

**DEPARTMENT OF JUSTICE
FIREARMS DIVISION**

ASSEMBLY BILL (AB) 106

Department of Justice

P.O. Box 160487

Sacramento, CA 95816-0487

June 26, 2003

NOTICE OF MODIFICATION TO TEXT OF REGULATIONS

Pursuant to requirements of Government Code section 11346.8(c), and section 44 of Title 1 of the California Code of Regulations, the Department of Justice is providing notice of amendments to regulation sections 977.20, 977.45 and 977.50 in Title 11, Division I, Chapter 12.6 of the California Code of Regulations. These regulations are subject to a 15-day comment period ending July 11, 2003.

The Department will accept written comments regarding the proposed changes between June 26, 2003, and July 11, 2003. All comments must be received by the Department no later than 5:00 p.m. on July 11, 2003, and addressed, e-mailed or faxed to:

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All written comments received by July 11, 2003, which pertain to the indicated changes will be reviewed and responded to by the Department's staff as part of the compilation of the rulemaking file. Please limit your comments to the modifications of the text.

TEXT OF MODIFIED REGULATIONS

The Department has illustrated modifications to the text in the following manner: proposed language is highlighted, deletions from the language previously adopted are shown in ~~strikeout~~.

§ 977.20 - Definition of Key Terms

- (a) ~~“B ATF” means the United States Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms.~~
“ATF” means the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives.
- (b) “Certified Firearms Safety Device Laboratory” or “Certified FSD Laboratory” means a laboratory that has been granted FSD Laboratory Certification by the DOJ.
- (c) “COE” means a Certificate of Eligibility issued by the DOJ pursuant to subdivision (a)(4) of Penal Code section 12071 and the regulations issued thereunder after a check of state and federal files has determined that at the time the check was performed, and based upon available information, the applicant was not a person who was prohibited from possessing firearms pursuant to state and federal laws.
- (d) “Common household tools” means: screwdrivers (8-10 inches in length, flathead or Phillips, flathead sizes up to 5/8 inches), pipe wrenches (9½ -10 inches in length), vice grip pliers (9½-10 inches in length), other pliers (9½ -10-inch arch joint, 6-6½-inch slip joint, 6-6½-inch long nose), hacksaws (12-inch, standard carbon steel blade), crowbars (16 inch), electric/cordless drills (1/3 horsepower corded/9.6 volt cordless), hammers (16 ounce), chisels (1/4-inch to 1-inch blade width wood chisels), and crescent wrenches (10 inch).
- (e) “Completed Application” means: a completed Application for Firearms Safety Device Laboratory Certification, (DOJ Form FD 031), including application copies of any applicable licenses and/or certificates; any additional sheets of paper used to provide full and complete answers to questions on the application; and copies of the laboratory’s written procedures relating to security and prohibited persons.
- (f) “Corporation” means any entity organized under California Corporations Code section 102(a) or similar statute if not a California corporation.
- (g) “Day” means a calendar day unless otherwise specified in these regulations.
- (h) “Disabled” means defeating the Firearms Safety Device thereby rendering the firearm capable of firing (expelling a projectile by the force of an explosion or other form of combustion).
- (i) “DOJ” means the California Department of Justice.
- (j) “DOJ-Approved Safety Device” means a firearms safety device that has been tested by a certified FSD laboratory, has been determined to meet the standards for firearms safety devices, and may be sold in California pursuant to Penal Code section 12088.2.

- (k) “Firearms manufacturer/importer” means either: A licensed manufacturer of domestically produced firearms or, if one exists, a legal successor-in-interest or other person with the consent of the manufacturer; and/or a federally licensed importer of foreign manufactured firearms.
- (l) “Firearms safety device” means a device that locks and is designed to prevent children and unauthorized users from firing a firearm. The device may be installed on a firearm, be incorporated into the design of a firearm, or prevent access to the firearm.
- (m) “Firearms Safety Device Compliance Test Report” means a report completed by a Certified FSD Laboratory after a firearms safety device has met the requirements of Penal Code section 12088.2 and these regulations.
- (n) “Firearms safety device manufacturer or dealer” means either: a manufacturer of firearms safety devices or a dealer of firearms safety devices.
- (o) “Firing Chamber” means the chamber that is lined up with the firing pin or striker.
- (p) “Firm” means a business unit, enterprise, or partnership of two or more persons, that is not recognized as a legal person distinct from the members comprising the entity.
- (q) “FSD Laboratory Certification” means the DOJ certificate issued as evidence of compliance with the DOJ laboratory certification requirements as set forth in these regulations.
- (r) “Keyway” means the opening in a locked cylinder that is shaped to accept a key bit or blade of a proper configuration.
- (s) “Local License” means any regulatory and/or business license issued by a city, county, or other local government agency.
- (t) “Model” means the manufacturer's designation which uniquely identifies a specific design of firearms safety device.
- (u) “Plug” means the part of a cylinder which contains the keyway, with tumbler chambers usually corresponding to those within the cylinder shell.
- (v) “Properly installed” means the firearms safety device is installed according to the instructions provided by the firearms safety device manufacturer or dealer.
- (w) “Reasonable Access” means that areas and/or items to be inspected by an authorized DOJ employee are free from physical obstruction and/or other impediments that would make access difficult and/or unsafe.

- (x) “Roster of Approved Firearms Safety Devices” means a DOJ list of all DOJ-Approved Safety Devices. The roster shall list, for each DOJ-Approved Firearms Safety Device, the manufacturer, model number, model name, and other information deemed necessary by the DOJ to facilitate identifying that firearms safety device.
- (y) “Lock Box” means a firearms safety device that fully contains and encloses the firearm(s).

Authority cited: Sections 12088, 12088.2, Penal Code. Reference: Sections 12088, 12088.2, Penal Code.

§ 977.45 - Testing Procedures

The tests in this section are designed to replicate the forces that would be exerted on firearms safety devices through the use of common household tools for an approximate ten-minute period.

- (a) The only persons allowed to conduct firearms safety device testing are authorized staff of the Certified FSD Laboratory. In addition to this staff, representatives of the firearms safety device manufacturer or dealer and/or the DOJ shall be allowed to be present during testing. Any such representative(s) shall not participate in the testing. However, if deemed necessary by the staff of the laboratory, representative(s) of the firearms safety device manufacturer or dealer may be asked to provide advice and/or guidance regarding the characteristics, handling, and/or operation of the firearms safety device.
- (b) Each laboratory testing a firearms safety device pursuant to these regulations must comply with the following test criteria relative to each firearms safety device tested:
 - (1) All tests shall be conducted within the following tolerances as applicable:
 - (A) Force: 0.5% of working range.
 - (B) Height: +/- 3mm (0.12 inches).
 - (C) Torque: 4.0% of reading.
 - (D) Weight: +/- 10 grams (.02 pounds).
 - (2) All tests shall be conducted at temperatures between 16 and 27 degrees Celsius (61 - 81 degrees Fahrenheit).
 - (3) A tensile loading device having a load and force measuring capacity of 4,450 newtons (1,000 pounds force) shall be utilized for appropriate tests.
 - (4) The American Society for Testing and Materials Standard Performance Specification for Padlocks (ASTM) F883-97 is incorporated into these regulations by reference. A shock impact fixture shall be constructed utilizing the same design as the shock impactor fixture illustrated and detailed in said specification and a shackle cutting fixture shall be constructed utilizing the same design as the shackle cutting fixture illustrated and detailed in said specification.
 - (5) A mounting device shall be fashioned and used to align and to support the firearms safety device being tested on the mounting device when being subjected to required shock loads.

- (6) The firearms safety device shall be properly installed on a firearm according to the manufacturer's instructions unless otherwise stated in these regulations.
 - (7) Firearms safety devices may be tested when they are not installed on a firearm if it is determined by the test laboratory that the firearm would interfere with the test equipment's ability to apply measurable forces to the firearms safety device. Testing a firearms safety device while it is not installed on a firearm is allowed only when the measurable forces are applied to areas of the firearms safety device that would be exposed when the firearms safety device is properly installed. Firearms safety devices shall be tested on a complete firearm whenever possible.
 - (8) The firearms safety device shall not be of a design to allow it to be disabled or removed from the firearm through the partial destruction of the firearm with common household tools. Partial destruction includes, but is not limited to, cutting an exposed trigger guard or removing the hammer spur of the firearm (if so equipped).
 - (9) Notwithstanding the firearms safety device manufacturer's instructions, for each of the tests, a primed case will be placed in the firing chamber if the chamber can be closed. The primed case shall be produced by an ammunition manufacturer and consist of the same type of case and primer as standard ammunition recommended by the firearm manufacturer. With the firearms safety device properly installed, the firearm shall be rendered incapable of firing the primed case. If the firearm discharges the primed case during any of the tests, even if only capable of firing once and even if unsafe to do so, the device is deemed to have failed testing.
 - (10) Notwithstanding the firearms safety device manufacturer's instructions, for each test, the firearm shall be cocked, and the manual safety shall not be applied.
 - (11) All of the tests designated in subsections (c)(1) through (c)(5) of this section shall be performed on a single firearms safety device. The test designated in subsection (c)(6) of this section shall be performed on a separate single firearms safety device. The test designated in subsections (c)(7) through (c)(8) of this section shall be performed on a separate single firearms safety device. The test designated in subsection (d) or (e) of this section shall be performed on a separate single firearms safety device.
 - (12) All lock box type devices (devices designed to fully contain and enclose a firearm) shall be tested with a small handgun placed within the device. The small handgun shall be loaded with a primed case and be no greater than 5-inches (L) x 3-inches (H) x 1 1/4-inches (W) in size. The small handgun may be in addition to any other firearm(s) used in testing. Lock boxes designed to accommodate long guns must be tested with at least one long gun placed within the container in addition to the small handgun mentioned above. Lock boxes which cannot prevent the removal of, or access to discharging, the firearm(s) contained within the device will be considered disabled.
 - (13) Manipulation with a screwdriver, as described in these regulations, is to be applied only to the areas directly affected (weakened) by the proceeding test.
- (c) Each Certified FSD Laboratory shall perform all of the following tests on each firearms safety device model submitted to the laboratory for testing pursuant to these regulations in an attempt

to defeat the device, cause the firearm to function, or cause the loaded primed case to discharge:

- (1) **Picking or manipulating test** (utilize a new firearms safety device)(does not apply if test cannot be performed on the device). Cylinders in the firearms safety device shall resist picking with the use of paper clips (jumbo size), paper clips (#1 size), and small screwdrivers that fit in the keyway for two minutes each. Time shall be counted only while tools are in contact with the lock. Combination locks shall resist manual manipulation for two minutes. Time shall be counted only while hands are manipulating the combination lock. This test shall be performed by a tester with no specialized training or skills in lock picking or manipulation (e.g. locksmith training or the use of reference guides on lock picking or manipulation). In the case of a key lock, failure occurs if the lock mechanism can be disengaged during six minutes of manipulation. In the case of a combination lock, failure occurs if the combination lock can be disengaged without the proper combination being entered during two minutes of manipulation.
- (2) **Forced removal inspection.** Inspect the firearm and firearms safety device to determine if the firearms safety device is of such a design that it may not be disabled or removed from the firearm through two minutes of partial destruction of the firearm with common household tools. Partial destruction **attacks shall be limited to the firearm's trigger guard, hammer spur, or barrel.** ~~includes, but is not limited to, removing a portion of an exposed trigger guard, removing the hammer spur of the firearm, sawing through the topstrap of a firearm (if so equipped), or sawing through the firearm's barrel without rendering the firearm inoperable.~~ For example, a firearms safety device that fully encloses the trigger guard of the firearm may pass this inspection, while a firearms safety device that would allow a portion of the trigger guard to be sawed off to allow for removal of the firearms safety device may fail this inspection. Failure occurs if inspection of the firearm and firearms safety device indicates that the firearms safety device may be disabled or removed through the partial destruction of the firearm as described in this subsection. Failure also occurs if the firearm could be fired, even if unsafe to do so, as a result of the forced removal inspection. Attack by saw shall be performed in accordance with the specifications and limitations of the Saw test (included by reference).
- (3) **Tensile test** (does not apply if test cannot be performed on the device). This test is designed to test the strength of the firearms safety device utilizing a pulling action. Support the firearm and firearms safety device in a fixture designed to enable application of forces in tension along a central axis of the mating locking components of the firearms safety device. Apply 1,000 newtons (225 pounds force) of force slowly along the central axis of the firearms safety device locking components without interfering or giving support to either of the mating locking components of the firearms safety device. For firearms safety devices that have clamping components, specific fixtures may be required to allow application of the required force to the individual components. Failure occurs if the firearms safety device is disabled or if the firearm is capable of firing during the test. For instance, if the firearms safety device separates far enough to allow for the discharge of the firearm while manipulating the trigger.

- (4) **Shock test** (does not apply if test cannot be performed on the device). This test is designed to test the firearms safety device and locking mechanism ability to withstand shock. Using the shock impact fixture, drop a one-kilogram (2.2 pound) weight from a distance of one meter + one centimeter (39.4 inches + 0.4 inches) five times to the top of the firearms safety device body aligned to impinge and penetrate the locking keyway or combination lock using a chucked blade-type tool (chucked blade-type tool should be crafted from the shank of a screwdriver with a 1/4 to 5/8-inch (0.63 to 1.6 centimeter) flathead end). Additionally, using the shock impact fixture, drop a one-kilogram (2.2 pound) weight from a distance of one meter (39.4 inches), five times to the top of the firearms safety device body using a chucked steel rod tool. Failure occurs if the firearms safety device is disabled by the shock test. Failure also occurs if following the shock test, subsequent manipulation of the firearms safety device with an 8 to 10-inch (20.3-25.4 cm) long screwdriver with a 1/4 to 5/8-inch (0.63 to 1.6-centimeter) flathead end for fifteen seconds allows the tester to discharge a primed case.
- (5) **Shackle or cable cutting test** (does not apply if test cannot be performed on the device). This test is designed to determine the firearms safety device's resistance to cutting forces of 4,450 newtons (1,000 pounds force) for solid metal shackles or with hand forces of 445 newtons (100 pounds force) for cables. The shackle of the firearms safety device (if so equipped) shall withstand cutting through when blades made of steel, hardened to a minimum hardness of Rc 50, are used in conjunction with the blade positioning holders of the shackle cutting fixture. The shearing assembly must then be placed in a tensile loading device having a compression load capability and compressed with a force of 4,450 newtons (1,000 pounds force). See the ASTM F883-97 standard for details to build a shackle cutting fixture (this document is incorporated by reference into these regulations). The cable of the firearms safety device (if so equipped) shall withstand cutting through with nine-and-one-half (9 ½)-inch lineman pliers with a force of 100 pounds (445 newtons) for two minutes. The force shall be applied to the handles of the pliers at a point that is 6 inches (+/- 0.25 inches) from the center of the pliers' pivot pin, and the cable shall be placed between the blades so that the cable's centerline is 0.75 inches (+/- 0.05 inches) from the center of the pliers' pivot pin. The firearms safety device is to be supported on both sides of the point of the shear cut with allowance for blade clearance. Failure occurs if the firearms safety device is disabled.
- (6) **Plug pulling test** (utilize a new firearms safety device)(does not apply if test cannot be performed on the device). This test is designed to test a cylinder lock's ability to withstand a pulling action to dislodge the plug from the cylinder, but not to test the lock's ability to withstand drilling. Drill the keyway with a number 20 (0.161 inch, 0.41 centimeter) diameter drill bit and insert a self-tapping screw of size AB 12 at least 19 millimeters 0.75 inches (1.90 centimeters) deep. Apply a required tension of 1,000 newtons (225 pounds force) axially between the case and installed screw. Failure occurs if the firearms safety device can be opened by fifteen seconds of manipulation with an 8 to 10-inch (20.3 to 25.4 centimeter) long screwdriver with the largest flat

blade (not to exceed 5/8 inch (1.6 centimeter)) that will fit into the keyway at the conclusion of the test. Failure also occurs if the firearms safety device is disabled. If the self-tapping screw cannot be inserted at least 0.75 inches (1.90 centimeters), insert the screw as far as possible, continue with the test and document the depth to which the screw was inserted. The test does not need to be applied to keyways which cannot accept the self-tapping screw due to the keyway's size, design, or materials. In addition, if the firearms safety device is of a design that it breaks the drill bit or self-tapping screw and prevents the test from being performed the test does not apply and does not need to be performed again on this device.

- (7) **Plug torque test** (utilize a new firearms safety device)(does not apply if test cannot be performed on the device). This test is designed to test the ability of a firearms safety device's keyway, if so equipped, to withstand torque pressures. Install the firearms safety device in a rigid fixture such as a vise to support it firmly but not restrict free rotation of the plug in the cylinder. Insert a screwdriver with the largest flat blade (not to exceed 5/8 inch (1.6 centimeter)) that will fit into the keyway, so that a torque load of ten newton-meters (89 pounds force-inches) can be applied to the plug. The test technician may lightly tap the screwdriver blade into the keyway so that the blade is seated and torque can be applied. Care should be taken so as not to mar the keyway beyond what is necessary to create enough grip to perform the test. If a keyway resists the insertion of the screwdriver blade or deforms so that torque cannot be applied and the test cannot be performed, this test does not apply and does not need to be performed again on this device. Torque may be applied in any combination of clockwise or counterclockwise directions. Failure occurs if the firearms safety device is disabled.
- (8) **Sawing test** (does not apply if test cannot be performed on the device). Sawing tests shall be performed using a sawing machine or hand held saw. The firearms safety device may be held with an appropriate fixture to hold the device steady while sawing. The sawing test is designed to determine the firearms safety device's resistance to sawing of exposed components. Exposed components may include, but are not limited to, cables, lock bodies and hinges. The testing agent shall accomplish a test using a **new** standard carbon steel hacksaw blade with 32 teeth per inch (2.54 centimeters) with a constant vertical downward force of ten pounds (44.5 newtons). **Only one saw blade shall be used during the test.** The test shall consist of 60 cutting cycles per minute for two minutes by sawing machine, or 120 cycles, with no time limit, by hand. One cutting cycle is defined as the combination of one 6-inch forward and one 6-inch backward cutting motion. The saw attack may consist of a series of separate 120 cutting cycle attacks, but in no instance shall more than 120 cutting cycles be applied to any one "specified" location. For example, the testing agent may identify (specify) the hinge and lock body areas of a firearms safety device as vulnerable to attack. A total of 120 cutting cycles may be applied to the hinge of the device and an additional 120 cutting cycles may be applied to the lock body of the device. At the conclusion of the sawing test, the testing agent shall manipulate the firearms safety device for fifteen seconds by hand in an attempt to disable the firearms safety device. Failure occurs if

the firearms safety device is disabled.

- (d) In addition to the tests specified in subsection (c) of this section, the Certified FSD Laboratory shall perform the following tests on a model of each firearms safety device in which the firing chamber of the firearm is capable of accommodating a primed case with the firing chamber closed and the firearms safety device properly installed, that is submitted to the laboratory for testing pursuant to these regulations. This requirement does not apply to a firearms safety device that prevents access to the firearm by fully containing and enclosing the firearm (lock-box type devices):
- (1) (Utilize a new firearms safety device). The firearms safety device shall be activated in accordance with the manufacturer's instructions as specified in paragraphs (6), (9), and (10) of subsection (b) of this section. The firearm shall be placed in a drop fixture capable of dropping the firearm from a drop height of one meter + one centimeter (39.4 inches + 0.4 inches) onto a slab of concrete having minimum dimensions of 7.5 centimeters X 15 centimeters X 15 centimeters (3 inches X 6 inches X 6 inches). The drop distance shall be measured from the lowermost portion of the weapon to the top surface of the slab. The firearm shall be dropped from a fixture and not from the hand. An approved drop fixture is a short piece of string with the firearm attached at one end and the other end held in an air vise until the drop is initiated. The firearm shall be dropped in the following orientations:
 - (A) Normal firing position with the barrel horizontal.
 - (B) Upside down with the barrel horizontal.
 - (C) If the firearm is a handgun, on the grip with the barrel vertical.
 - (D) On the muzzle with the barrel vertical.
 - (E) On either side with the barrel horizontal.
 - (F) If there is an exposed hammer or striker, on the rearmost point of the device, otherwise on the rearmost point of the weapon.
 - (2) At the conclusion of the drop test, the tester shall attempt to fire the firearm in an attempt to discharge the primed case. Failure occurs if the firearm can be operated manually, if a primed case is discharged during any of the drop tests, or if the firearms safety device is disabled following any of the orientation drop tests.
- (e) In addition to the tests specified in subsection (c) of this section, the Certified FSD Laboratory shall perform the following tests on a model of each firearms safety device that fully contains and encloses the firearm (lock-box type devices) that is submitted to the laboratory for testing pursuant to these regulations. This requirement does not apply to any lock-box type firearms safety device that weighs more than 75 pounds (27.99 kilograms) or has a combined length and girth that is greater than or equal to 110 inches (279.4 centimeters):
- (1) (Utilize a new firearms safety device. Test shall be conducted with a firearm containing a primed case with the firing chamber closed inside the firearms safety device. This test does not need to be performed with an approved drop fixture and may be performed by hand.) The firearms safety device shall be dropped from a height of one meter + one centimeter (39.4 inches + 0.4 inches) onto a slab of concrete having minimum

dimensions of 7.5 centimeters X 15 centimeters X 15 centimeters (3 inches X 6 inches X 6 inches). The drop distance shall be measured from the lowermost portion of the firearms safety device to the top surface of the slab. The firearms safety device shall be dropped in the following orientations:

- (A) With the locking mechanism facing directly up.
 - (B) With the locking mechanism facing directly down.
- (2) Failure occurs if the firearms safety device is disabled or the firearm contained within the enclosed container discharges.
- (f) Failure of any test occurs if the firearms safety device is disabled, if the firearm is made to function, or if the firearm discharges the primed case during or as a result of the test. A failure of any one firearms safety device in any of the tests constitutes a failure of the complete test.

Authority cited: Sections 12088, 12088.2, Penal Code. Reference: Sections 12088, 12088.2, Penal Code.

§ 977.50 - Gun Safe Standards

An acceptable gun safe is either one of the following:

- (a) A gun safe that meets all of the following standards:
- (1) Shall be able to fully contain firearms and provide for their secure storage.
 - (2) Shall have a locking system consisting of at minimum a mechanical or electronic combination lock. The mechanical or electronic combination lock utilized by the safe shall have at least 10,000 possible combinations consisting of a minimum three numbers, letters, or symbols. The lock shall be protected by a case-hardened (Rc 60+) drill-resistant steel plate, or drill-resistant material of equivalent strength.
 - (3) Boltwork shall consist of a minimum of three steel locking bolts of at least ½ inch thickness that intrude from the door of the safe into the body of the safe or from the body of the safe into the door of the safe, which are operated by a separate handle and secured by the lock.
 - (4) A gun safe shall be capable of repeated use. The exterior walls shall be constructed of a minimum 12-gauge thick steel for a single-walled safe, or the sum of the steel walls shall add up to at least 0.100 inches for safes with two walls. Doors shall be constructed of a minimum one layer of 7-gauge steel plate reinforced construction or at least two layers of a minimum 12-gauge steel compound construction.
 - (5) Door hinges shall be protected to prevent the removal of the door. Protective features include, but are not limited to: hinges not exposed to the outside, interlocking door designs, dead bars, jeweler's lugs and active or inactive locking bolts.
- (b) A gun safe that is able to fully contain firearms and provide for their secure storage, and is certified to ~~listed as meeting~~ Underwriters Laboratories Residential Security Container rating standards by a Nationally Recognized Testing Laboratory (NRTL).

Authority cited: Sections 12088, 12088.2, Penal Code. Reference: Sections 12088, 12088.2, Penal Code.