| HAMMERLI            | 280          | .32 S&W LONG   |
| HAMMERLI            | SP20         | .22LR          |
| HAMMERLI            | SP20         | .32 S&W LONG   |
| PARDINI             | GPO          | .22 SHORT      |
| PARDINI             | GP-SCHUMANN  | .22 SHORT      |
| PARDINI             | HP           | .32 S&W LONG   |
| PARDINI             | MP           | .32 S&W LONG   |
| PARDINI             | SP           | .22LR          |
| PARDINI             | SPE          | .22LR          |
| WALTHER             | GSP          | .22LR          |
| WALTHER             | GSP          | .32 S&W LONG   |
| WALTHER             | OSP          | .22 SHORT      |
| WALTHER             | OSP-2000     | .22 SHORT      |

(3) Any model of competitive pistol that would otherwise fall within the definition of "assault weapon" but has otherwise been expressly identified as exempt by the Department of Justice.

The exempt competitive pistols may be based on recommendations by USA Shooting or may be based on the recommendation or rules of any other organization that the Department of Justice deems relevant. The current list of exempt pistols is available on the *Bureau of Firearms* website at <http://www.ag.ca.gov/firearms/forms/pdf/op.pdf>. (Penal Code § 12276.1.)

The term "assault weapon" also means any firearm specified by the Department of Justice as an AK or AR-15 series weapon pursuant to Penal Code section 12276(e) and the California Supreme Court decision in *Kasler v. Lockyer*. As a result of this Penal Code section and court decision, all AK and AR-15 series rifles are assault weapons regardless of their characteristics. The Department of Justice maintains a roster of firearm makes and models which the Attorney General has identified

as AK and AR-15 series weapons. The most current list is available on the DOJ website at <http://caag.state.ca.us/firearms/awguide>. At the time of this printing, this list includes the following:

## **AK Series Weapons**

### **American Arms**

AK-C 47  
AK-F 39  
AK-F 47  
AK-Y 39

### **Arsenal**

SLG (all)  
SLR (all)

### **B-West**

AK-47 (all)

### **Hesse Arms**

Model 47 (all)  
Wieger STG 940 Rifle

### **Inter Ordnance - Monroe, NC**

AK-47 (all)  
M-97  
RPK

### **Kalashnikov USA**

Hunter Rifle / Saiga

\* AK 47  
\* ARM  
MISR (all)  
MISTR (all)

### **Made in China**

\* 56  
\* 56S  
\* 84S  
\* 86S  
\* AK  
\* AK47  
\* AKM  
\* AKS

### **MARS**

Pistol

### **Mitchell Arms, Inc.**

AK-47 (all)  
AK-47 Cal .308 (all)  
M-76  
M-90  
RPK

\* 56  
\* 56 S  
81 S (all)  
\* 84 S  
86 (all)  
\* 86 S  
AK-47 (all)  
Hunter Rifle  
MAK 90  
NHM 90, 90-2, 91 Sport  
RPK Rifle

### **Ohio Ordnance Works (o.o.w.)**

AK-74  
ROMAK 991

### **Poly Technologies**

\* AK47  
\* AKS

### **Valmet**

76 S  
Hunter Rifle

### **WUM**

WUM (all)

**MAADI CO**

**Norinco**

## AR-15 Series Weapons

### **American Spirit**

#### **ASA Model**

#### **Armalite**

AR 10 (all)

Golden Eagle

M15 (all)

#### **Bushmaster**

XM15 (all)

#### **Colt**

\* AR-15 (all)

Law Enforcement (6920)

Match Target (all)

Sporter (all)

#### **Dalphon**

B.F.D.

#### **DPMS**

Panther (all)

### **Eagle Arms**

EA-15 A2 H-BAR

EA-15 E1

M15 (all)

### **Frankford Arsenal**

AR-15 (all)

### **Hesse Arms**

HAR 15A2 (all)

### **Knights**

RAS (all)

SR-15 (all)

SR-25 (all)

### **Les Baer**

Ultimate AR (all)

### **Olympic Arms**

AR-15

Car-97

PCR (all)

### **Ordnance, Inc.**

AR-15

### **Palmetto**

SGA (all)

### **Professional Ordnance, Inc.**

Carbon 15 Pistol

Carbon 15 Rifle

### **PWA**

All Models

### **Rock River Arms, Inc.**

Car A2

Car A4 Flattop

LE Tactical Carbine

NM A2 - DCM Legal

Standard A-2

Standard A-4 Flattop

### **Wilson Combat**

AR-15

\* Required to be registered on  
or before March 31, 1992

As AK and AR-15 series weapons are identified, they will be added to the roster. Please note that the list provided in this publication is not comprehensive and may have been updated since this printing. Individuals have an obligation to inquire if they believe their firearm is an AK or AR-15 series assault weapon.

The term “*.50 BMG rifle*” means any center fire rifle that can fire a .50 BMG cartridge and that is not already an assault weapon or machinegun. This definition excludes federally defined curios, relics, and firearms manufactured prior to January 1, 1899. A “*.50 BMG cartridge*” is defined as a cartridge that is designed and intended to be fired from a centerfire rifle and that meets all of the following criteria:

- (1) It has an overall length of 5.54 inches from the base to the tip of the bullet.
- (2) The bullet diameter for the cartridge is from .510 to, and including, .511 inch.
- (3) The case base diameter for the cartridge is from .800 inch to, and including, .804 inch.
- (4) The cartridge case length is 3.91 inches. (PC § 12278.)

### **Exceptions**

- Penal Code section 12280(e) provides an exception for the sale to, purchase by, or possession of assault weapons or .50 BMG rifles by specified law enforcement agencies and military or naval forces for use in the discharge of their official duties. The law permits possession and use of these weapons by sworn members of these agencies when on duty and the use is within the scope of their duties.
- Penal Code section 12280(f) provides an exception for the delivery, transfer, or sale to, or possession of an assault weapon or .50 BMG rifle by peace officer members of specified agencies with the express authorization of their employing agencies. For this exception to apply, if the firearm is an assault weapon, the peace officer must register the firearm as an assault weapon with the Department of Justice within 90 days of the date of acquisition. If the firearm is a .50 BMG rifle and the officer took possession of the rifle after January 1, 2005, the officer shall register the firearm as a .50 caliber BMG rifle not later than one year after possession or receipt.
- Penal Code section 12280(k) provides limited exceptions for registered assault weapons and .50 BMG rifles while on a target range or while attending an exhibition, display, or firearms educational project which is sponsored by law enforcement or a nationally or state recognized entity that promotes firearm proficiency or education.
- Penal Code section 12280(m) provides an exception for out-of-state residents who bring assault weapons or .50 BMG rifles into the state if attending an organized match or competition conducted on a target range, club, etc., for the purpose of shooting targets.
- Penal Code section 12285(c)(6) provides an exception for registered assault weapons or .50 BMG rifles while on publicly owned land if the possession and use of an assault weapon is specifically permitted by the managing agency of the land.

## **Possession, Transport, Sale, and Manufacture of Assault Weapons and .50 BMG Rifles**

A person may not possess or transport an assault weapon or .50 BMG rifle, as defined, unless the weapon has been registered as an assault weapon or .50 BMG rifle with the Department of Justice, or the person has obtained a permit for that weapon from the Department. (Penal Code §§ 12276, 12280, 12285, 12286.)

A lawfully possessed assault weapon or .50 BMG rifle may be transported for any lawful purpose if it is unloaded and either securely locked in the trunk of a vehicle or in a locked container carried inside the vehicle other than the utility or glove compartment. (Penal Code §§ 12280(m), 12285(c)(7), 12026.1.)

A person in lawful possession of an assault weapon or .50 BMG rifle may sell it only to a properly licensed firearms dealer who has been issued an assault weapon or .50 BMG rifle permit by the Department of Justice or may elect to relinquish the weapon to a police or sheriff's department. (Penal Code §§ 12285, 12288.)

The Department of Justice may issue permits for the manufacture of assault weapons or .50 BMG rifles to federally licensed manufacturers of firearms for sale to law enforcement agencies, persons having permits to acquire assault weapons or .50 BMG rifles, persons out of state who have federal firearm dealer licenses entitling them to sell these weapons to federal law enforcement and military agencies, and law enforcement or military agencies in other states and, for sale to foreign governments and agencies approved by the U.S. State Department. (Penal Code § 12287.)

*For the purpose of filing criminal charges against a defendant involving assault weapons or .50 BMG rifles, distinct and separate offenses may be filed for each assault weapon or .50 BMG rifle, except in the case of a first violation involving not more than two firearms. (Penal Code § 12280.)*

*As of January 1, 2007, the legislature has repealed DOJ's authority under Penal Code § 12276.1 to identify Colt AR-15 and AK-47 type "series" assault weapons by name, or to seek a judicial declaration that a firearm is identical to an assault weapon listed in Penal Code section 12276.*

*The legislature has authorized the Attorney General, or any district attorney, or any city attorney to bring an action in superior court, in lieu of criminal prosecution, to enjoin the possession of the assault weapon or .50 BMG rifle, seek destruction of the weapon as a public nuisance, and to obtain civil fines (Penal Code § 12282(b)).*

*As of January 1, 2007, California state law requires the destruction of any assault weapon or .50 BMG rifle declared by a court to be a public nuisance, or upon a conviction for "any misdemeanor or felony involving the illegal possession or use of an assault weapon." (Penal Code § 122882(c); 12282(d)).*

*As of January 1, 2007, the legislature has authorized law enforcement to obtain a court order to preserve an assault weapon or .50 BMG rifle for law enforcement purposes "in the interests of justice" (Penal Code § 12282(c)).*

## **Armor-Piercing Bullets**

It is unlawful for any person to manufacture, sell, or knowingly possess or transport handgun ammunition designed primarily to penetrate metal or armor. (Penal Code §§ 12320, 12321.)

*Handgun ammunition* means ammunition principally for use in pistols, revolvers, and other firearms capable of being concealed upon the person, as defined in subdivision (a) of section 12001, notwithstanding that the ammunition may also be used in some rifles. (Penal Code § 12323(a).)

*Handgun ammunition designed primarily to penetrate metal or armor* means any ammunition, except a shotgun shell or ammunition primarily designed for use in rifles, that is designed primarily to penetrate a body vest or body shield. (Penal Code § 12323(b).)

*Body vest or shield* means any bullet-resistant material intended to provide ballistic and trauma protection for the wearer or holder. (Penal Code § 12323(c).)

## **Exceptions**

The prohibition against possessing, manufacturing, etc., armor piercing ammunition does not apply to the following (Penal Code § 12322):

- Specified members of the military while on duty and engaged within the scope of their duties.
- Any police agency or forensic laboratory.
- Persons who hold valid permits issued pursuant to Penal Code section 12305.
- The possession of handgun ammunition designed primarily to penetrate metal or armor by a person who found the ammunition, if he or she is not prohibited from possessing firearms or ammunition pursuant to section 12021, 12021.1 or paragraph (1) of subdivision (b) of section 12316 of this code or section 8100 or 8103 of the Welfare and Institutions Code and is transporting the ammunition to a law enforcement agency for disposition according to law.

## **Larger Caliber Weapons and Tracer Ammunition**

It is unlawful to possess any of the following:

- Any projectile containing any explosive, incendiary material, or any other chemical substance including, but not limited to, that commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns.
- Any bomb, grenade, explosive missile, or similar device or any launching device therefor.
- Any weapon of greater than .60-caliber that fires fixed ammunition, or any ammunition therefor, other than a shotgun or shotgun ammunition.
- Any rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch, or any launching device therefor, and any projectile or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for such device, except for devices designed primarily for emergency or distress signaling purposes. (Penal Code §§ 12301, 12303.)

These prohibitions do not apply to specified members of the military, peace officers listed in Penal Code sections 830.1 or 830.2, any peace officer in the Department of Justice authorized by the Attorney General, or firefighters while on duty and acting within the scope and course of their employment, or to persons having a permit issued by the California Department of Justice. (Penal Code §§ 12302, 12305.)

### **Firearm Silencers**

A *silencer* is defined as a device designed, used, or intended for use in silencing, diminishing or muffling the report of a firearm including any combination of parts designed or redesigned and intended for use in fabricating or assembling a silencer, or any part intended only for use in assembling or fabricating a silencer. (Penal Code § 12500.)

It is a felony for any person, firm, or corporation within this state to possess any silencer for firearms. This prohibition does not apply to any peace officer listed in

Penal Code section 830.1, or to military or naval forces of this state or of the United States in the official discharge of their duties, nor does it apply to the manufacture, possession, transportation or sale to agencies listed in Penal Code section 830.1, or to military or naval forces of this state or of the United States by dealers registered under Chapter 53, commencing with section 5801 of Title 26 of the United States Code. (Penal Code §§ 12520, 12501.)

### **Sniperscopes**

A *sniperscope* is defined as a device made or adapted for use on a firearm that enables the operator to detect objects during nighttime through the use of a projected infrared light source and an electronic telescope. (Penal Code § 468.)

Any person who buys, sells, receives, disposes of, conceals, or possesses a sniperscope is guilty of a misdemeanor. This prohibition does not apply to authorized use or possession of sniperscopes by members of the armed forces or peace officers, and does not prohibit use or possession solely for scientific research or educational purposes. (Penal Code § 468.)

### **Boobytraps**

*Boobytraps* are concealed or camouflaged devices designed to cause great bodily injury when triggered by an unsuspecting person. They include guns, ammunition, or explosives attached to trip wires, sharpened stakes, and lines or wires with hooks attached. It is unlawful to possess such devices with the intent to use them as boobytraps and anyone who assembles, maintains, places, or causes such devices to be placed is guilty of a felony. (Penal Code § 12355.)

### **Flamethrowing Devices**

A *flamethrowing device* means any non-stationary and transportable device designed or intended to emit or propel a burning stream of combustible or flammable liquid a distance of at least 10 feet. Possession of a flamethrower is either a misdemeanor or a felony, depending on the circumstances under which it is possessed. (Health and Safety Code § 12761)

## 2. PERSONS INELIGIBLE TO POSSESS FIREARMS AND AMMUNITION

### Persons Convicted of Felonies or Other Specified Crimes

Any person who (a) has been convicted of a felony under the laws of the United States, the State of California, or any other state, government, or country, or (b) is addicted to any narcotic drug may not own or have in his or her possession, custody, or control **any firearm**. (Penal Code § 12021(a).)

It is unlawful for any person who is prohibited from possessing firearms, to possess ammunition. (Penal Code § 12316(b).)

A *felony* conviction refers to a conviction of an offense that can only result in felony punishment under California law, or any sentence to a federal correctional facility for more than 30 days, or a fine of more than \$1,000, or both. (Penal Code § 12021(f).)

Any person convicted of any of the following crimes specified in Penal Code sections 12001.6 and 12021.1, whether as a felony or misdemeanor, may not lawfully possess or have under his or her custody or control any firearm:

- Murder or voluntary manslaughter.
- Mayhem.
- Rape.
- Sodomy or oral copulation by force, violence, duress, menace, or threat of great bodily harm.
- Lewd acts on a child under the age of 14.
- Any felony punishable by death or imprisonment in the state prison for life.
- Any other felony in which the defendant inflicts great bodily injury on any person, other than an accomplice, that has been charged and proven, or any felony in which the defendant uses a firearm which has been charged and proven.
- Attempted murder.
- Assault with intent to commit rape or robbery.
- Assault with a deadly weapon or instrument on a peace officer.
- Assault by a life prisoner on a non-inmate.
- Assault with a deadly weapon by an inmate.
- Arson.
- Exploding a destructive device or any explosive with intent to injure or murder.
- Exploding a destructive device or any explosive causing great bodily injury.
- Robbery.
- Kidnapping.
- Taking of a hostage by a state prison inmate.
- Attempting to commit a felony punishable by death or imprisonment in the state prison for life.
- Any felony in which the defendant personally used a dangerous or deadly weapon.
- Escape from a state prison by use of force or violence.
- Assault with a deadly weapon or force likely to produce great bodily injury.
- Any attempt to commit any of the above crimes other than an assault.
- Assault upon a person with a firearm.

- Shooting at an inhabited dwelling house or occupied building.  
**NOTE:** This offense is committed even though no person was actually inside the specified structure at the time of the shooting.
- Drawing, exhibiting, or unlawfully using any handgun or firearm in a rude, angry, or threatening manner in the presence of a peace officer regardless of whether the firearm is loaded.
- Carjacking.
- Two or more convictions for drawing or exhibiting any firearm in a rude, angry, or threatening manner in the presence of another regardless of whether the firearm is loaded.

### **Persons Convicted of Misdemeanor Violations of Specified Offenses**

Any person convicted of a misdemeanor violation for one or more of the following offenses is prohibited from owning, possessing or having under his or her custody or control any firearm within 10 years of the conviction (Penal Code § 12021(c)(1)):

- Threatening public officers and employees and school officials. (Penal Code § 71.)
- Threatening certain public officials, appointees, judges, staff or their immediate families. (Penal Code § 76.)
- Possession of a deadly weapon with intent to commit an assault (Penal Code § 12024.)
- Possession of a deadly weapon with the intent to intimidate a witness. (Penal Code § 136.5.)
- Unauthorized possession/transportation of a machinegun. (Penal Code § 12220.)
- Threatening witnesses, victims, or informants. (Penal Code § 140.)
- Obstructing or delaying an officer or emergency medical technician and removing or attempting to remove a firearm from these individuals. (Penal Code § 148(d).)
- Unauthorized possession of a weapon in a courtroom, courthouse or court building, or at a public meeting. (Penal Code § 171b.)
- Bringing into or possessing a loaded firearm within the state capitol, legislative offices, etc. (Penal Code § 171c.)
- Taking into or possessing loaded firearms within the Governor's Mansion or residence or other constitutional office, etc. (Penal Code § 171d.)
- Supplying firearms to any street gang member for use in street gang activity. (Penal Code § 186.28.)
- Assault. (Penal Code §§ 240, 241.)
- Battery. (Penal Code §§ 242, 243.)
- Assault with a stun gun or taser weapon. (Penal Code § 244.5.)
- Assault with a deadly weapon or force likely to cause great bodily injury. (Penal Code § 245.)
- Assault with a deadly weapon or instrument, by any means likely to produce great bodily injury, or with a stun gun or taser, on a school employee engaged in the performance of duties. (Penal Code § 245.5.)
- Discharging a firearm in a grossly negligent manner. (Penal Code § 246.3.)
- Shooting at an unoccupied aircraft, motor vehicle, or uninhabited building or dwelling house. (Penal Code § 247.)
- Drawing or exhibiting any deadly weapon, including a firearm, in a rude or threatening manner. (Penal Code § 417.)

- Drawing or exhibiting a firearm or other deadly weapon with the intentional infliction of serious bodily injury. (Penal Code § 417.6.)
- Bringing into or possessing firearms upon or within public or private schools, playgrounds and youth centers. (Penal Code § 626.9.)
- Willful infliction of corporal injury of a spouse or cohabitant. (Penal Code § 273.5.)
- Willful violation of a court order to prevent domestic violence. (Penal Code § 273.6.)
- Stalking. (Penal Code § 646.9.)
- Carrying a loaded firearm with the intent to commit a felony. (Penal Code § 12023.)
- Driver or owner of any vehicle who knowingly permits another person to discharge a firearm from the vehicle or any person who willfully and maliciously discharges a firearm from a motor vehicle. (Penal Code §§ 12034(b) and (d).)
- Criminal possession of a firearm. (Penal Code § 12040.)
- Selling a concealable firearm to a minor. (Penal Code § 12072(b).)
- Possessing handgun ammunition designed to penetrate metal or armor. (Penal Code § 12320.)
- Carrying a concealed or loaded firearm or other deadly weapon or wearing a peace officer uniform while picketing, carrying a concealed loaded weapon, or wearing a peace officer uniform. (Penal Code § 12590.)
- Possession of a firearm by a person ineligible to possess firearms because of his or her mental history. (Welfare and Institutions Code § 8100).
- Providing a firearm or deadly weapon to a person who is prohibited from possessing firearms because of his or her mental history. (Welfare and Institutions Code § 8101).
- Possession of a firearm by a person ineligible to possess firearms because of specific mental prohibitions. (Welfare and Institutions Code § 8103).
- Bringing or sending firearms or other contraband into a juvenile detention facility. (Welfare and Institutions Code § 871.5)
- Bringing or sending firearms or other contraband into youth authority institutions. (Welfare and Institutions Code § 1001.5.)
- Violating Penal Code section 12072 involving sales and transfers of firearms, including:
  - selling or furnishing a firearm to any person whom the individual has reason to believe is within a prohibited class;
  - selling or furnishing a handgun to a minor;
  - selling or furnishing a firearm to any person whom the seller knows, or has cause to believe, is not intended to be the actual purchaser or transferee;
  - acquiring a firearm for the purpose of providing it to a prohibited individual;
  - selling or transferring a firearm without having the transaction processed through a licensed dealer or law enforcement agency;
  - committing any act of collusion relating to a Handgun Safety Certificate.
- Intimidating a witness or victim. (Penal Code § 136.1.)
- Threatening to cause death or great bodily injury to another person. (Penal Code § 422)

### **Persons Prohibited From Possession, Purchase of Firearms As a Condition of Probation**

Any person convicted of any crime for which the express condition of probation prohibits or restricts the possession of firearms may not lawfully own, possess, control, receive or purchase a firearm for the duration of the probation. (Penal Code § 12021(d).)

### **Persons Subject to a Protective Order**

Persons who are subject to a protective order issued by a court pursuant to section 6218 of the Family Code, a protective order issued pursuant to Section 136.2 or 646.91 of the Penal Code, or by a protective order issued pursuant to Section 15657.03 of the Welfare and Institutions Code, may not own, possess, purchase, or receive a firearm for the duration of the order. (Penal Code § 12021(g).) This includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:

- A court-issued order enjoining a party from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the other party. (Family Code § 6320.)
- A court-issued order to exclude a party from the family dwelling, the dwelling of the other party, the common dwelling of both parties, or the dwelling of the person who has care, custody, and control of a child to be protected from domestic violence. (Family Code § 6321.)
- A court-issued order enjoining a party from other specified behaviors as determined by that court. (Family Code § 6322.)
- A court-issued order enjoining a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, destroying personal property, contacting, or coming within a specified distance of, and elder or dependent adult. (Welfare and Institutions Code § 15657.03.)

The court, upon issuance of a protective order shall additionally require the respondent to sell any firearms in that person's control to a licensed firearms dealer or relinquish them for the duration of the protective order. (Family Code § 6389(c).)

As of January 1, 2007, any person subject to a protective order which includes the relinquishment of firearms must immediately surrender his or her firearm(s) in a safe manner, upon the request of any law enforcement officer, or within 24 hours when no request for relinquishment is made by a law enforcement officer (FC § 6389).

Any person subject to a protective order must file a receipt with the court acknowledging the surrender of his or her firearms within 48 hours after being served with the order. Failure to file a receipt with the court in a timely manner constitutes a violation of the protective order (FC § 6389).

### **Persons Subject to a Temporary Restraining Order**

Persons who are subject to a temporary restraining order issued pursuant to section 527.6 or 527.8 of the Civil Code for harassing behavior may not own, possess, purchase or receive a firearm for the duration of the order. (Penal Code § 12021(g).)

*As of January 1, 2007, any person subject to a temporary restraining order is required to surrender his or her firearm(s) within 24 hours of being served with the order or injunction, without regard to whether the person appeared in court at the time the order was*

*issued (Civil Code § 527.9).*

*Any person subject to a temporary restraining order must present a receipt to the court acknowledging the surrender of his or her firearms within 48 hours after receipt of the temporary restraining order or injunction (Civil Code § 527.9).*

## **Persons Subject to Juvenile Court Law**

Any person subject to juvenile court law and adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code for any of the following offenses, shall not own, possess, or have under his or her custody or control any firearm until reaching 30 years of age (Penal Code § 12021(e)):

- Murder.
- Arson that causes great bodily injury or arson of an inhabited structure or property. (Penal Code §§ 451(a) and (b).)
- Robbery while armed with a dangerous or deadly weapon.
- Rape with force or violence or threat of great bodily harm.
- Sodomy by force, violence, duress, menace, or threat of great bodily harm.
- Lewd or lascivious act on a child under the age of 14. (Penal Code § 288(b).)
- Oral copulation by force, violence, duress, menace, or threat of great bodily harm.
- Sexual assault with a foreign object. (Penal Code § 289.)
- Kidnapping for ransom.
- Kidnapping for purpose of robbery, rape, spousal rape, etc. (Penal Code § 209(b)(1).)
- Kidnapping with bodily harm.
- Assault with intent to murder or attempted murder.
- Assault with a firearm or destructive device.
- Assault by any means of force likely to produce great bodily injury.
- Discharge of a firearm into an inhabited or occupied building.
- Specified crimes against persons 60 years of age or older, blind persons, paraplegics, or quadriplegics as described in Penal Code section 1203.09.
- Use of a firearm in the commission or attempted commission of a felony; discharge of a firearm at an occupied motor vehicle causing great bodily injury or death; use of a firearm to commit the controlled substances violations described in Penal Code sections 12022.5 or 12022.53.
- Any felony offense in which the minor personally used a weapon described in Penal Code section 12020(a).
- Felony intimidation of a witness and victim as described in Penal Code section 136.1 or influencing the testimony or information given to a law enforcement official as described in Penal Code section 137.
- Manufacturing, compounding, or selling one-half ounce or more of any salt or solution of a controlled substance specified in Health and Safety Code section 11055(e).
- Possessing for sale, or selling a substance containing 28.5 grams or more of cocaine as specified in Penal Code section 1203.073.
- Any of the specified violent felonies listed in Penal Code section 667.5(c) committed for the benefit, direction, or association with any criminal street gang as described in Penal Code section 186.22(b).
- Intentionally inflicting great bodily injury on an employee of a juvenile facility during an escape by the use of force or violence in violation of Welfare and Institutions Code section 871(b).
- Torture as described in Penal Code sections 206 and 206.1.
- Aggravated mayhem as described in Penal Code section 205.

- Carjacking as described in Penal Code section 215 while armed with a dangerous or deadly weapon.
- Kidnapping as punishable in Penal Code section 209.5.
- Willfully and maliciously discharging a firearm from a motor vehicle at another person other than an occupant of a motor vehicle.
- Exploding, igniting, or attempting to explode or ignite any destructive device or explosive with intent to commit murder.
- Any of the offenses listed in Penal Code section 12021(c)(1).
- Carrying a concealed handgun. (Penal Code § 12025).
- Carrying a loaded handgun. (Penal Code § 12031).
- Allowing another to transport a loaded handgun in a vehicle. (Penal Code § 12034).

**Mental Patients, Mentally Disordered Sex Offenders, Persons Adjudicated a Danger to Others, Persons Incompetent to Stand Trial, Gravely Disabled Conservatees, and Persons Taken Into Custody as a Danger to Self or Others Because of a Mental Disorder**

No person who is receiving inpatient treatment because he or she is a danger to self or others may have in his or her possession or under his or her custody, or control, nor may he or she purchase or receive, or attempt to purchase or receive, any firearm. This applies even though the person has consented to the treatment. (Welfare and Institutions Code § 8100.)

No person who communicates to a licensed psychotherapist a serious threat of physical violence against a victim may purchase, possess, control, or have custody of any firearms for a period of six months after the threat is reported to a local law enforcement agency.

Attempts to purchase, possess, or control firearms are also prohibited. Persons prohibited under this section may petition a court for restoration of firearms privileges. (Welfare and Institutions Code § 8100(b).)

No person adjudicated by a court of any state to be (a) a danger to others as a result of mental disorder or mental illness, or (b) a mentally disordered sex offender shall have in his or her possession, custody, or control any firearm. (Welfare and Institutions Code § 8103(a).)

No person found not guilty by reason of insanity of specified crimes in any state may have in his or her possession, custody, or control any firearm. (Welfare and Institutions Code § 8103(b).)

No person found by a court to be mentally incompetent to stand trial on a criminal charge shall have in his or her possession, custody, or control any firearm. (Welfare and Institutions Code § 8103(d).)

No person placed under conservatorship by a court, because the person is gravely disabled, shall have in his or her possession, custody, or control any firearm, where prohibited by the court. (Welfare and Institutions Code § 8103(e).)

No person taken into custody, assessed, and admitted to a designated facility pursuant to Welfare and Institutions Code section 5150 because that person is a danger to himself, herself, or others shall own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. (Welfare and Institutions Code § 8103(f).)

Under California law, no person who has been certified for intensive treatment pursuant to Welfare and Institutions Code sections 5250, 5260 or 5270.15 may own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. However, such a person is considered to have been adjudicated as a mental defective under federal law and therefore may not possess firearms even beyond the five years provided under California law. (Welfare and Institutions Code § 8103(g)), 18 USC 922(g)(4).)

**NOTE:** Any person who knowingly supplies, sells, gives, or otherwise allows such an individual to possess or control any firearm or deadly weapon is guilty of a felony or an alternate felony/misdemeanor, respectively. (Welfare and Institutions Code § 8101.)

### **Justifiable Possession of a Firearm by Certain Prohibited Classes**

Any person found to have committed an offense enumerated in Penal Code section 12021, subdivisions (a) through (e), is prohibited from owning, possessing, or having under his or her custody or control, any firearm. A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

- The person found the firearm or took the firearm from the person who was committing the crime against him or her.
- The person possessed the firearm no longer than was necessary to deliver or transport the firearm to a law enforcement agency for that agency's disposition according to law.
- If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of section 12026.2.
- If the firearm is being transported to a law enforcement agency, the person transporting the firearm has given prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law.

Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision. The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision. (Penal Code § 12021(h).)

### **Personal Firearms Eligibility Check**

Any person may request directly from the Department of Justice a determination as to whether he or she is eligible to possess firearms. The application form and instructions to request a personal firearms eligibility check is on the DOJ Bureau of Firearms website at <http://www.ag.ca.gov/firearms/forms/>. The cost for such an eligibility check is \$20. (PC § 12077.5.)

**NOTE:** As of January 1, 2007, any person who is prohibited from obtaining a firearm who knowingly furnishes a fictitious name or address, knowingly furnishes any incorrect information, or knowingly omits any information required on the Dealer's Record of Sale (DROS) is guilty of a crime punishable by imprisonment in a county jail not exceeding one year, or imprisonment in state prison for 8, 12, or 18 months (Penal Code § 12076).

## **3. THE USE OF FIREARMS IN DEFENSE OF LIFE AND PROPERTY**

The question of whether use of a firearm is justified for self-defense cannot be reduced to a simple list of factors. This section is based on the instructions generally given to the jury in a criminal case where self-defense is claimed and illustrates the general rules regarding use of firearms in self-defense.

### **Use of a Firearm or Other Deadly Force in Defense of Life and Body**

The killing of one person by another may be justifiable when necessary to resist the attempt to commit a forcible and life-threatening crime, provided that a reasonable person in the same or similar situation would believe that (a) the person killed intended to commit a forcible and life-threatening crime; (b) there was imminent danger of such crime being accomplished; and (c) the person acted under the belief that such force was necessary to save himself or herself or another from death or a forcible and life-threatening crime. Murder, mayhem, rape, and robbery are examples of forcible and life-threatening crimes.

### **Self-Defense Against Assault**

It is lawful for a person being assaulted to defend himself or herself from attack if he or she has reasonable grounds for believing, and does in fact believe, that he or she will suffer bodily injury. In doing so, he or she may use such force, up to deadly force, as a reasonable person in the same or similar circumstances would believe necessary to prevent great bodily injury or death. An assault with fists does not justify use of a deadly weapon in self-defense unless the person being assaulted believes, and a reasonable person in the same or similar circumstances would also believe, that the assault is likely to inflict great bodily injury.

It is lawful for a person who has grounds for believing, and does in fact believe, that great bodily injury is about to be inflicted upon *another* to protect the victim from attack. In so doing, the person may use such force as reasonably necessary to prevent the injury. Deadly force is only considered reasonable to prevent great bodily injury or death.

**NOTE:** The use of excessive force to counter an assault may result in civil or criminal penalties.

### **Protecting One's Home**

A person may defend his or her home against anyone who attempts to enter in a violent manner intending violence to any person in the home. The amount of force that may be used in resisting such entry is limited to that which would appear necessary to a reasonable person in the same or similar circumstances to resist the violent entry. One is not bound to retreat, even though a retreat might safely be made. One may resist force with force, increasing it in proportion to the intruder's persistence and violence, if the circumstances apparent to the occupant would cause a reasonable person in the same or similar situation to fear for his or her safety.

The occupant may use a firearm when resisting the intruder's attempt to commit a forcible and life-threatening crime against anyone in the home *provided* that a reasonable person in the same or similar situation would believe that (a) the intruder intends to commit a forcible and life-threatening crime; (b) there is imminent danger of such crime being accomplished; and (c) the occupant acts under the belief that use of a firearm is necessary to save himself or herself or another from death or great bodily injury. Murder, mayhem, rape, and robbery are examples of forcible and life-

threatening crimes.

Any person using force intended or likely to cause death or great bodily injury within his or her residence shall be presumed to have held a reasonable fear of imminent peril of death or great bodily injury to self, family, or a member of the household when that force is used against another person, not a member of the family or household, who unlawfully and forcibly enters or has unlawfully and forcibly entered the residence and the person using the force knew or had reason to believe that an unlawful and forcible entry had occurred. Great bodily injury means a significant or substantial physical injury. (Penal Code § 198.5.)

**NOTE:** If the presumption is rebutted by contrary evidence, the occupant may be criminally liable for an unlawful assault or homicide.

### **Defense of Property**

The lawful occupant of real property has the right to request a trespasser to leave the premises. If the trespasser does not do so within a reasonable time, the occupant may use force to eject the trespasser.

The amount of force that may be used to eject a trespasser is limited to that which a reasonable person would believe to be necessary under the same or similar circumstances.

### **Limitations on the Use of Force in Self-Defense**

The right of self-defense ceases when there is no further danger from an assailant. Thus, where a person attacked under circumstances initially justifying self-defense renders the attacker incapable of inflicting further injuries, the law of self-defense ceases and no further force may be used.

The right of self-defense is not initially available to a person who assaults another. However, if such person attempts to stop further combat and clearly informs the adversary of his or her desire for peace but the opponent nevertheless continues the fight, the right of self-defense returns and is the same as the right of any other person being assaulted.

## **4. POSSESSION AND TRANSPORTATION OF CONCEALED WEAPONS**

### **Carrying a Concealed Handgun Without a License on One's Person or Concealed in a Vehicle**

Pursuant to Penal Code section 12025, a person is guilty of carrying a concealed firearm when he or she does any of the following:

- Carries concealed within any vehicle which is under his or her control, any pistol, revolver, or other firearm capable of being concealed upon the person.
- Carries concealed upon his or her person any pistol, revolver, or other firearm capable of being concealed upon the person.
- Causes to be carried concealed within any vehicle in which he or she is an occupant any pistol, revolver, or other firearm capable of being concealed upon the person.

**NOTE:** A firearm carried openly in a belt holster is not considered "concealed" as it

applies to the above prohibition. (Penal Code § 12025(f).)

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

- 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 prohibited from owning or possessing firearms pursuant to Penal Code sections 12021 or 12021.1 or section 8100 or 8101 of the Welfare and Institutions Code, may carry, either openly or concealed, anywhere within his or her place of business, or on private property owned or lawfully possessed by him or her any pistol, revolver, or other firearm capable of being concealed upon the person. A permit or license to purchase, own, possess, keep, or carry is not required under these circumstances. (Penal Code § 12026.)
- The transportation or carrying of any pistol, revolver, or other firearm capable of being concealed upon the person by any citizen of the United States over the age of 18 years who resides or is temporarily within this state, and is not within the excepted classes prescribed by Penal Code Sections 12021 or 12021.1 or Welfare and Institutions Code sections 8100 or 8103, provided that the following applies:
  - 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, and;
  - when the firearm is carried by the person to or from any motor vehicle for any lawful purpose, the firearm must be contained in a locked container while being physically carried. (Penal Code § 12026.1.)

Penal Code Section 12025 does not apply to or affect the lawful transportation or possession of a firearm under specific circumstances, including, but not limited to, the following:

- The transportation of a firearm by a person who finds the firearm in order to comply with Article 1 (commencing with section 2080) of Chapter 4 of Division 3 of the Civil Code as it pertains to that firearm and if that firearm is being transported to a law enforcement agency, the person gives prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency. (Penal Code § 12026.2(a)(17).)
- The transportation of a firearm by a person who finds the firearm, and is transporting it to a law enforcement agency for disposition according to law, if he or she gives prior notice to the law enforcement agency that he or she is transporting the firearm to the law enforcement agency for disposition according to law. Firearms must be transported unloaded and in a locked container and the course of travel shall include only those deviations between authorized locations, as necessary. (Penal Code §§ 12026.2(a)(17), (18) and (b).)
- The carrying of a pistol, revolver, or other firearm capable of being concealed upon the person by a person who is authorized to carry that weapon in a concealed manner pursuant to Article 3 (commencing with section 12050) of the Penal Code.
- 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 concealable firearms upon the target ranges.
- Authorized peace officers, retired peace officers, and retired federal officers or agents, as defined in Penal Code sections 830.1, 830.2, 830.5, 12027(a) and 12031(b).
- Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expeditions.
- The possession or transportation of unloaded pistols, revolvers, or other firearms capable of being concealed upon the person as merchandise by a person who is licensed in the business of manufacturing, repairing, or dealing in firearms.

- The carrying of unloaded pistols, revolvers, or other firearms capable of being concealed upon the person by duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.
- 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.
- 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.

Notwithstanding the exceptions cited in **Section 5. Loaded Firearms**, individuals may not carry or transport a loaded firearm. The firearm should be unloaded and placed in the trunk of the vehicle, or if the vehicle has no trunk, placed in a fully enclosed secure locked container other than the utility or glove compartment of a motor vehicle (Penal Code §§ 12026.1, 12027.)

### **Licenses to Carry Concealed Weapons**

A license to carry a pistol, revolver, or other firearm capable of being concealed upon the person may be granted to qualified residents of a county by the sheriff or to qualified residents of a city by the chief or other head of the municipal police department of that city. Such licenses are issued only after a finding that the applicant is of good moral character, that good cause exists for such a license, and the applicant is not prohibited from possessing firearms. Unless otherwise restricted, such a license is valid throughout the state. Such a license may be valid for any amount of time not to exceed two years from the date of issuance, unless issued to a judge or magistrate (valid for up to three years) or specified custodial employees or reserve peace officers (valid for up to four years). (Penal Code § 12050.)

A license to carry a pistol, revolver, or other firearm capable of being concealed upon the person may be granted by the sheriff of a county to an applicant who spends a substantial amount of time employed within that county. Such a license is valid only in the county issued and is valid for any period of time not to exceed 90 days from the date of issuance. (Penal Code § 12050.)

Where the population of the county is less than 200,000 persons, the licensing authority may issue a license to carry a pistol, revolver, or other firearm capable of being concealed upon the person, loaded and exposed. (Penal Code § 12050.)

If a California licensee has a need to travel armed in another state, he or she should contact authorities in the other state prior to leaving to determine if the license will be honored.

## **5. LOADED FIREARMS**

## **Loaded Firearms in a Public Place**

It is unlawful to carry a loaded firearm on one's person or in a vehicle while in any public place, on any public street, or in any place where it is unlawful to discharge a firearm. (Penal Code § 12031(a)(1).)

A firearm is deemed loaded when there is a live cartridge or shell in, or attached in any manner to, the firearm, including, but not limited to, the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loading firearm is deemed loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder. (Penal Code § 12031(g).)

For the purposes of Penal Code section 12023 (commission or attempted commission of a felony while armed with a loaded firearm), a firearm is deemed loaded when both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

It is unlawful for the driver of any motor vehicle, or the owner of any motor vehicle irrespective of whether the owner is occupying the vehicle, to knowingly permit any person to carry a loaded firearm in the vehicle in violation of Penal Code section 12031, or Fish and Game Code section 2006. (Penal Code § 12034.) Also, see "Other Prohibited Acts," page 49.

In order to determine whether a firearm is loaded, 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, on any public street, or in any prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to these provisions is, in itself, grounds for arrest. (Penal Code § 12031(e).)

## **Exceptions**

The prohibition against possessing loaded firearms in a public place does not apply to:

- Any person hunting in an area where firearm possession and hunting is otherwise lawful. (Penal Code § 12031(i).)
- Any person who carries a loaded firearm while engaged in the act of making or attempting to make a lawful arrest, provided such possession is otherwise lawful. (Penal Code § 12031(k).)
- Any person carrying a loaded firearm, if otherwise lawful, when he or she reasonably believes his or her person or property is in immediate, grave danger and that the carrying of the loaded firearm is necessary for preservation of the person or property during the time interval following notification of the local law enforcement agency when reasonably possible, and prior to the arrival of its assistance. (Penal Code § 12031(j)(1).)
- Any of the following persons, provided they meet all criteria for such exemption, such as possession of special occupational licenses or completion of the required firearms training provided for in Penal Code sections 12031(b), (c), and (d):
  - Active or honorably retired peace officers.
  - Members of the military forces of this state or the United States engaged in the performance of their duties.
  - Target shooters at target ranges and shooting club members while hunting on the club premises, provided possession and use of the firearm is otherwise lawful.

- Holders of licenses to carry concealed handguns.
- Armored vehicle guards.
- Animal control officers or zookeepers.
- Guards or messengers of common carriers, banks, and other financial institutions.
- Guards of contract carriers operating armored vehicles.
- Private investigators, private patrol operators, and alarm company operators.
- Uniformed security guards or night watchpersons employed by any public agency.
- Uniformed security guards and uniformed alarm agents of an alarm company operator.
- Uniformed employees of private patrol operators.

**NOTE:** Peace officers and honorably retired peace officers having properly endorsed identification certificates may carry a concealed weapon at any time. Otherwise, these exemptions apply only when the firearm is carried within the scope of the exempted conduct, such as hunting or target shooting, or within the course and scope of assigned duties, such as an armored vehicle guard transporting money for his employer. A person who carries a loaded firearm outside the limits of the applicable exemption is in violation of the law, notwithstanding his or her possession of an occupational license or firearms training certificate. (Penal Code § 12031(b).)

### **Firearms in the Home or Business**

Any person over the age of 18 who is not prohibited from possessing firearms, and if otherwise lawful, may keep and carry a firearm or have a firearm loaded at his or her place of residence, temporary residence, campsite, or on private property owned or lawfully possessed by the person. (Penal Code §§ 12026, 12031(h) and (l).) Any person engaged in any lawful business (including nonprofit organizations) or any officer, employee, or agent authorized for lawful purposes connected with the business may possess a loaded firearm within the place of business if that person is over 18 years of age and not otherwise prohibited from possessing firearms. (Penal Code §§ 12026, 12031(h).)

**NOTE:** A person's place of business, residence, temporary residence, campsite, or private property may be located in areas where possession of handguns or other firearms, whether loaded or unloaded, is otherwise prohibited. Such areas include, but are not limited to, state, federal, or private game reserves or refuges, federal and state parks, and other public lands. Questions regarding the applicability of such laws should be directed to your sheriff or chief of police, federal or state fish and game officers, or federal or state park rangers.

### **Carrying Unregistered Loaded Handguns**

Any person who commits the crime of carrying a concealed handgun and ammunition for that handgun on his/her person or in his/her vehicle may be subject to a felony enhancement if the handgun is not on file (registered) in the Department of Justice's Automated Firearms System. (Penal Code § 12025.)

Any person who commits the crime of carrying a loaded (not necessarily concealed) handgun on his/her person in a prohibited place may be guilty of a felony if the handgun is not on file (registered) in the Department of Justice's Automated Firearms System. (Penal Code § 12031.)

**NOTE:** Handgun dealer record of sale transactions occurring before 1980 generally are not registered in the Department's Automated Firearms System. However, these records are on file with the Department of Justice. Upon individual request, the Attorney General shall place records of pre-1980 transfers of handguns into the Automated Firearms System. (Penal Code § 11106.)

## **6. FIREARMS AND PICKETING ACTIVITY**

It is unlawful for any person to carry a loaded firearm upon his or her person or within any vehicle under his or her control or direction while engaged in picketing activity. (Penal Code § 12590(a)(2).) Picketing activity means any informational activities conducted in a public place relating to a concerted refusal to work.

### **General Exceptions Are Not Applicable**

The exceptions regarding loaded firearms provided for peace officers, bank guards, armored vehicle guards, licensed hunters or fishermen, private investigators, and other persons in **Section 5. Loaded Firearms** of this publication, do not apply if such individuals are engaged in picketing activities as described above. (Penal Code § 12590(c).)

## **7. FLAREGUNS**

A flaregun is any loaded or unloaded rocket, rocket propelled projectile launcher, or similar device designed primarily for emergency or distress-signaling purposes. (Penal Code § 12031.1.) Because a flaregun is not designed to be used as a weapon, generally it is not considered a firearm as defined in Penal Code sections 12001(a) and (b). However, the following prohibitions also apply to flareguns:

- prohibitions against carrying concealed firearms (Penal Code § 12025.); and
- prohibitions against carrying loaded firearms in public. (Penal Code § 12031.)

**NOTE:** Pursuant to Penal Code section 12031.1, a person may lawfully store a loaded or unloaded flaregun aboard a vessel or aircraft. A person may also possess a loaded or unloaded flaregun while in or traveling to and from a permitted hunting area, if the individual is carrying a valid California hunting permit or license.

## **8. SALES, LOANS, AND OTHER TRANSFERS OF FIREARMS**

### **Handgun Purchases Limited to One Per 30-Days**

It is unlawful for a person to apply to purchase more than one handgun within any 30-day period. (Penal Code § 12072(a).)

### **Exceptions**

The one-handgun-per-30-day limit does not apply to:

- Any law enforcement agency or agency duly authorized to perform law enforcement duties.
- Any state or local correctional facility.
- Any private security company licensed to do business in California.
- Any person who is properly identified as a full-time paid peace officer who carries a firearm during the course and scope of his or her employment as a peace officer.
- Any motion picture, television, or video production company or entertainment or theatrical company whose production by its nature involves the use of firearms.
- Any person who may, pursuant to Penal Code section 12078, claim an exemption from the waiting period set forth in Penal Code section 12072.
- Any transaction between private parties conducted through a licensed firearms dealer.
- Any person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto and who has a current certificate of eligibility issued by the Department of Justice.
- The exchange of a handgun where the dealer purchased that handgun from the person seeking the exchange within the 30-day period immediately preceding the date of exchange or replacement.
- The replacement of a handgun that has been reported to law enforcement as lost or stolen prior to the time of application to purchase.
- The return of any pistol, revolver, or other firearm capable of being concealed upon the person to its owner.

### **Handgun Safety, Functionality, and Testing Requirements**

No handgun may be manufactured or sold to the public in California unless it is of a make and model that has passed required safety and functionality tests and is approved for publication in the Department of Justice's official list of handguns certified as safe for sale in California. Any person who manufactures, imports into the state for sale, sells, gives, or lends an unsafe handgun is guilty of a misdemeanor. (Penal Code § 12125.)

The current list of handguns certified as safe for sale in California is available on the *Bureau of Firearms* website at <http://www.ag.ca.gov/firearms/certlist.htm>.

### **Exceptions**

The prohibition against manufacturing, importing, selling, or giving an unsafe handgun does not apply to the following:

- The manufacture in this state, or importation into this state, of any prototype handgun when the manufacture or importation is for the sole purpose of allowing an independent laboratory certified by the Department of Justice to conduct an independent test to determine whether that handgun qualifies to be added to the roster of handguns that may be sold in this state. (Penal Code § 12125.)
- The importation or lending of a handgun by employees or authorized agents of an independent testing laboratory for purposes of determining whether the weapon meets Department of Justice criteria to be added to the roster of handguns that may be sold in this state. (Penal Code § 12125.)

- Firearms listed as curios or relics, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations. (Penal Code § 12125.)

The requirements for handguns to pass safety and functionality tests and to be listed in the Department of Justice's official list of handguns certified as safe for sale in California do not apply to transactions involving the following:

- Private party transfers of handguns occurring through a firearms dealer. (Penal Code § 12132(a).)
- Firearm transfers that, subject to any specified exemption, are not required to be conducted by firearms dealers. (Penal Code § 12132(b).)
- Sales, loans, or transfers of firearms listed as curios or relics, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations. (Penal Code §§ 12132(c) and (g).)
- The delivery of a handgun to a licensed firearms dealer for the purposes of servicing or repairing that firearm and the subsequent return of the handgun by the licensed firearms dealer to its owner. (Penal Code § 12132(d) and (e).)
- The return of a handgun by a licensed firearms dealer to its owner where that firearm was initially delivered to that firearms dealer for the purpose of a consignment sale or as collateral for a pawnbroker loan. (Penal Code § 12132(f).)
- Single-action revolvers with at least a five-cartridge capacity, a barrel length of not less than three inches, and either:
  - (a) were originally manufactured prior to 1900 and are curios or relics, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations; or
  - (b) have an overall length measured parallel to the barrel of at least seven and one-half inches when the handle, frame or receiver, and barrel are assembled. (Penal Code § 12133.)
- Single-shot pistols with a barrel length of not less than six inches and that have an overall length of at least 10 ½ inches when the handle, frame or receiver, and barrel are assembled. (Penal Code § 12133.)

**NOTE:** *The exemption for single-shot pistols from handgun safety testing only applies to the sales of complete firearms that meet the barrel length / overall length criteria outlined above. The sale of frames or stripped receivers by themselves is not affected by the exemption. Therefore, dealers may not sell any single-shot pistols that do not meet the aforementioned criteria. Additionally, firearms dealers should be cautious regarding the sale of "after market" barrel conversion kits available for some of the more popular single-shot pistols. The sale of an interchangeable barrel of less than 16 inches to a purchaser of such a firearm could expose the firearms dealer to criminal liability for aiding and abetting the manufacture of a short-barrel rifle.*

- The following pistols sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, and that are used for Olympic target shooting purposes (Penal Code § 12133.):

| MANUFACTURER | MODEL | CALIBER      |
|--------------|-------|--------------|
| ANSCHUTZ     | FP    | .22LR        |
| BENELLI      | MP90  | .22LR        |
| BENELLI      | MP90  | .32 S&W LONG |

|          |             |              |
|----------|-------------|--------------|
| BENELLI  | MP95        | .22LR        |
| BENELLI  | MP95        | .32 S&W LONG |
| DRULOV   | FP          | .22LR        |
| GREEN    | ELECTROARM  | .22LR        |
| HAMMERLI | 100         | .22LR        |
| HAMMERLI | 101         | .22LR        |
| HAMMERLI | 102         | .22LR        |
| HAMMERLI | 162         | .22LR        |
| HAMMERLI | 280         | .22LR        |
| HAMMERLI | 280         | .32 S&W LONG |
| HAMMERLI | FP10        | .22LR        |
| HAMMERLI | MP33        | .22LR        |
| HAMMERLI | SP20        | .22LR        |
| HAMMERLI | SP20        | .32 S&W LONG |
| MORINI   | CM102E      | .22LR        |
| MORINI   | 22M         | .22LR        |
| MORINI   | 32M         | .32 S&W LONG |
| MORINI   | CM80        | .22LR        |
| PARDINI  | GP          | .22 SHORT    |
| PARDINI  | GPO         | .22 SHORT    |
| PARDINI  | GP-SCHUMANN | .22 SHORT    |
| PARDINI  | HP          | .32 S&W LONG |
| PARDINI  | K22         | .22LR        |
| PARDINI  | MP          | .32 S&W LONG |
| PARDINI  | PGP75       | .22LR        |
| PARDINI  | SP          | .22LR        |
| PARDINI  | SPE         | .22LR        |
| SAKO     | FINMASTER   | .22LR        |
| STEYR    | FP          | .22LR        |
| VOSTOK   | IZH NO. 1   | .22LR        |
| VOSTOK   | MU55        | .22LR        |
| VOSTOK   | TOZ35       | .22LR        |
| WALTHER  | FP          | .22LR        |
| WALTHER  | GSP         | .22LR        |
| WALTHER  | GSP         | .32 S&W LONG |
| WALTHER  | OSP         | .22 SHORT    |
| WALTHER  | OSP-2000    | .22 SHORT    |

- (3) Any model of competitive pistol that has been expressly identified by the Department of Justice as exempt from the testing requirement. The Department of Justice exemption may be based on recommendations by USA Shooting or may be based on the recommendation or rules of any other organization that the Department of Justice deems relevant. The current list of exempt pistols is available on the *Bureau of Firearms* website at <http://www.ag.ca.gov/firearms/forms/pdf/op.pdf>. (Penal Code § 12133.)
- The sale, loan, or transfer of a semiautomatic pistol that is to be used solely as a prop for a motion picture, television, or video production by an authorized participant therein or by an authorized employee or agent of the entity producing that production or event. (Penal Code § 12132.)

*As of January 1, 2007, a dealer may deliver a handgun to the purchaser despite the fact that, during the pendency of the DROS, the handgun is removed from the Roster of Handguns Certified for Sale in California, due to nonpayment of renewal fees by the manufacturer (Penal Code § 12131).*

*However, if a handgun, prior to the completion of a sale or transfer, is removed from the roster because of a failure during retesting, the handgun cannot legally be delivered to the purchaser (Penal Code § 12131).*

## **Sales, Loans, or Transfers of Firearms**

It is unlawful for a person who is not a licensed firearms dealer pursuant to Penal Code section 12071, to sell, loan, or otherwise transfer a firearm to a non-licensed person unless the sale, loan, or transfer is completed through a licensed firearms dealer. (Penal Code §§ 12071, 12072, 12082.)

## **Exceptions**

1) The dealer licensing and reporting requirements do not apply to the sale, lease, or transfer of any firearm in the following instances (Penal Code § 12078(u)):

- Firearms obtained by individuals through operation of law, such as:
  - the executor or administrator of an estate;
  - a trustee in a bankruptcy proceeding;
  - an assignee for creditors;
  - a receiver for an estate in receivership;
  - a surviving spouse;
  - a transfer of property between spouses.

**NOTE:** Concealable firearms obtained by any of the preceding means must be reported to the Department of Justice on forms provided by the Department of Justice. (Penal Code § 12078(i)(1).)

- a levying officer as defined in sections 481.140, 511.060, or 680.260 of the Code of Civil Procedure;
- firearms received by the family of a police officer or deputy sheriff from a local agency pursuant to section 50081 of the Government Code;
- the transfer of a firearm by a law enforcement agency to the person who found the firearm where the delivery is to the finder pursuant to Article 1 (commencing with section 2080) of Chapter 4 of Division 3 of the Civil Code;
- Firearms obtained through intestate succession or by bequest, sales or transfers between “immediate family” members. Immediate family means parent and child, and grandparent and grandchild. (**NOTE:** Individuals who receive a concealable firearm in this manner must obtain a Handgun Safety Certificate. The acquisition of a handgun in this manner must be reported within 30 days to the Department of Justice on forms provided by the Department of Justice.)  
(Penal Code §§ 12078(i)(1)(B), 12078(c)(2)(A).)

**NOTE:** The infrequent sale, lease, or transfer of firearms between individuals - meaning five or fewer sales per year of any number of handguns or irregular and occasional sales of other firearms is allowed. However, such sales/transfers must be completed through a dealer licensed pursuant to Penal Code section 12071.

2) The dealer licensing and reporting requirements do not apply to the loan of any firearm in the following instances:

- Infrequent loans 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. (Penal Code § 12078(d).)
- Loans of a firearm for the purpose of shooting at targets on the premises of a target facility if the firearm is kept within the premises of the target facility at all times. (Penal Code § 12078(h).)
- Loans of an unloaded firearm or a firearm loaded with blanks for use solely as a prop for motion picture, television or other entertainment event. (Penal Code § 12078(s).)
- Loans of a long gun to a licensed hunter for a period of time not to exceed the hunting season for which the firearm is being used. (Penal Code § 12078(q).)
- Loans to minors by a parent, legal guardian, or grandparent:
  - Long guns may be loaned for an indefinite period.
  - Handguns may be loaned for the purpose of engaging in a lawful activity, and the loan does not exceed the period of time necessary to participate in the activity.
- Loans to minors by other than a parent or legal guardian:
  - Long guns may be loaned with the express permission of a parent or legal guardian if the loan does not exceed 30 days.
  - Handguns may be loaned with the express permission of a parent or legal guardian for not more than 10 days. (Penal Code § 12078(p).)

**NOTE:** A processing fee is assessed on all firearm reporting to the Department of Justice, such as voluntary registrations and transfers through operation of law. (Penal Code § 12076(e)(1).)

### **Handgun Safety Certificate**

No handgun may be delivered by a firearms dealer unless the purchaser or transferee presents to the dealer a Handgun Safety Certificate. Additionally, no firearms dealer may deliver a handgun without first requiring the recipient to correctly and properly perform a safe handling demonstration with that handgun for a Department of Justice certified instructor. (Penal Code § 12071(b)(8).)

### **Exceptions**

A Handgun Safety Certificate shall not be required for handgun transfers to the following:

- Any active or honorably retired peace officer, as defined in Chapter 4.5 (commencing with section 830) of Title 3 of Part 2 of the Penal Code .
- Any active or honorably retired federal officer or law enforcement agent.
- Any reserve peace officer, as defined in Penal Code section 832.6.
- Any person who has successfully completed the course of training specified in Penal Code section 832.
- A firearms dealer licensed pursuant to Penal Code section 12071, who is acting in the course and scope of his or her activities as a person licensed pursuant to Penal Code section 12071.
- A federally licensed collector who is acquiring or being loaned a handgun that is a curio or relic,

as defined in Section 178.11 of Title 27 of the Code of Federal Regulations, who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Penal Code section 12071.

- A person to whom a handgun is being returned, where the person receiving the firearm is the owner of the firearm.
- A family member of a peace officer or deputy sheriff from a local agency who receives a firearm pursuant to Government Code section 50081.
- Any individual who has a valid concealed weapons permit issued pursuant to Penal Code section 12050.
- An active, or honorably retired member of the United States Armed Forces, the National Guard, the Air National Guard, the active reserve components of the United States, where individuals in those organizations are properly identified.
- Any person who is authorized to carry loaded firearms pursuant to subdivision (c) or (d) of Penal Code section 12031.
- Persons who are the holder of a special weapons permit issued by the Department of Justice pursuant to Penal Code sections 12095, 12230, 12250, or 12305.
- Persons who obtain a handgun through operation of law in a representative capacity pursuant to Penal Code section 12078(i).

### **California Residency Requirement**

No firearms dealer may deliver a handgun unless the intended recipient presents satisfactory documentation indicating that he or she is a California resident. Satisfactory documentation includes a utility bill from within the last three months, a residential lease, a property deed, military permanent duty station orders indicating assignment within this state, or other evidence of residency as permitted by the Department of Justice. Acceptable documentation **does not** include passports, account statements from financial institutions, or pay stubs. (Penal Code § 12071(b)(8).)

### **Sales, Loans, and Transfers of Firearms by Personal Handgun Importers**

Any person who meets the definition of a *personal handgun importer* who moves into California with the intention of establishing residency in this state, must report his or her ownership of any handgun acquired outside California to the Department of Justice within 60 days.

A personal handgun importer means an individual who meets specific criteria, which includes, but is not limited to, any person age 18 or older, who is not a licensed firearms dealer or manufacturer, and who owns and intends to possess within this state on or after January 1, 1998, any pistol, revolver, or other firearm capable of being concealed upon the person that is not an assault weapon or machinegun, as defined by law. (Penal Code § 12001(n).)

Personal handgun importers shall report handgun ownership by choosing one of the following options:

- Forward by prepaid mail or deliver in person to the Department of Justice, a report prescribed by the department. Forms are available from the Department of Justice, firearms dealers, law enforcement agencies, and the Department of Motor Vehicles;
- Sell or transfer the firearm in accordance with the provisions of Penal Code section

12072(d);

- Sell or transfer the firearm to a dealer licensed pursuant to Penal Code Section 12071;
- Sell or transfer the firearm to a sheriff or police department. (If this option is chosen, individuals should notify the agency in advance that they intend to transport the handgun to that agency, and it should be transported unloaded and in a locked container). (Penal Code §§ 12026.2 (a)(18), 12072(f)(2)(A).)

### **Sales or Transfers of Firearms to Mental Patients**

It is unlawful for any person to knowingly sell, loan, supply, give, or allow possession or control of any firearm or other deadly weapon to a person who is deemed to be a danger to self or others and is a mental patient in a facility or on leave of absence from the facility; communicates a serious threat of physical violence against another to a licensed psychotherapist; adjudicated a danger to others or a mentally disordered sex offender; found not guilty by reason of insanity of any crime; found incompetent to stand trial; placed under conservatorship by a court as gravely disabled wherein possession of a firearm would present a danger to self or others, or who has been taken into custody and placed in a county mental health facility for treatment and evaluation because he or she is a danger to self or others as a result of a mental disorder. (Welfare and Institutions Code §§ 8100, 8101, 8103.)

### **Sales or Transfers of Firearms or Related Devices to Minors**

It is unlawful for a firearms dealer to sell a handgun to any person under the age of 21 or any other firearm to a person under the age of 18. (Penal Code § 12072(b).)

**NOTE:** Violation of this prohibition where the violation involves the delivery of any firearm to a person who the dealer knows, or should know, is a minor, is punishable as a felony.

No person, corporation, or firm shall sell, loan, or transfer a firearm to a minor. (Penal Code § 12072(a)(3).)

**NOTE:** See "Exceptions" on page 44 for loans of firearms to minors.

It is unlawful for any person to sell ammunition or reloaded ammunition to a person under 18 years of age. (Penal Code § 12316(a)(1)(A).)

It is unlawful for any person to sell any ammunition or reloaded ammunition designed and intended for use in a handgun to a person under 21 years of age. Where ammunition or reloaded ammunition may be used in both a rifle and a handgun it may be sold to a person who is at least 18 years of age, but less than 21 years of age, if the vendor reasonably believes that the ammunition is being acquired for use in a rifle and not a handgun. (Penal Code § 12316(a)(1)(B).)

It is unlawful for any person to sell or furnish a BB device to any minor without permission of the minor's parent or legal guardian. (Penal Code §§ 12551, 12552.)

It is unlawful for a minor to possess a handgun unless one of the following circumstances exists:

- the minor is accompanied by his or her parent or legal guardian and the minor is actively engaged in a lawful recreational sporting, ranching, or hunting activity, or a motion picture, television, or other entertainment event;
- the minor is accompanied by a responsible adult and has prior written consent of his or her parent or legal guardian and is involved in one of the activities cited above; and
- the minor is at least 16 years of age, has prior written consent of his or her parent or legal guardian, and the minor is involved in one of the activities cited above.

It is unlawful for a minor to possess live ammunition unless one of the following circumstances exists:

- the minor has the written consent of his or her parent or legal guardian to possess live ammunition;
- the minor is accompanied by his or her parent or legal guardian;
- the minor is actively engaged in, or is going to or from, a lawful recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, the nature of which involves the use of a firearm. (Penal Code § 12101.)

### **Sales, Manufacture, Possession, or Transportation of Machineguns**

It is unlawful for persons to sell, manufacture, possess, or transport machineguns unless they possess a license or permit issued by the Department of Justice. (Penal Code §§ 12220, 12230.)

### **Use of United States Postal Service, Private Parcel Delivery, or Common Carrier**

Long guns may be mailed through the U.S. Postal Service, as well as most private parcel delivery services or common carriers. Handguns may not be sent through the U.S. Postal Service. A common or contract carrier must be used for shipment of handguns. Federal and state laws generally prohibit the carrying upon the person of *any* firearm or ammunition aboard any commercial passenger airplane. Similar restrictions may apply to other common carriers such as trains, ships, and buses. Persons who need to carry or transport firearms or ammunition on a common carrier should always consult the carrier in advance.

*As of January 1, 2008, both in-state and out of state Federal Firearms License (FFL) holders will be required to obtain approval (e.g., a unique verification number) from the California Department of Justice prior to shipping firearms to any California FFL (Penal Code §§ 12072).*

**NOTE:** *As of January 1, 2008, the Department of Justice will establish and maintain a Centralized List of Exempted Firearms Licenses (Penal Code §§ 12072).*

*As of January 1, 2007, firearms dealers will be authorized to provide a copy of a Dealer's Record of Sale (DROS) in a private party transaction to the seller as well as the purchaser of the firearm (Penal Code §§ 12076).*

*The California Department of Justice will require the redaction by firearms dealers of personal information about the seller of a firearm from the copy of the document provided to the purchaser,*

*as well as information regarding the purchaser from the copy of the document provided to the seller.*

## **9. FORFEITURES OF FIREARMS**

### **Forfeiture for Violation of the Penal Code**

Penal Code section 12028 requires forfeiture of (a) any weapon illegally carried upon the person or within any vehicle and (b) any firearm illegally owned, possessed, or used in the commission or attempted commission of any felony or specified misdemeanor. Penal Code section 12029 requires forfeiture of any short-barreled shotgun, short-barreled rifle, cane gun, wallet gun, plastic firearm, firearm not immediately recognizable as a firearm, zip gun or unconventional pistol as specified in Penal Code section 12020. Penal Code section 12251 requires forfeiture of any machinegun possessed in violation of the permit and/or license provisions of Penal Code sections 12230 through 12250.

### **Forfeiture for Violation of the Fish and Game Code**

Fish and Game Code section 12157 permits the court to order forfeiture of any device illegally used to take birds, mammals, fish, reptiles, or amphibians. Depending upon the facts of the case, this forfeiture may include firearms.

## **10. OTHER PROHIBITED ACTS**

### **Obliteration or Alteration of Firearm Identification**

It is a felony to obliterate or alter the name of the maker, model, serial number, or other mark of identification, including any distinguishing mark lawfully assigned to a firearm by the owner or by the Department of Justice. (Penal Code § 12090.)

Possession of any pistol or revolver having its identification obliterated or altered is presumptive evidence that the possessor performed the obliteration or alteration. (Penal Code § 12091.)

It is unlawful for a person to buy, sell, or possess a firearm knowing its identification has been obliterated or altered. Exceptions include, but are not limited to, the possession and disposition of a firearm pursuant to Penal Code section 12094(a) by a person who is not prohibited by law from possessing firearms or ammunition and possessed the firearm no longer than was necessary to deliver it to a law enforcement agency for disposition according to law. Prior notice must be given to law enforcement before transporting it to that agency for disposition and firearms must be transported unloaded and in a locked container, as defined by Penal Code section 12026.2(d). (Penal Code § 12094.)

### **Firearms on School Grounds**

It is unlawful for any person to possess or bring a firearm upon the grounds of, into, or within a distance of 1,000 feet from the grounds of a school providing instruction in kindergarten or grades 1 to 12, inclusive, or a campus of the University of California, California State University, or California community colleges. (Penal Code § 626.9.)

## **Exceptions**

- A person who has the written permission of the school district superintendent, designee, or equivalent school authority.
- Within a place of residence or place of business or on private property, if the place of residence, place of business, or private property is not part of the school grounds and the possession of the firearm is otherwise lawful.
- If the firearm is an unloaded handgun in a locked container or within the locked trunk of a motor vehicle, or the otherwise lawful transportation of an unloaded long gun.
- The possession or transportation of firearms by a person who is engaged in the business of manufacturing, importing, wholesaling, repairing, or dealing in firearms and who is licensed to engage in that business or the authorized representative or authorized agent of that person while engaged in the lawful course of business.
- Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of money, treasure, etc.
- 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.
- The carrying of unloaded handguns by duly authorized military or civil organizations while parading or the members thereof when going to and from the places of meeting of their respective organizations.
- Any peace officer pursuant to Penal Code section 830 who is carrying out official duties.
- Any person summoned by such peace officer to assist in making an arrest or preserving the peace while actually so engaged.
- Members of federal or state military forces while engaged in performance of duty.
- Any person authorized to carry a concealed firearm pursuant to Penal Code section 12050.
- An armored vehicle guard while engaged in performance of duty pursuant to Business and Professions Code section 7521.
- A security guard authorized to carry a loaded firearm pursuant to Penal Code section 12030.
- An existing shooting range at a public or private school or university or college campus.
- An honorably retired peace officer authorized to carry a concealed or loaded firearm.

## **Drawing/Exhibiting Loaded Firearm on Juvenile Activities Grounds**

It is unlawful for any person to draw or exhibit any loaded or unloaded firearm in a rude, angry, or threatening manner or use any loaded or unloaded firearm in any fight or quarrel upon the grounds of any day care center, playground, or public or private youth center, or facility where programs are being conducted for persons under 18 years of age. (Penal Code §§ 417 (b), 626.95.)

## **Discharge of Firearms at Inhabited/Occupied Dwellings, Buildings, Vehicles, Aircraft**

It is unlawful for any person to maliciously and willfully discharge a firearm at an inhabited dwelling house, occupied building, occupied motor vehicle, occupied aircraft, inhabited housecar, or inhabited camper. (Penal Code § 246.) Persons convicted of a felony or an attempt to commit a felony which involved the discharge of a firearm at an occupied motor vehicle causing great bodily injury or the death of another are subject to a sentence of five years in prison in addition and consecutive to the sentence prescribed for the felony. (Penal Code § 12022.5.)

### **Discharge of Firearms at Unoccupied/Uninhabited Aircraft, Unoccupied Motor Vehicles, Buildings, Dwellings**

It is a felony for anyone to willfully and maliciously discharge a firearm at an unoccupied aircraft. It is a public offense punishable by a jail or prison sentence of up to one year for any person to discharge a firearm at an unoccupied motor vehicle, uninhabited building or dwelling except for an abandoned vehicle, an unoccupied vehicle, or an uninhabited building or dwelling with permission of the owner and otherwise lawful. (Penal Code § 247.)

### **Discharge of a Firearm From a Motor Vehicle**

Any person who causes the death of another person by means of discharging a firearm from a motor vehicle, intentionally at another person outside the vehicle with the intent to inflict death, is guilty of murder of the first degree, punishable by death, confinement in the state prison for life without possibility of parole, or confinement in the state prison for 25 years to life. (Penal Code §§ 189, 190.)

Any person who causes the death of a person who is not an occupant of a motor vehicle is guilty of murder of the second degree, punishable by confinement in state prison for 20 years to life if the killing was perpetrated as a result of discharging a firearm from a motor vehicle with the intent to inflict great bodily injury. (Penal Code § 190(d).)

Persons with proven intent who inflict great bodily injury, as defined in Penal Code section 12022.7, or cause the death of a person who is not an occupant of a motor vehicle as a result of discharging a firearm from a motor vehicle in the commission of a felony or attempted felony shall be punished by a term of five years in addition, and consecutive to, the punishment prescribed for the felony. (Penal Code § 12022.55.)

A driver or owner of a motor vehicle who allows any person to discharge a firearm from the vehicle may be punished by up to three years imprisonment in state prison and any person who willfully and maliciously discharges a firearm from a motor vehicle at a person who is not an occupant of a motor vehicle is guilty of a felony punishable by up to seven years in state prison. (Penal Code § 12034.)

Any person who maliciously and willfully discharges a firearm at an occupied motor vehicle from another motor vehicle and the victim suffers paralysis as defined, or paraparesis as defined, of a major body part, including, but not limited to, the entire hand or foot, shall be punished by an additional term of four years. (Penal Code § 12022.9.)

### **Threatening Acts with Firearms on Public Streets or Highways**

It is a felony for a person to draw or exhibit a firearm that is loaded or unloaded in a

threatening manner against an occupant of a motor vehicle which is on a public street or highway in such a way that would cause a reasonable person apprehension or fear of bodily harm. (Penal Code § 417.3.)

### **Threatening Acts with Imitation Firearms**

It is a misdemeanor for a person to draw or exhibit an imitation firearm in a threatening manner against another in a way which would cause a reasonable person apprehension or fear of bodily harm. An imitation firearm means any BB device, toy gun, replica of a firearm, or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Penal Code §§ 417.4, 12550.)

*As of January 1, 2007, the scope of the offense of discharging a firearm in a grossly negligent manner that could result in injury or death to a person shall be expanded to include a BB device, making the offense involving a BB device punishable by imprisonment in a county jail, not exceeding one year (Penal Code § 246.3).*

### **Threatening Acts With a Laser Scope**

A laser scope is a portable battery-powered device capable of being attached to a firearm and projecting a laser light on objects at a distance. It is a misdemeanor to knowingly draw or exhibit a laser scope that projects a colored target on a person in a threatening manner, except in self-defense. (Penal Code § 417.25.)

### **Forfeiture of Vehicles Used in Offenses Involving the Discharge or Brandishing of a Firearm**

Courts are required to order the forfeiture and sale of motor vehicles used in the commission of first or second degree murder, manslaughter, attempted murder, assault with a deadly weapon or the unlawful discharge or brandishing of a firearm from, or at an occupied vehicle where a victim is killed, attacked or assaulted from, or in a motor vehicle by the use of a firearm on public streets and highways. (Penal Code § 246.1.)

### **Sell or Distribute Imitation Firearms**

Any person who, for commercial purposes, sells, manufactures, distributes, purchases, ships or transports, by mail order or any other manner, or receives, an imitation firearm (realistic replica of an existing firearm) may be liable for fines of up to \$10,000 for each violation. (Penal Code § 12555.)

### **Advertising of Prohibited Weapons**

It is unlawful for any person to advertise the sale of any firearm or other weapon whose possession is prohibited by Penal Code sections 12020, 12220, 12280, 12303, 12320, 12321, 12355, or 12520. (Penal Code § 12020.5.)

Anyone having a question on the possession, purchase, or carrying of a firearm or the legality of any shooting act should consult their local law enforcement agency or law library, or seek

advice from a lawyer.

## **11. FIREARM SAFETY INSTRUCTION**

### **Certificate of Completion for Hunting Licenses**

Fish and Game Code section 3050 and the California Code of Regulations, Title 14, section 710, provide that no hunting license shall be issued unless the applicant presents:

- evidence that he or she has held a hunting license issued by this state in a prior year;  
or
- evidence that he or she holds a current hunting license issued by another state or province; or
- a certificate of completion of a course in hunter safety, principles of conservation, and sportsmanship, as provided in this article, with a hunter safety instruction validation stamp affixed thereto; or
- a certificate of successful completion of a hunter safety course in another state or province; or
- evidence of completion of a course in hunter safety, principles of conservation, and sportsmanship, which the commission may, by regulation, require.

The Department of Fish and Game designates hunter safety instructors qualified to give hunter safety instruction and issue the certificate required above. Persons desiring to take a course in hunter safety training for licensing may write or call the nearest Department of Fish and Game office for a list of instructors in their area:

Department of Fish and Game (Region 1)  
601 Locust Street  
Redding, California 96001  
(530) 225-2300

Department of Fish and Game (Region 2)  
1701 Nimbus Road, Suite A  
Rancho Cordova, California 95670  
(916) 358-2900

Department of Fish and Game (Region 3)  
P. O. Box 47  
Yountville, California 94599  
(707) 944-5500

Department of Fish and Game (Region 4)  
1234 East Shaw Avenue  
Fresno, California 93710  
(559) 243-4005 X 151

Department of Fish and Game (Region 5)  
4949 Viewridge Avenue  
San Diego, California 92123

(619) 467-4200

Department of Fish and Game (Region 6)  
4775 Bird Farm Road  
Chino Hills, California 91709  
(909) 597-9823

### **Handgun Training for Security Guards, Etc.**

Private patrol operators, security guards, alarm company operators, responding alarm agents, and private investigators must complete a firearms training course before carrying a firearm on duty. (Business and Professions Code §§ 7542, 7545, and 7596.)

The course was developed by the Department of Consumer Affairs, Bureau of Security and Investigative Services, and is offered by bureau-certified instructors to bureau licensees. Training is approximately 14 hours and includes the following:

- The moral and legal aspects of firearms usage.
- Firearms nomenclature and maintenance.
- Weapon handling and shooting fundamentals.
- Emergency procedures.
- Prequalification range training, including the firing of practice rounds.
- Qualification with firearm.
- Examination.

Course instructors must be approved by the California Department of Consumer Affairs, Bureau of Security and Investigative Services. Fees for the instruction are negotiated between the instructor and student. Person interested in taking such a course may contact the bureau for a list of certified schools in their area:

Department of Consumer Affairs  
Bureau of Security and Investigative Services  
400 R Street, Suite 3080  
Sacramento, California 95814-6873  
(916) 445-7724

**NOTE:** Completion of this training does not authorize a person to carry a firearm unless he or she possesses a valid firearm permit issued by the bureau and is on duty and properly licensed as a

private patrol operator, security guard, alarm company operator, responding alarm agent, or private investigator. The firearms permit allows the bearer to carry an exposed firearm while on duty.

### **Firearm Safety and Training Courses Provided by Gun/Shooting Clubs or Associations**

Some firearm clubs or associations regularly provide firearm safety training courses for the general public as well as for their members. Such clubs are listed in the yellow pages of the telephone directory. In addition, managers of public or private shooting ranges may give interested persons

information on how to contact clubs or associations using their ranges for training courses. Ranges are also listed in the yellow pages of the telephone directory.

### **Handgun Safety Certificate Requirement**

Effective January 1, 2003, any person who wishes to receive a handgun through a sale or transfer must have a valid Handgun Safety Certificate (HSC) or a qualifying exemption. Any person who wishes to obtain an HSC must pass a written test that includes, but is not limited to, laws applicable to carrying and handling firearms, particularly handguns; responsibilities of ownership of firearms, particularly handguns; the law related to the private sale/transfer of firearms; the law as it relates to the permissible use of lethal force; safe firearm storage; and issues & prevention strategies associated with bringing firearms into the home. (Penal Code § 12071(b)(8).)

A DOJ Certified Instructor may charge each HSC applicant a fee of up to \$25 to cover the costs of providing the test and issuing the certificate. (Penal Code § 12805.)

Any person who is interested in becoming a DOJ Certified Instructor may obtain further information and an application form by writing to:

*Department of Justice  
Division of Law Enforcement  
Bureau of Firearms  
DOJ Certified Instructors  
P.O. Box 981118  
West Sacramento, California  
95798 - 1118*

### **Safe Handling Demonstration**

Any person who takes delivery of a handgun from a firearms dealer must first successfully demonstrate to a DOJ Certified Instructor that he or she is able to handle that handgun safely and that he or she can properly operate all of the safety features. Any person who has an exemption to the HSC requirement is also exempt from this requirement. (Penal Code §12071(b)(8)(D).)

### **Safe Handling and Storage of Firearms**

Under the Children's Firearm Accident Prevention Act of 1991, any person who keeps a loaded firearm where a child obtains and improperly uses it, may be fined or sent to prison. (Penal Code §§ 12035, 12036, 12071.)

To prevent unnecessary injury or death caused by improper storage of firearms in the home where children (under age 18) are likely to be present, and to help prevent the possibility of criminal prosecution, all firearms should be unloaded, locked with a trigger locking device that renders the firearm inoperable, and stored in a locked container. Ammunition should be stored in a location separate from the firearm. Other means of safe storage include trigger locking devices, or locking firearm safes or cabinets. For information on obtaining firearm safety devices or how they operate, contact a firearms dealer, firearms club or association which promotes firearm safety training courses, the manufacturer of such devices, or visit the Department of Justice *Bureau of Firearms* website at <http://www.ag.ca.gov/firearms/certlist.htm>.

It is the responsibility of every firearm owner to be knowledgeable regarding the operation of firearms in his or her possession. When handling firearms, the following precautions should be taken:

- Always keep the firearm pointed in a safe direction - never at yourself or others.  
Generally, it is safest to point the firearm upward or downward.
- Never place your finger on the trigger until you are ready to shoot. Instead, rest your trigger finger around the grip of the gun.
- Always keep the firearm unloaded until ready to use. If you are not sure if the firearm is loaded, and you do not know how to open the gun's action, leave it alone and get help from someone who knows how to operate the firearm.
- Never use alcohol or drugs before or while shooting.

Information regarding the operation of a specific firearm is generally available from the gun manufacturer. If information regarding a specific firearm cannot be obtained from the manufacturer, local firearm dealers or private gun organizations that promote firearm safety and training may be of assistance.

**NOTE:** These basic safety tips have been provided as a public service and are not intended to cover all aspects of firearm use and storage, nor are they intended to take the place of any firearms training course.

A handbook containing basic firearms safety information is available from the Department of Justice to licensed firearm dealers, who shall have it available to the general public.

## **12. FIREARM SAFETY DEVICE REQUIREMENT**

Each firearm sold, transferred, or manufactured in California must be accompanied with a firearm safety device approved by the Department of Justice and identified as appropriate for that firearm. The Department of Justice is required to compile and publish a listing of all of the safety devices that have been determined to meet the department's standards. A list of these devices is available on the Department of Justice *Bureau of Firearms* website at <http://www.ag.ca.gov/firearms/fsdcertlist.htm>. (Penal Code § 12088.1.)

The term "long-gun safe" is distinct from "gun safe" and "firearms safety device." A "long-gun safe" means a locking container designed to fully contain and secure a rifle or a shotgun. A "long-gun safe" must have a locking system consisting of either a mechanical combination lock or an electronic combination lock that has at least 1,000 possible unique combinations consisting of a minimum of three numbers, letters, or symbols per combination, and that is not listed on the Department of Justice Roster of Firearm Safety Devices. (PC § 12087.6).

No person shall keep for commercial sale, commercially sell, or distribute as part of an organized firearm safety program, any firearms safety device (other than a long-gun safe) that is not listed on the Department of Justice roster of approved firearms safety devices. Any sale of a long gun safe must be accompanied by a specified warning label. (Penal Code § 12088.1.)

The Department of Justice Roster of Firearm Safety Devices may be accessed on the Department

of Justice website at <http://www.ag.ca.gov/firearms/fsdcertlist.htm>.

Firearm sales and transfers are exempt from the requirement to provide a firearm safety device if either of the following is true:

- The purchaser demonstrates proof that he or she owns a gun safe that meets the standards set forth in Department of Justice regulations adopted under Penal Code section 12088.2 by signing an affidavit to that effect.
- The purchaser presents an approved safety device for the firearm being purchased and provides to the firearms dealer an original receipt showing the purchase took place no more than 30 days prior to picking up the firearm.
- The purchaser presents a receipt for a Department of Justice-approved lock box and signs an affidavit (provided by the firearms dealer) that describes the make and model of the lock box and that the lock box will accommodate the firearm being purchased.

Firearm safety device requirements in general do not apply to the commerce of “antique firearms” as defined in subsection (a) of Section 921 of Title 18 of the United States Code nor do they apply to the commerce of any firearm intended to be used by a salaried, full-time peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code for purposes of law enforcement. (Penal Code § 12088.8.)