



El Segundo Police Department  
Training Section  
348 Main Street, El Segundo, CA 90245  
Phone (310) 524-2200

## TRAINING BULLETIN

April 5, 2017

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### California Gun Laws

Review the attached information on California gun laws:

1. **25452 PC**- Firearm in an unattended vehicle must be secured by locking it in the:
  - a. Trunk of the vehicle
  - b. Locked container out of plain view
  - c. Locked container that is permanently affixed to the vehicle's interior, not in plain view.
  - d. "Locked container" means a secure container locked by padlock, key, combination lock, including the trunk of a motor vehicle, but does NOT include the utility or glove compartment.
2. **490.2(c)** - Theft of a firearm is GRAND THEFT FELONY, whether or not value exceeds \$950.
3. **25850(a) PC**- A loaded firearm in a backpack worn by a defendant is being carried "on the person."
4. **"Loaded firearm"**: A firearm is deemed loaded when there is a live cartridge attached in any manner to the firearm, including but not limited, to the firing chamber, magazine or clip thereof attached to the firearm.



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## TRAINING BULLETIN

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### SENATE BILL 869 October 1, 2016

On September 26, 2016, Governor Brown signed into law Senate Bill 869. The bill requires a person, **including active and retired peace officers**, when leaving a handgun in an unattended vehicle, to secure the handgun by locking it in the trunk of the vehicle, locking it in a locked container and placing the container out of plain view or locking the handgun in a locked container that is permanently affixed to the vehicle's interior and not in plain view.

Violation of PC §25452 is an infraction.

(Refer attached Legislative Counsel's Digest).



*California*  
LEGISLATIVE INFORMATION

**SB-869 Firearms: securing handguns in vehicles. (2015-2016)**

ENROLLED AUGUST 26, 2016  
PASSED IN SENATE AUGUST 24, 2016  
PASSED IN ASSEMBLY AUGUST 18, 2016  
AMENDED IN ASSEMBLY AUGUST 11, 2016  
AMENDED IN ASSEMBLY MAY 18, 2016  
AMENDED IN ASSEMBLY MAY 03, 2016  
AMENDED IN SENATE MARCH 30, 2016

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

**SENATE BILL**

**No. 869**

**Introduced by Senator Hill  
(Principal coauthor: Assembly Member Chiu)**

**January 12, 2016**

An act to amend Section 25645 of, and to add Section 25140, 25452, and 25612 to, the Penal Code, relating to firearms.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 869, Hill. Firearms: securing handguns in vehicles.

Existing law prohibits a person who is 18 years of age or older, and who is the owner, lessee, renter, or other legal occupant of a residence, who owns a firearm and who knows or has reason to know that another person also residing there is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm from keeping a firearm in that residence, unless the firearm is secured, as specified. A violation of this prohibition is a misdemeanor.

This bill would require a person, when leaving a handgun in an unattended vehicle, to secure the handgun by locking it in the trunk of the vehicle, locking it in a locked container and placing the container out of plain view, or locking the handgun in a locked container that is permanently affixed to the vehicle's interior and not in plain view. The bill would make a violation of these requirements an infraction punishable by a fine not exceeding \$1,000. The bill would expressly make those requirements inapplicable to the transportation of unloaded firearms by a licensed common carrier in conformance with applicable federal law. The bill would also provide that these provisions do not supersede any local ordinance that regulates the storage of handguns in unattended vehicles if the ordinance was in effect before the date of enactment of this bill.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 25140 is added to the Penal Code, to read:

**25140.** (a) A person shall, when leaving a handgun in an unattended vehicle, lock the handgun in the vehicle's trunk, lock the handgun in a locked container and place the container out of plain view, or lock the handgun in a locked container that is permanently affixed to the vehicle's interior and not in plain view.

(b) A violation of subdivision (a) is an infraction punishable by a fine not exceeding one thousand dollars (\$1,000).

(c) (1) As used in this section, "vehicle" has the same meaning as specified in Section 670 of the Vehicle Code.

(2) As used in this section, "locked container" has the same meaning as specified in Section 16850.

(3) For purposes of this section, a vehicle is unattended when a person who is lawfully carrying or transporting a handgun in a vehicle is not within close enough proximity to the vehicle to reasonably prevent unauthorized access to the vehicle or its contents.

(d) This section does not apply to a peace officer during circumstances requiring immediate aid or action that are within the course of his or her official duties.

(e) This section does not supersede any local ordinance that regulates the storage of handguns in unattended vehicles if the ordinance was in effect before the date of enactment of the act that added this section.

**SEC. 2.** Section 25452 is added to the Penal Code, to read:

**25452.** A peace officer and an honorably retired peace officer shall, when leaving a handgun in an unattended vehicle, secure the handgun in the vehicle pursuant to Section 25140.

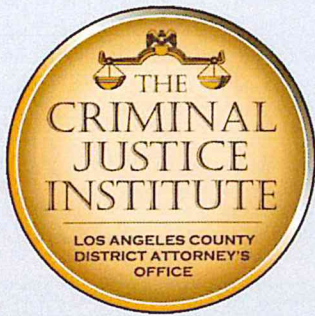
**SEC. 3.** Section 25612 is added to the Penal Code, to read:

**25612.** A person shall, when leaving a handgun in an unattended vehicle, secure the handgun in the vehicle pursuant to Section 25140.

**SEC. 4.** Section 25645 of the Penal Code is amended to read:

**25645.** Sections 25140 and 25400 do not apply to, or affect, the transportation of unloaded firearms by a person operating a licensed common carrier or an authorized agent or employee thereof when the firearms are transported in conformance with applicable federal law.

**SEC. 5.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

# ONE MINUTE BRIEF

JACKIE LACEY  
DISTRICT ATTORNEY

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**NUMBER:** 2016-24    **DATE:** 12-14-16    **BY:** Devallis Rutledge    **TOPIC:** New Laws for 2017—Part 1

Below are summaries of selected legislation effective January 1, 2017 (unless otherwise noted). The full text of the statutes should be consulted for application.

**PC § 141(c)** (Amended) Intentional, bad-faith, knowing alteration/withholding of relevant and material evidence/information, with specific intent that evidence/information be concealed or destroyed or fraudulent evidence misrepresented in any proceeding, is a county-jail felony.

**PC §§ 148.5(f), 25275** (Amended; added) Knowingly, falsely reporting a lost or stolen firearm to a peace officer (or specified other official) is a misdemeanor (§ 148.5; eff. 1-1-17), or an infraction (§ 25275; eff. 11-9-16), depending on which section is charged.

**PC § 236.14** (Added) Human trafficking victim forced to commit prostitution or other crimes may petition to vacate arrest and conviction record.

**PC § 236.23** (Added) It is an affirmative defense that the defendant was a human trafficking victim, forced to commit the charged crime. This defense does not apply to serious or violent felonies, nor to a charge of human trafficking.

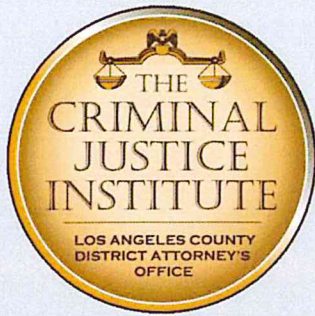
**PC § 293(e)** (Amended) Law enforcement agencies may not disclose to the public the name, address or photo of a human trafficking victim/immediate family, and must orally advise the victim of the right to exemption from PRA disclosure. (GC § 6254(f)(2)(B) also amended.)

**PC § 402(a)(2)** (Amended) Impeding emergency personnel at the scene of an emergency by aerial drone is a misdemeanor.

**PC § 490.2(c)** (Amended) Theft of a firearm is once again a grand-theft felony, whether or not its value exceeds \$950. (Eff. 11-9-16.)

**PC § 523(b)(1)** (Amended) Attempted ransomware extortion is a 2-3-4 county-jail felony.

**PC § 633.5** (Amended) Human trafficking is added to the list of crimes as to which non-consensual recording of a phone conversation is allowed to obtain evidence.



JACKIE LACEY  
DISTRICT ATTORNEY

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# ONE MINUTE BRIEF

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**NUMBER:** 2016-12    **DATE:** 05-09-16    **BY:** Devallis Rutledge    **TOPIC:** Firearms Carried "on the Person"

**ISSUE:** Is a firearm inside a backpack that is worn by a defendant being carried "on the person," within the meaning of PC § 25850(a)?

Carrying a loaded firearm "on the person" or in a vehicle in public is a felony, wobbler, or misdemeanor, depending on various factors listed in PC § 25850(c)(1) through (7). Is it sufficient to constitute a violation of this section that the firearm is carried in a briefcase, handbag, backpack or other container being worn or carried by the person?

During a police foot pursuit, Steven Wade removed and discarded a backpack he was wearing. After he was apprehended and the backpack searched, police found a loaded revolver inside. Wade was charged with a felony and was held to answer after preliminary hearing; however, his subsequent 995 motion to set aside the information was granted. On appeal by LA County DDAs Phyllis Asayama and Scott Collins, the Court of Appeal reversed, and the California Supreme Court has now unanimously affirmed reinstatement of the charge.

Wade argued that a firearm carried in a backpack was not carried "on the person," largely in reliance on the earlier appellate opinion in *People v. Pellecer* (2013) 215 Cal.App.4<sup>th</sup> 508. That decision held that a *dirk or dagger* found in a backpack against which Pellecer was *leaning* when confronted by police was not being *carried* concealed "on the person," as prohibited by PC § 12020(a)(4) (now re-designated as PC § 21310).

While disapproving *Pellecer's* interpretation of the phrase "on the person" (though not necessarily disapproving the judgment, based on other distinctions), the California Supreme Court has clarified that "on the person" may include firearms **in containers** worn or carried:

*“Defendant concedes that he carried the loaded firearm, but he argues that, because it was in his backpack, it was not on his person. We disagree. **The backpack was on his person, and accordingly, anything inside that backpack was also on his person. ...***

*“We agree with the Court of Appeal in this case that defendant’s immediate access to the revolver within the backpack he wore created the type of clear threat to the general public that is prohibited by section 25850, subdivision (a). ...*

*“As the Court of Appeal noted..., courts of this state and other states that have considered the meaning of similar statutes consistently conclude that a person carrying a concealed firearm in an object **such as a suitcase, purse or bag**, carries the weapon concealed on the person.”*

*People v. Wade* \_\_\_ Cal.4<sup>th</sup> \_\_\_, No. S224599 (Bold emphases added; citations and punctuation omitted.)

**BOTTOM LINE: A loaded firearm in a backpack worn by a defendant is being carried “on the person.”**

This information was current as of publication date. It is not intended as legal advice. It is recommended that readers check for subsequent developments, and consult legal advisors to ensure currency after publication. Local policies and procedures regarding application should be observed.

# California Firearms Laws Summary



2016

California Department of Justice  
Kamala D. Harris  
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<http://oag.ca.gov>



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# California Firearms Laws Summary 2016



## INTRODUCTION

As the owner of a firearm, it is your responsibility to understand and comply with all federal, state and local laws regarding firearms ownership. Many of the laws described below pertain to the possession, use and storage of firearms in the home and merit careful review. The California Firearms Laws Summary 2016 provides a general summary of California laws that govern common possession and use of firearms by persons other than law enforcement officers or members of the armed forces. It is not designed to provide individual guidance for specific situations, nor does it address federal or local laws. The legality of any specific act of possession or use will ultimately be determined by applicable federal and state statutory and case law. Persons having specific questions are encouraged to seek legal advice from an attorney, or consult their local law enforcement agency, local prosecutor or law library. The California Department of Justice (DOJ) and all other public entities are immune from any liability arising from the drafting, publication, dissemination, or reliance upon this information.

## PERSONS INELIGIBLE TO POSSESS FIREARMS

The following persons are prohibited from possessing firearms (Pen. Code, §§ 29800-29825, 29900; Welf. & Inst. Code, §§ 8100, 8103):

### Lifetime Prohibitions

- Any person convicted of any felony or any offense enumerated in Penal Code section 29905.
- Any person convicted of an offense enumerated in Penal Code section 23515.
- Any person with two or more convictions for violating Penal Code section 417, subdivision (a)(2).
- Any person adjudicated to be a mentally disordered sex offender. (Welf. & Inst. Code, § 8103, subd. (a)(1).)
- Any person found by a court to be mentally incompetent to stand trial or not guilty by reason of insanity of any crime, unless the court has made a finding of restoration of competence or sanity. (Welf. & Inst. Code, § 8103, subs. (b)(1), (c)(1), and (d)(1).)

### **10-Year Prohibitions**

- Any person convicted of a misdemeanor violation of the following: Penal Code sections 71, 76, 136.5, 140, 148, subdivision (d), 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 422, 626.9, 646.9, 830.95, subdivision (a), 17500, 17510, subdivision (a), 25300, 25800, 27510, 27590, subdivision (c), 30315, or 32625, and Welfare and Institutions Code sections 871.5, 1001.5, 8100, 8101, or 8103.

### **5-Year Prohibitions**

- Any person taken into custody as a danger to self or others, assessed, and admitted to a mental health facility under Welfare and Institutions Code sections 5150, 5151, 5152; or certified under Welfare and Institutions Code sections 5250, 5260, 5270.15. Persons certified under Welfare and Institutions Code sections 5250, 5260, or 5270.15 may be subject to a lifetime prohibition pursuant to federal law.

### **Juvenile Prohibitions**

- Juveniles adjudged wards of the juvenile court are prohibited until they reach age 30 if they committed an offense listed in Welfare and Institutions Code section 707, subdivision (b). (Pen. Code, § 29820.)

### **Miscellaneous Prohibitions**

- Any person denied firearm possession as a condition of probation pursuant to Penal Code section 29900, subdivision (c).
- Any person charged with a felony offense, pending resolution of the matter. (18 U.S.C. § 922(g).)
- Any person while he or she is either a voluntary patient in a mental health facility or under a gravely disabled conservatorship (due to a mental disorder or impairment by chronic alcoholism) and if he or she is found to be a danger to self or others. (Welf. & Inst. Code, § 8103, subd. (e).)
- Any person addicted to the use of narcotics. (Pen. Code, § 29800, subd. (a).)
- Any person who communicates a threat (against any reasonably identifiable victim) to a licensed psychotherapist which is subsequently reported to law enforcement, is prohibited for six months. (Welf. & Inst. Code, § 8100, subd. (b).)
- Any person who is subject to a protective order as defined in Family Code section 6218 or Penal Code section 136.2, or a temporary restraining order issued pursuant to Code of Civil Procedure sections 527.6 or 527.8.

### **Personal Firearms Eligibility Check**

Any person may obtain from the DOJ a determination as to whether he or she is eligible to possess firearms (review of California records only). The personal firearms eligibility check application form and instructions are on the DOJ website at <http://oag.ca.gov/firearms/forms>. The cost for such an eligibility check is \$20. (Pen. Code, § 30105.)

## SALES AND TRANSFERS OF FIREARMS

In California, only licensed California firearms dealers who possess a valid Certificate of Eligibility (COE) are authorized to engage in retail sales of firearms. These retail sales require the purchaser to provide personal identifier information for the Dealer Record of Sale (DROS) document that the firearms dealer must submit to the DOJ. There is a mandatory 10-day waiting period before the firearms dealer can deliver the firearm to the purchaser. During this 10-day waiting period, the DOJ conducts a firearms eligibility background check to ensure the purchaser is not prohibited from lawfully possessing firearms. Although there are exceptions, generally all firearms purchasers must be at least 18 years of age to purchase a long gun (rifle or shotgun) and 21 years of age to purchase a handgun (pistol or revolver). Additionally, purchasers must be California residents with a valid driver's license or identification card issued by the California Department of Motor Vehicles.

Generally, it is illegal for any person who is not a California licensed firearms dealer (private party) to sell or transfer a firearm to another non-licensed person (private party) unless the sale or transfer is completed through a licensed California firearms dealer. A "Private Party Transfer" (PPT) can be conducted at any licensed California firearms dealership. The buyer and seller must complete the required DROS document in person at the licensed firearms dealership and deliver the firearm to the dealer who will retain possession of the firearm during the mandatory 10-day waiting period. In addition to the applicable state fees, the firearms dealer may charge a fee not to exceed \$10 per firearm for conducting the PPT.

The infrequent transfer of firearms between immediate family members is exempt from the law requiring PPTs to be conducted through a licensed firearms dealer. For purposes of this exemption, "immediate family member" means parent and child, and grandparent and grandchild but does not include brothers or sisters. (Pen. Code, § 16720.) The transferee must also comply with the Firearm Safety Certificate requirement described below, prior to taking possession of the firearm. Within 30 days of the transfer, the transferee must also submit a report of the transaction to the DOJ. Download the form (Report of Operation of Law or Intra-Familial Firearm Transaction BOF 4544A) from the DOJ website at <http://oag.ca.gov/firearms/forms> or complete and submit the form electronically via the internet at <https://CFARS.doj.ca.gov>.

The reclaiming of a pawned firearm is subject to the DROS and 10-day waiting period requirements.

Specific statutory requirements relating to sales and transfers of firearms follow:

### **Proof-of-Residency Requirement**

To purchase a handgun in California, you must present documentation indicating that you are a California resident. Acceptable documentation includes a utility bill from within the last three months, a residential lease, a property deed or military permanent duty station orders indicating assignment within California.

The address provided on the proof-of-residency document must match either the address on the DROS or the address on the purchaser's California driver's license or identification card. (Pen. Code, § 26845.)

### **Firearm Safety Certificate Requirement**

To purchase or acquire a firearm, you must have a valid Firearm Safety Certificate (FSC). To obtain an FSC, you must score at least 75% on an objective written test pertaining to firearms laws and safety requirements. The test is administered by DOJ Certified Instructors, who are often located at firearms dealerships. An FSC is valid for five years. You may be charged up to \$25 for an FSC. Firearms being returned to their owners, such as pawn returns, are exempt from this requirement. In the event of a lost, stolen or destroyed FSC, the issuing DOJ Certified Instructor will issue a replacement FSC for a fee of \$5. You must present proof of identity to receive a replacement FSC. (Pen. Code, §§ 31610-31670.)

### **Safe Handling Demonstration Requirement**

Prior to taking delivery of a firearm, you must successfully perform a safe handling demonstration with the firearm being purchased or acquired. Safe handling demonstrations must be performed in the presence of a DOJ Certified Instructor sometime between the date the DROS is submitted to the DOJ and the delivery of the firearm, and are generally performed at the firearms dealership. The purchaser, firearms dealer and DOJ Certified Instructor must sign an affidavit stating the safe handling demonstration was completed. The steps required to complete the safe handling demonstration are described in the Appendix. Pawn returns and intra-familial transfers are not subject to the safe handling demonstration requirement. (Pen. Code, § 26850.)

### **Firearms Safety Device Requirement**

All firearms (long guns and handguns) purchased in California must be accompanied with a firearms safety device (FSD) that has passed required safety and functionality tests and is listed on the DOJ's official roster of DOJ-approved firearm safety devices. The current roster of certified FSDs is available on the DOJ website at <http://oag.ca.gov/firearms/fsdcertlist>. The FSD requirement also can be satisfied if the purchaser signs an affidavit declaring ownership of either a DOJ-approved lock box or a gun safe capable of accommodating the firearm being purchased. Pawn returns and intra-familial transfers are not subject to the FSD requirement. (Pen. Code, §§ 23635-23690.)

### **Roster of Handguns Certified for Sale in California**

No handgun may be sold by a firearms dealer to the public unless it is of a make and model that has passed required safety and functionality tests and is listed on the DOJ's official roster of handguns certified for sale in California. The current roster of handguns certified for sale in California is on the DOJ website at <http://certguns.doj.ca.gov/>. PPTs, intrafamilial transfers, and pawn/consignment returns are exempt from this requirement. (Pen. Code, § 32000.)

### One-Handgun-per-30-Days Limit

No person shall make an application to purchase more than one handgun within any 30-days period. Exemptions to the one-handgun-per-30-days limit include pawn returns, intra-familial transfers and private party transfers. (Pen. Code, § 27540.)

### Handgun Sales and Transfer Requirements

	Retail Sales	Private Party Transfers	Intra-familial Transfers	Pawn Returns
Proof-of-Residency Requirement	Yes	Yes	No	Yes
Firearm Safety Certificate Requirement	Yes	Yes	Yes	No
Safe Handling Demonstration Requirement	Yes	Yes	No	No
Firearm Safety Device Requirement	Yes	Yes	No	No
Roster of Handguns Certified for Sale in California	Yes	No	No	No
One-Handgun-Per-30-Days Limit	Yes	No	No	No

### Long Gun Sales and Transfer Requirements

	Retail Sales	Private Party Transfers	Intra-familial Transfers	Pawn Returns
Proof-of-Residency Requirement	No	No	No	No
Firearm Safety Certificate Requirement	Yes	Yes	Yes	No
Safe Handling Demonstration Requirement	Yes	Yes	No	No
Firearm Safety Device Requirement	Yes	Yes	No	No

## PROHIBITED FIREARMS TRANSFERS AND STRAW PURCHASES

### What is a straw purchase?

A straw purchase is buying a firearm for someone who is prohibited by law from possessing one, or buying a firearm for someone who does not want his or her name associated with the transaction.

It is a violation of California law for a person who is not licensed as a California firearms dealer to transfer a firearm to another unlicensed person, without conducting such a transfer through a licensed firearms dealer. (Pen. Code, § 27545.) Such a transfer may be punished as a felony. (Pen. Code, § 27590.)

Furthermore, it is a violation of federal law to either (1) make a false or fictitious statement on an application to purchase a firearm about a material fact, such as the identify of the person who ultimately will acquire the firearm (commonly known as "lying and buying") (18 U.S.C. 922(a)(6)), or (2) knowingly transfer a firearm to a person who is prohibited by federal law from possessing and purchasing it. (18 U.S.C. 922(d).) Such transfers are punishable under federal law by a \$250,000 fine and 10 years in federal prison. (18 U.S.C. 924(a)(2).)

#### **Things to Remember About Prohibited Firearms Transfers and Straw Purchases**

An illegal firearm purchase (straw purchase) is a federal crime.

An illegal firearm purchase can bring a felony conviction sentence of 10 years in jail and a fine of up to \$250,000.

Buying a gun and giving it to someone who is prohibited from owning one is a state and federal crime.

**Never buy a gun for someone who is prohibited by law or unable to do so.**

### **REPORTING REQUIREMENTS FOR NEW CALIFORNIA RESIDENTS**

New California residents must report their ownership of firearms to the DOJ or sell/transfer them in accordance with California law, within 60 days of bringing the firearm into the state. Persons who want to keep their firearms must submit a New Resident Firearm Ownership Report (BOF 4010A), along with a \$19 fee, to the DOJ. Forms are available at licensed firearms dealers, the Department of Motor Vehicles or on-line at the DOJ website at <http://oag.ca.gov/firearms/forms>. Forms may also be completed and submitted electronically via the internet at <https://CFARS.doj.ca.gov> (Pen. Code, § 27560.)

### **SHIPMENT OF FIREARMS**

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. However, pursuant to federal law, non-licensees may ship handguns only to persons who hold a valid Federal Firearms License (FFL).

Both in-state and out-of-state FFL holders are required to obtain approval (e.g., a unique verification number) from the California DOJ prior to shipping firearms to any California FFL. (Pen. Code, § 27555.)

## CARRYING FIREARMS ABOARD COMMON CARRIERS

Federal and state laws generally prohibit a person from carrying 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 firearms or ammunition on a common carrier should always consult the carrier in advance to determine conditions under which firearms may be transported.

## FIREARMS IN THE HOME, BUSINESS OR AT THE CAMPSITE

Unless otherwise unlawful, any person over the age of 18 who is not prohibited from possessing firearms may have a loaded or unloaded firearm at his or her place of residence, temporary residence, campsite or on private property owned or lawfully possessed by the person. Any person engaged in lawful business (including nonprofit organizations) or any officer, employee or agent authorized for lawful purposes connected with the business may have a loaded firearm within the place of business if that person is over 18 years of age and not otherwise prohibited from possessing firearms. (Pen. Code, §§ 25605, 26035.)

NOTE: If a person's place of business, residence, temporary residence, campsite or private property is located within an area where possession of a firearm is prohibited by local or federal laws, such laws would prevail.

## TRANSPORTATION OF FIREARMS

### Handguns

California Penal Code section 25400 does not prohibit a citizen of the United States over 18 years of age who is in lawful possession of a handgun, and who resides or is temporarily in California, from transporting the handgun by motor vehicle provided it is unloaded and stored in a locked container. (Pen. Code, § 25610.)

The term "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device. This includes the trunk of a motor vehicle, but does not include the utility or glove compartment. (Pen. Code, § 16850.)

### Rifles and Shotguns

Nonconcealable firearms (rifles and shotguns) are not generally covered within the provisions of California Penal Code section 25400 and therefore are not required to be transported in a locked container. However, as with any firearm, nonconcealable firearms must be unloaded while they are being transported. A rifle or shotgun that is defined as an assault weapon pursuant to Penal Code section 30510 or 30515 must be transported in accordance with Penal Code section 25610.



## Registered Assault Weapons and .50 BMG Rifles

Registered assault weapons and registered .50 BMG rifles may be transported only between specified locations and must be unloaded and in a locked container when transported. (Pen. Code, § 30945, subd. (g).)

The term "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device. This includes the trunk of a motor vehicle, but does not include the utility or glove compartment. (Pen. Code, § 16850.)

## USE OF LETHAL FORCE IN SELF-DEFENSE

The question of whether use of lethal force is justified in 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 the use of lethal force in self-defense.

### Permissible Use of Lethal 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. (Pen. Code, § 197.)

### Self-Defense Against Assault

It is lawful for a person being assaulted to defend themselves 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.

## 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. Furthermore, a person may only use the amount of force, up to deadly force, as a reasonable person in the same or similar circumstances would believe necessary to prevent imminent injury. It is important to note the use of excessive force to counter an assault may result in civil or criminal penalties.

The right of self-defense is not initially available to a person who assaults another. However, if such a 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.

## 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. (Pen. 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.

### CARRYING A CONCEALED WEAPON WITHOUT A LICENSE

It is illegal for any person to carry a handgun concealed upon his or her person or concealed in a vehicle without a license issued pursuant to Penal Code section 26150. (Pen. Code, § 25400.) A firearm locked in a motor vehicle's trunk or in a locked container carried in the vehicle other than in the utility or glove compartment is not considered concealed within the meaning of the Penal Code section 25400; neither is a firearm carried within a locked container directly to or from a motor vehicle for any lawful purpose. (Pen. Code, § 25610.)

The prohibition from carrying a concealed handgun does not apply to licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from the hunting expedition. (Pen. Code, § 25640.) Notwithstanding this exception for hunters or fishermen, these individuals may not carry or transport loaded firearms when going to or from the expedition. The unloaded firearms should be transported in the trunk of the vehicle or in a locked container other than the utility or glove compartment. (Pen. Code, § 25610.)

There are also occupational exceptions to the prohibition from carrying a concealed weapon, including authorized employees while engaged in specified activities. (Pen. Code, §§ 25630, 25640.)

### LOADED FIREARMS IN PUBLIC

It is illegal 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. (Pen. Code, § 25850, subd. (a).)

It is illegal 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 into the vehicle in violation of Penal Code section 25850, or Fish and Game Code section 2006. (Pen. Code, § 26100.)

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. (Pen. Code, § 16840.)

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. (Pen. Code, § 25850, subd. (b).)

The prohibition from carrying a loaded firearm in public does not apply to any person while hunting in an area where possession and hunting is otherwise lawful or while practice shooting at target ranges. (Pen. Code, §§ 26005, 26040.) There are also occupational exceptions to the prohibition from carrying a loaded firearm in public, including authorized employees while engaged in specified activities. (Pen. Code, §§ 26015, 26030.)

**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. (Pen. Code, § 12031(b).)

### **OPENLY CARRYING AN UNLOADED HANDGUN**

It is generally illegal for any person to carry upon his or her person or in a vehicle, an exposed and unloaded handgun while in or on:

- A public place or public street in an incorporated city or city and county; or
- A public street in a prohibited area of an unincorporated city or city and county. (Pen. Code, § 26350.)

It is also illegal for the driver or owner of a motor vehicle to allow a person to bring an open and exposed unloaded handgun into a motor vehicle in specified public areas. (Pen. Code, § 17512.)

### **PUNISHMENT FOR CARRYING UNREGISTERED HANDGUN**

Any person who commits the crime of carrying a concealed handgun while having both the 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 DOJ's Automated Firearms System. (Pen. Code, § 25400, subd. (c).)

Any person who commits the crime of carrying a loaded 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 DOJ's Automated Firearms System. (Pen. Code, § 25850, subd. (c).)

## MISCELLANEOUS PROHIBITED ACTS

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

It is illegal for any person to obliterate or alter the identification marks placed on any firearm including the make, model, serial number or any distinguishing mark lawfully assigned by the owner or by the DOJ. (Pen. Code, § 23900.)

It is illegal for any person to buy, sell or possess a firearm knowing its identification has been obliterated or altered. (Pen. Code, § 23920.)

### **Unauthorized Possession of a Firearm on School Grounds**

It is illegal for any unauthorized person to possess or bring a firearm upon the grounds of, or into, any public school, including the campuses of the University of California, California State University campuses, California community colleges, any private school (kindergarten through 12th grade) or private university or college. (Pen. Code, § 626.9.)

### **Unauthorized Possession of a Firearm in a Courtroom, the State Capitol, etc.**

It is illegal for any unauthorized person to bring or possess any firearm within a courtroom, courthouse, court building or at any meeting required to be open to the public. (Pen. Code, § 171b.)

It is illegal for any unauthorized person to bring or possess a loaded firearm within (including upon the grounds of) the State Capitol, any legislative office, any office of the Governor or other constitutional officer, any Senate or Assembly hearing room, the Governor's Mansion or any other residence of the Governor or the residence of any constitutional officer or any Member of the Legislature. For these purposes, a firearm shall be deemed loaded whenever both the firearm and its unexpended ammunition are in the immediate possession of the same person. (Pen. Code, §§ 171c, 171d, 171e.)

### **Drawing or Exhibiting a Firearm**

If another person is present, it is illegal for any person, except in self-defense, to draw or exhibit a loaded or unloaded firearm in a rude, angry or threatening manner or in any manner use a firearm in a fight or quarrel. (Pen. Code, § 417.)

### **Threatening Acts with a Firearm on a Public Street or Highway**

It is illegal for any person to draw or exhibit a loaded or unloaded firearm 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. (Pen. Code, § 417.3.)

### **Discharge of a Firearm in a Grossly Negligent Manner**

It is illegal for any person to willfully discharge a firearm in a grossly negligent manner which could result in injury or death to a person. (Pen. Code, § 246.3.)

### **Discharge of a Firearm at an Inhabited/Occupied Dwelling, Building, Vehicle, Aircraft**

It is illegal 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. (Pen. Code, § 246.)

### **Discharge of a Firearm at an Unoccupied Aircraft, Motor Vehicle, or Uninhabited Building or Dwelling**

It is illegal for any person to willfully and maliciously discharge a firearm at an unoccupied aircraft. It is illegal for any person to discharge a firearm at an unoccupied motor vehicle, building or dwelling. This does not apply to an abandoned vehicle, an unoccupied motor vehicle or uninhabited building or dwelling with permission of the owner and if otherwise lawful. (Pen. Code, § 247.)

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

It is illegal for any person to willfully and maliciously discharge a firearm from a motor vehicle. A driver or owner of a vehicle who allows any person to discharge a firearm from the vehicle may be punished by up to three years imprisonment in state prison. (Pen. Code, § 26100.)

### **Criminal Storage**

“Criminal storage of firearm of the first degree” – Keeping any loaded firearm within any premises that are under your custody or control and you know or reasonably should know that a child (any person under 18) is likely to gain access to the firearm without the permission of the child’s parent or legal guardian and the child obtains access to the firearm and thereby causes death or great bodily injury to himself, herself, or any other person. (Pen. Code, § 25100, subd. (a).)

“Criminal storage of firearm of the second degree” – Keeping any loaded firearm within any premises that are under your custody or control and you know or reasonably should know that a child (any person under 18) is likely to gain access to the firearm without the permission of the child’s parent or legal guardian and the child obtains access to the firearm and thereby causes injury, other than great bodily injury, to himself, herself, or any other person, or carries the firearm either to a public place or in violation of Penal Code section 417. (Pen. Code, § 25100, subd. (b).)

Neither of the criminal storage offenses (first degree, second degree) shall apply whenever the firearm is kept in a locked container or locked with a locking device that has rendered the firearm inoperable. (Pen. Code, § 25105.)

### **Sales, Transfers and Loans of Firearms to Minors**

Generally, it is illegal to sell, loan or transfer any firearm to a person under 18 years of age, or to sell a handgun to a person under 21 years of age. (Pen. Code, § 27505.)

### **Possession of a Handgun or Live Ammunition by Minors**

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

- 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; or
- 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. (Pen. Code, §§ 29610, 29615.)

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

- The minor has the written consent of a parent or legal guardian to possess live ammunition;
- The minor is accompanied by a parent or legal guardian; or
- The minor is actively engaged in, or is going to or from, a lawful, recreational sport, including, competitive shooting, or agricultural, ranching, or hunting activity. (Pen. Code, §§ 29650, 29655.)

### **NEW FIREARMS/WEAPONS LAWS**

#### **AB 892 (Stats. 2015, ch. 203) – Purchase of State-Issued Handgun by Spouse/Domestic Partner of Peace Officer Killed in the Line of Duty**

- Provides an exception to the Unsafe Handgun Act allowing the spouse/domestic partner of a peace officer killed in the line of duty to purchase their spouse/domestic partner's service weapon. (Pen. Code, § 32000.)

#### **AB 950 (Stats. 2015, ch. 205) – Gun Violence Restraining Orders**

- Allows a person who is subject to a gun violence restraining order to transfer his or her firearms or ammunition to a licensed firearms dealer for the duration of the prohibition. If the firearms or ammunition have been surrendered to a law enforcement agency, the bill would entitle the owner to have them transferred to a licensed firearms dealer. (Pen. Code, §§ 29830.)
- Extends to ammunition, current authority for a city or county to impose a charge relating to the seizure, impounding, storage, or release of a firearm. (Pen. Code, § 33880.)

### **AB 1014 (Stats. 2014, ch. 872 ) – Gun Violence Restraining Orders**

- Beginning June 1, 2016, authorizes courts to issue gun violence restraining orders, ex parte gun violence restraining orders, and temporary emergency gun violence restraining orders if the subject of the petition poses a significant danger of personal injury to himself, herself, or another by having in his or her custody or control, owning, purchasing, possessing, or receiving a firearm and that the order is necessary to prevent personal injury to himself, herself, or another, as specified. (Pen. Code, §§ 18100 - 18205.)
- Beginning June 1, 2016, makes it a misdemeanor to own or possess a firearm or ammunition with the knowledge that he or she is prohibited from doing so by a gun violence restraining order. (Pen. Code, § 18205.)
- Beginning June 1, 2016, makes it a misdemeanor to file a petition for a gun violence restraining order with the intent to harass or knowing the information in the petition to be false. (Pen. Code, § 18200.)

### **AB 1134 (Stats. 2015, ch. 785 ) – Licenses to Carry Concealed Handguns**

- Authorizes the sheriff of a county to enter into an agreement with the chief or other head of a municipal police department of a city for the chief or other head of a municipal police department to process all applications for licenses to carry a concealed handgun, renewals of those licenses, and amendments of those licenses, for that city's residents. (Pen. Code, § 26150.)

### **AB 2220 (Stats. 2014, ch. 423) – Private Patrol Operators**

- Beginning July 1, 2016, establishes procedures allowing a Private Patrol Operator (PPO) business entity to be the registered owner of a firearm.
- Beginning July 1, 2016, allows a security guard to be assigned a firearm by the PPO and for a firearm custodian to be designated by the PPO. (Pen. Code, §§ 16970, 31000, 32650.)

### **SB 199 (Stats. 2014, ch. 915) – BB Devices and Imitation Firearms**

- Beginning January 1, 2016, amends the definitions of a "BB device" and an "imitation firearm." (Pen. Code, §§ 16250, 16700.)

### **SB 707 (Stats. 2015, ch. 766) – Gun-free School Zones**

- Recasts Gun-Free School Zone Act provisions relating to a person holding a valid license to carry a concealed firearm to allow that person to carry a firearm in an area that is within 1,000 feet of, but not on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive. (Pen. Code, § 626.9.)
- Creates an exemption from the Gun-Free School Zone Act for certain appointed peace officers authorized to carry a firearm by their appointing agency, and for certain retired reserve peace officers authorized to carry a concealed or loaded firearm. (Pen. Code, § 626.9.)



- Deletes the exemption that allows a person holding a valid license to carry a concealed firearm to bring or possess a firearm on the campus of a university or college. (Pen. Code, § 30310.)
- Deletes the exemption that allows a person to carry ammunition or reloaded ammunition onto school grounds if the person is licensed to carry a concealed firearm. (Pen. Code, § 30310.)
- Creates a new exemption authorizing a person to carry ammunition or reloaded ammunition onto school grounds if it is in a motor vehicle at all times and is within a locked container or within the locked trunk of the vehicle. (Pen. Code, § 30310.)



If you have any comments or suggestions  
regarding this publication, please send them to:

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