

FIREARM LAWS SUMMARY

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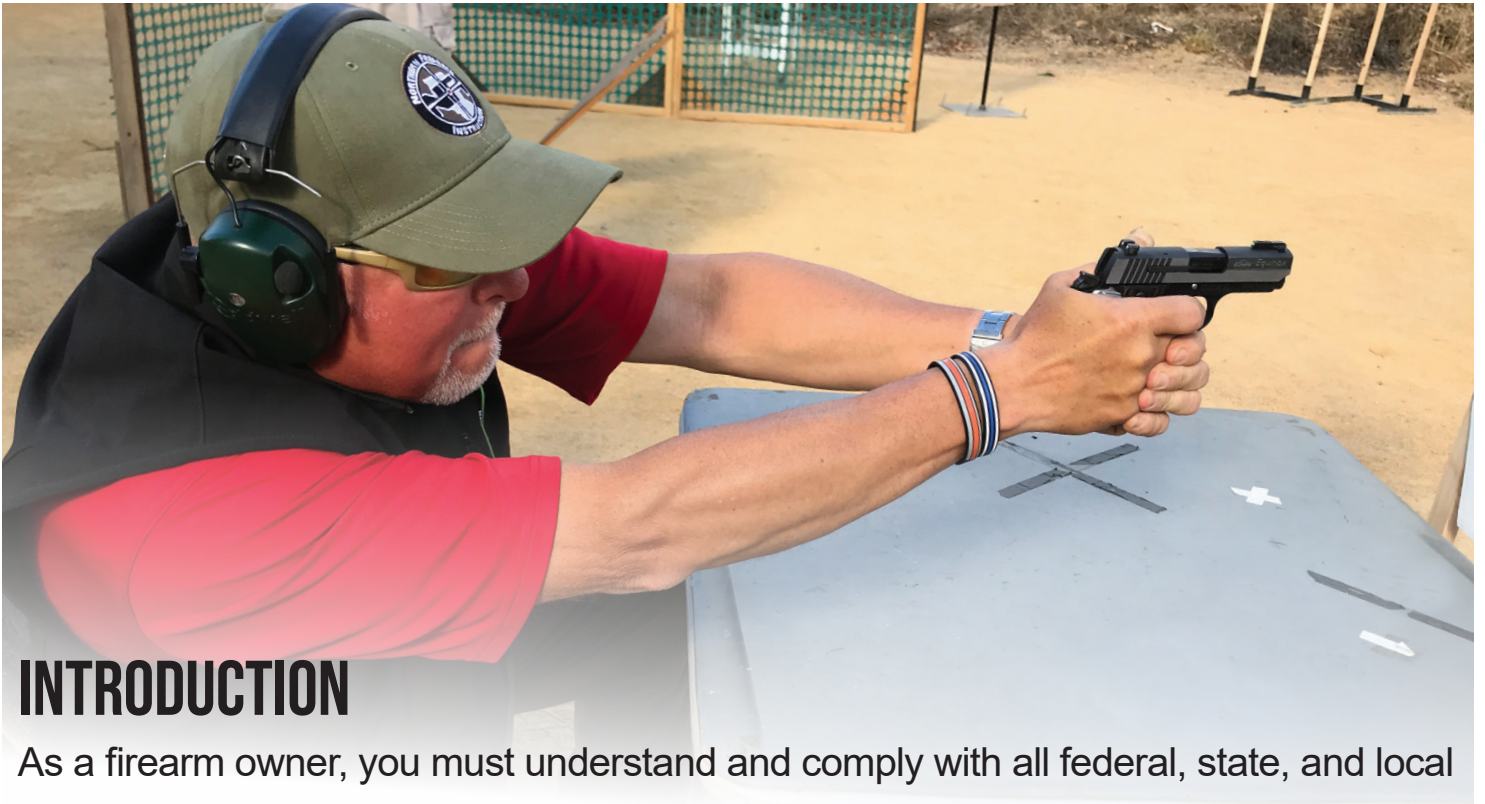


Our Right, Our Responsibility!

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INTRODUCTION

As a firearm owner, you must 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 NFI California Firearms Laws Summary provides a general summary of California laws that govern the 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 or 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 with specific questions are encouraged to seek legal advice from an attorney or consult their local law enforcement agency, prosecutor, or law library.

NFI Ventures Inc, Northern Firearms Instruction, The California Department of Justice (DOJ), and all persons or agencies using this reference to share knowledge herein are immune from any liability arising from the drafting, publication, dissemination, or reliance upon this information. Unless otherwise noted, this publication's intent and purpose is to explain safe, lawful, and responsible firearms use and is not designed or intended to be legal advice of any kind.

IMPORTANT COURT CASES REGARDING FIREARMS FOR PERSONAL PROTECTION

District of Columbia v. Heller (2008)

Case in which the U.S. Supreme Court on June 26, 2008, held (5–4) that the Second Amendment guarantees an individual right to possess firearms independent of service in a state militia and to use firearms for traditionally lawful purposes, including self-defense within the home. It was the first Supreme Court case to explore the meaning of the Second Amendment since *United States v. Miller* (1939).

McDonald v. City of Chicago (2010)

Case in which on June 28, 2010, the U.S. Supreme Court ruled (5–4) that the Second Amendment to the U.S. Constitution, which guarantees “the right of the people to keep and bear Arms,” applies to state and local governments as well as to the federal government.

People v. Flannel (1979) 25 Cal.3d 668

The California Supreme Court concluded that imperfect self-defense negated malice aforethought required for murder because the need to act to avoid peril is inconsistent with such malice. Thus, a defendant who kills another based on such a belief cannot be convicted of murder, but only manslaughter.

People v. Humphrey S. (1996) 13 Cal. 1073

“The reasonable fear of imminent peril must be immediate and present”. Established that under California case law an imminent danger is one that must be instantly dealt with.

New York State Rifle and Pistol Association Inc. v. Bruen (2022)

In a 6-3 opinion, the court reversed the United States Court of Appeals for the 2nd Circuit’s ruling and remanded the case for further proceedings, holding that New York’s proper-cause requirement was unconstitutional, violating the Fourteenth Amendment by “preventing law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public

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

(a) Any person convicted of any felony or any offense enumerated in Penal Code section 29905, these crimes include but are not limited to: Murder, mayhem, rape, sodomy by force, oral copulation by force, lewd acts with a child, assault with intent to commit rape or robbery, kidnapping, carjacking, etc.

(b) Any person convicted of an offense enumerated in Penal Code section 23515, these crimes include but are not limited to: Assault with a firearm, maliciously and willfully discharging a firearm at an inhabited dwelling or occupied vehicle or aircraft, drawing or exhibiting a firearm in an angry, rude, or threatening manner in the presence of a peace officer (CA PC 417.9(a)(2)), corporal injury of a spouse, former spouse, cohabitant, former love interest, etc.

(c) Any person adjudicated to be a mentally disordered sex offender (Welf & Inst Code, § 8103, subd (a)(1).)

(d) 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,subds, (b)(1), (c)(1), and (d)(1).)

10 Year Prohibitions

(a) 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.

This includes but is not limited to: Communicating a threat of harm to any public official, witness tampering while in possession of a deadly weapon, CCW (lethal or less than lethal) in a public building or meetings open to the public (see note on CA PC 171(b) for CCW holders as of 7/29/22), loaning a firearm to an individual who then used it to commit a felony, assault and battery, brandishing, criminal threats, unlawful possession in a school zone, possession of a deadly weapon with intent to assault, carrying a deadly weapon while picketing, carrying a firearm while masked with the purpose of concealing one's identity, etc.

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 temporary restraining order issued pursuant to the 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.)

Emergency Gun Violence Restraining Orders

An emergency gun violence restraining order can be requested by a police officer and can be made right away against anyone who is a threat to themselves or others. If approved by a judge, the emergency order will last up to 21 days. After the emergency order is made, there will be a court hearing within 21 days from the time the emergency order was issued by the judge.

At the hearing, a judge could make the emergency gun violence restraining order last up to 5 years. If you want the order to last longer than 21 days, you should follow up with the law enforcement agency right after the emergency order is made. You may be able to give them information that would help the judge make a decision. You may also ask the court for your own gun violence restraining order against the person.

Who can ask the court for a gun violence restraining order?

1. Close family member

To qualify as a “close family member,” you must have one of these relationships with the person who may cause harm to self or others:

- Spouse or domestic partner
- Parent, child, sibling, grandparent, or grandchild
- Spouse’s parent, child, sibling, grandparent, or grandchild
- Parent’s spouse, child’s spouse, sibling’s spouse, grandparent’s spouse, or grandchild’s spouse

2. Roommate: Any person who regularly lives in their house now or within the last six months.

3. Employer or coworker of the person who may use a gun (if they have had substantial and regular interactions with the person for at least a year and have obtained the approval of the employer)

4. Employee or teacher of certain schools the person has attended in the last six months, if the employee or teacher has obtained the approval of a school administrator or a school administration staff member with a supervisory role.

5. Law enforcement officer

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 21 years of age. 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	Yes	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).) 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 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).

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

Non-concealable 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, non-concealable 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.)

“**Mayhem**” is defined in **California Penal Code 203 PC** as the act of unlawfully or maliciously doing any of the following to another person:

- Depriving him/her of a member of his/her body (such as a limb);
- Disabling, disfiguring, or rendering useless a member of his/her body;
- Cutting or disabling his/her tongue;
- Putting out his/her eye; or
- Slitting his/her nose, ear, or lip.

“Mayhem” is a fairly obscure word and is not as familiar to most people as other violent crimes like torture and aggravated battery. But it is a serious crime, and California law punishes it quite harshly.

“Robbery” is the felonious taking of personal property in possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear. (Pen Code, § 198.5.)211.

“Burglary” The crime of burglary under California Penal Code Section 459 PC occurs when a **defendant enters a building, room within a building, or locked vehicle AND when he or she entered the building, room, or vehicle, he or she intended to commit theft or a felony.**

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.

5 ELEMENTS OF SELF DEFENSE

Keep in mind that these elements are normally explored when a prosecuting office is investigating the alleged use of force crimes.

Innocence. Were you initially the aggressor? Or was your assailant the aggressor?

Imminence. Was the danger immediate and did the aggressor or assailant have a reasonable means to deliver the threat?

Reasonableness. Was the fear of death or great bodily injury reasonable?

Avoidance. In the State of California, there is no mandate (or duty) to retreat. This does not mean the attempt to avoid the reasonable danger is not considered part of the investigation and has bearing on whether or not the case is prosecuted as a crime.

Proportionality. Did the victim use just enough force to stop the threat and no more? Excessive use of force is a common reason why self-defense scenarios are prosecuted as crimes.

California Penal Code 198 PC prohibits killing in self-defense or defense of others based on only a bare fear. To be a justifiable homicide, the person would need to reasonably believe there was an imminent threat of death or great bodily injury, and that deadly force was necessary to deflect it.

The Full Text of the Statute Reads as Follows:

198 PC. A bare fear of the commission of any of the offenses mentioned in subdivisions 2 and 3 of Section 197, to prevent which homicide may be lawfully committed, is not sufficient to justify it. But the circumstances must be sufficient to excite the fears of a reasonable person, and the party killing must have acted under the influence of such fears alone.

Analysis of 198 PC

California Penal Code 198 PC specifies that a “bare fear” is an insufficient justification for killing someone in self-defense or defense of others. Instead, people must reasonably believe that they or others are in imminent danger of being killed or sustaining great bodily harm and that they reasonably believed deadly force was necessary to prevent it.

People who kill based on only a bare fear and without reasonable justification face charges for first-degree murder. Penalties include 25 years to life in prison with or without the possibility of parole.

Killing someone only in bare fear is also referred to as “imperfect self-defense.” This is when a person kills another person based on an honest but unreasonable belief in the necessity of using deadly force in self-defense. Imperfect self-defense is not a defense to murder.

Imperfect self-defense is a legal concept that arises in California murder cases. It applies when the accused kills another person based on an honest but unreasonable belief in the need to use deadly force in self-defense or defense of others.

A jury finding that the accused acted in imperfect self-defense may reduce the charge from murder to voluntary manslaughter. Instead of facing life in California State Prison for a murder conviction, the accused faces manslaughter sentencing, which is only 3 to 11 years in state prison.

The question is whether the accused's belief about the need to use deadly force was a reasonable belief. Would a reasonable person have acted the same way? If so, the defense is complete or "perfect" and warrants an outright acquittal. But if the defendant's belief was unreasonable, the defense is incomplete, or imperfect. The accused is still guilty of a serious crime — but not murder.

The California Supreme Court case of *People v. Flannel* in 1979 allows for this defense in appropriate murder cases.

Strategies to claim imperfect self-defense include showing that:

1. The accused's beliefs, if true, would have justified the act;
2. The victim's aggression was unlawful; and
3. The accused's circumstances and background help to explain their actions.

To help you better understand the law of imperfect self-defense, let's first explore the following definition:

The definition of "BARE": Having no addition, adornment, or qualification.

The Definition of "FEAR": is an unpleasant, often strong emotion caused by anticipation or awareness of danger.

Using them together, we come up with an informal concept that we can use to explain the terms in the Ca Penal Code.

Bare Fear: "The unpleasant often strong emotion caused by anticipation or awareness of the danger that has no reasonable qualification." In other words, there is no "reasonable qualification" attached to the fear. It may be something as simple as a phobia or something as complicated as chemical-induced delusions.



THE REASONABLE PERSON TEST

The Legal System will try to apply an objective solution to actions used during a self-defense shooting. The question presented to the legal system will be: "would a reasonable person in the same circumstance believe that the use of deadly force was necessary to prevent death or great bodily injury?" This process, sometimes called the "Substitution Theory" attempts to provide an objective test of what is reasonable. If the legal system determines that another person with the same knowledge of the circumstance would have used deadly force in this instance, the action is normally considered reasonable. The complicated portion of the Substitution Theory for defendants is that a reasonable person is not subject to emotional loss of control such as rage or jealousy or the age-old defense of

“I just saw red!” In addition, the Substitution Theory generally does not allow for the use of drugs or alcohol within the circumstance as this is normally unlawful while using a firearm or carrying a firearm while permitted with a CCW. In short, a reasonable person is a knowledgeable licensed concealed carrier that makes a correct decision about the crime that is being committed against them and understands the concepts of “imminence,” “ability,” “excessive force,” and “reasonable vs. bare fear.”



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.

Analysis

California Penal Code 198.5 PC spells out the state's Castle Doctrine. In general, under California law, people in their home may lawfully use deadly force against an intruder (not a family member or member of the household) in their home if the following three elements are true:

1. The intruder unlawfully and forcibly enters or attempts to enter the residence;
2. The resident reasonably believed that the intruder unlawfully and forcibly entered or was entering the residence; and the intruder had the ability and intent to commit a crime that would result in the death or great bodily injury of another person and...
3. The intruder was not a member of the household or family.

In short, California law presumes that residents reasonably fear imminent peril or death (see Calcrim # 3477 following this analysis) when the above three conditions have been met. And therefore, it may be a justifiable homicide if the resident uses deadly force to stop a perceived threat of death or great bodily injury.

Note that an unenclosed front porch is not a residence under California's Castle Doctrine. So even if an intruder enters an unenclosed front porch with violent intentions, the Castle Doctrine would not apply because the intruder had not yet tried to enter the home itself. And if the resident injured or killed the intruder on the porch, there would be no legal presumption that the resident reasonably feared that any household members would be killed or severely injured – the resident would have to rely on regular self-defense grounds to justify using force against the intruder.

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.

JURY INSTRUCTIONS

CALCRIM No. 505. Justifiable Homicide: Self-Defense or Defense of Another **Judicial Council of California Criminal Jury Instructions**

NOTE: This is not a legal document. Used for general knowledge and overview of court instructions to jurors.

The defendant is not guilty of (murder/ [or] manslaughter/ attempted murder/ [or] attempted voluntary manslaughter) if (he/she) was justified in (killing/attempting to kill) someone in (self-defense/ [or] defense of another). The defendant acted in lawful (self-defense/ [or] defense of another) if:

1. The defendant reasonably believed that (he/she/ [or] someone else/ [or] <insert name or description of third party>) was in imminent danger of being killed or suffering great bodily injury [or was in imminent danger of being (raped/maimed/robbed/ <insert other forcible and atrocious crime>

AND

2. The defendant reasonably believed that the immediate use of deadly force was necessary to defend against that danger;

AND

3. The defendant used no more force than was reasonably necessary to defend against that danger.

Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be. The defendant must have believed there was imminent danger of death or great bodily injury to (himself/herself/ [or] someone else). Defendant's belief must have been reasonable and (he/she) must have acted only because of that belief. The defendant is only entitled to use that amount of force that a reasonable person would believe is necessary in the same situation. If the defendant used more force than was reasonable, the [attempted] killing was not justified.

When deciding whether the defendant's beliefs were reasonable, consider all the circumstances as they were known to and appeared to the defendant and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the defendant's beliefs were reasonable, the danger does not need to have actually existed.

[The defendant's belief that (he/she/ [or] someone else) was threatened may be reasonable even if (he/she) relied on information that was not true. However, the defendant must actually and reasonably have believed that the information was true.] [If you find that <insert name of decedent/victim> threatened or harmed the defendant [or others] in the past, you may consider that information in deciding whether the defendant's conduct and beliefs were reasonable.]

[If you find that the defendant knew that <insert name of decedent/victim> had threatened or harmed others in the past, you may consider that information in deciding whether the defendant's conduct and beliefs were reasonable.]

[Someone who has been threatened or harmed by a person in the past, is justified in acting more quickly or taking greater self-defense measures against that person.]

[If you find that the defendant received a threat from someone else that (he/she) reasonably associated with <insert name of decedent/victim>, you may consider that threat in deciding whether the defendant was justified in acting in (self-defense/ [or] defense of another).]

[A defendant is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger of (death/great bodily injury/<insert forcible and atrocious crime>) has passed. This is so even if safety could have been achieved by retreating.]

[Great bodily injury means significant or substantial physical injury. It is an injury that is greater than minor or moderate harm.]

The People have the burden of proving beyond a reasonable doubt that the [attempted] killing was not justified. If the People have not met this burden, you must find the defendant not guilty of (murder/ [or] manslaughter/ attempted murder/ [or] attempted voluntary manslaughter).

CALCRIM No. 506. Justifiable Homicide: Defending Against Harm to Person Within Home or on Property

Judicial Council of California Criminal Jury Instructions

NOTE: This is not a legal document. Used for general knowledge and overview of court instructions to jurors.

The defendant is not guilty of (murder/ [or] manslaughter/ attempted murder/ [or] attempted voluntary manslaughter) if (he/she) (killed/attempted to kill) to defend (himself/herself) [or any other person] in the defendant's home. Such (a/an) [attempted] killing is justified, and therefore not unlawful, if:

1. The defendant reasonably believed that (he/she) was defending a home against <insert name of decedent>, who (intended to or tried to commit _____ <insert forcible and atrocious crime>/ [or] violently[.,] [or] riotously[,]/ [or] tumultuously) tried to enter that home intending to commit an act of violence against someone inside);
2. The defendant reasonably believed that the danger was imminent;
3. The defendant reasonably believed that the use of deadly force was necessary to defend against the danger;

AND

4. The defendant used no more force than was reasonably necessary to defend against the danger. Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be. The defendant must have believed there was imminent danger of violence to (himself/herself/ [or] someone else). Defendant's belief must have been reasonable and (he/she) must have acted only because of that belief. The defendant is only entitled to use that amount of force that a reasonable person would believe is necessary in the same situation. If the defendant used more force than was reasonable, then the [attempted] killing was not justified. When deciding whether the defendant's beliefs were reasonable, consider all the circumstances as they were known to and appeared to the defendant and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the defendant's beliefs were reasonable, the danger does not need to have actually existed.

[A defendant is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger of (death/ bodily injury/ <insert forcible and atrocious crime>) has passed. This is so even if safety could have been achieved by retreating.] The People have the burden of proving beyond a reasonable doubt that the [attempted] killing was not justified. If the People have not met this burden, you must find the defendant not guilty of [attempted] (murder/ [or] manslaughter).

CALCRIM No. 3477. Presumption That Resident Was Reasonably Afraid of Death or Great Bodily Injury (Pen. Code, § 198.5)

Judicial Council of California Criminal Jury Instructions

NOTE: This is not a legal document. Used for general knowledge and overview of court instructions to jurors.

The law presumes that the defendant reasonably feared imminent death or great bodily injury to (himself/herself)[, or to a member of (his/her) family or household,] if:

1. An intruder unlawfully and forcibly (entered/ [or] was entering) the defendant's home;
2. The defendant knew [or reasonably believed] that an intruder unlawfully and forcibly (entered/ [or] was entering) the defendant's home;
3. The intruder was not a member of the defendant's household or family;

AND

4. The defendant used force intended to or likely to cause death or great bodily injury to the intruder inside the home. [Great bodily injury means significant or substantial physical injury. It is an injury that is greater than minor or moderate harm.] The People have the burden of overcoming this presumption. This means that the People must prove that the defendant did not have a reasonable fear of imminent death or injury to (himself/herself)[, or to a member of his or her family or household,] when (he/she) used force against the intruder. If the People have not met this burden, you must find the defendant reasonably feared death or injury to (himself/herself)[, or to a member of his or her family or household].

CALCRIM No. 3476. Right to Defend Real or Personal Property

Judicial Council of California Criminal Jury Instructions

NOTE: This is not a legal document. Used for general knowledge and overview of court instructions to jurors.

The owner [or possessor] of (real/ [or] personal) property may use reasonable force to protect that property from imminent harm. [A person may also use reasonable force to protect the property of a (family member/guest/master/servant/ward) from immediate harm.] *Reasonable Force* means the amount of force in the same situation would believe is necessary to protect the property from imminent harm.

When deciding whether the defendant used reasonable force, consider all the circumstances as they were known to and appeared to the defendant and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the defendant's beliefs were reasonable, the danger does not need to have actually existed.

The People have the burden of proving beyond a reasonable doubt that the defendant used more force than was reasonable to protect property from imminent harm. If the People have not met this burden, you must find the defendant not guilty of _____ (insert crime).

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 WITHOUT A LICENSE

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).)

Any person who brings or possesses within any state or local public building or at any meeting required to be open to the public pursuant to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, or Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, the Government Code, any of the following is guilty of a public offense punishable by imprisonment in a county jail for not more than one year, or in the state prison:

- (1) Any firearm.
 - (2) Any deadly weapon described in Section 17235 or in any provision listed in Section 16590.
 - (3) Any knife with a blade length in excess of four inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands.
 - (4) Any unauthorized tear gas weapon.
 - (5) Any taser or stun gun, as defined in Section 244.5.
 - (6) Any instrument that expels a metallic projectile, such as a BB or pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun or paint gun.
- (b) Subdivision (a) shall not apply to, or affect, any of the following:
- (3) A person holding a valid license to carry the firearm pursuant to Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6.

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.)

Gun-free School Zones Changes per SB 707 (2015)

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, and colleges and universities. (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.)

California Penal Code Section 626.9. (Schools)

- (a) This section shall be known, and may be cited, as the Gun-Free School Zone Act of 1995.
- (b) Any person who possesses a firearm in a place that the person knows, or reasonably should know, is a school zone, as defined in paragraph (4) of subdivision (e), shall be punished as specified in subdivision (f).
- (c) Subdivision (b) does not apply to the possession of a firearm under any of the following circumstances:
- (1) 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.
 - (2) When the firearm is an unloaded pistol, revolver, or other firearm capable of being concealed on the person and is in a locked container or within the locked trunk of a motor vehicle

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).)

- (a) Any person who brings or possesses within any state or local public building or at any meeting required to be open to the public pursuant to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, or Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, the Government Code, any of the following is guilty of a public offense punishable by imprisonment in a county jail for not more than one year, or in the state prison:

State and National Parks

Federal law allows firearm possession on national park land and within national wildlife refuge systems if you are not otherwise prohibited from possession, and you comply with the state law where the national park system or national wildlife refuge system is located. California's carry restrictions still apply, as do their exceptions, which include lawfully transporting a firearm to an activity where carrying a firearm is permitted, such as hunting, camping, target shooting, etc., or if discharging of firearms is allowed in that area.

National Forests 36 CFR § 261.10 (d)

Within the National Forest System, it is unlawful to discharge a firearm:

- In or within 150 yards of a residence, building, campsite, developed recreation site, or occupied area
- Across or on a national forest system road, or a body of water adjacent thereto, or in any manner or place whereby any person or property is exposed to injury or damage as a result of such discharge;
- Into or within any cave. The use of tracer bullets or other incendiary ammunition is also prohibited in the National Forest System.

BLM Land

Generally, the California policy for BLM lands is to allow the use of firearms. It is still unlawful to discharge firearms around developed recreation sites. The BLM can also limit hunting and the discharge of firearms to protect certain locations. Before you head to BLM land it is always a good idea to check with the local BLM office for information regarding firearms use.

US Army Corps of Engineers (USACE Managed Land)

There have been numerous legal challenges to the confusing laws that have been enacted regarding this system of lands. There are approximately 12 million acres of land that is managed by the US Army Corp Of Engineers and the USACE has made it very difficult to carry a firearm on these lands. Before you head out to a USACE managed property, please contact the local office to ensure lawful use of firearms on these lands.

California State Lands

Generally, without a CCW permit, California State Lands are carefully controlled areas. This means there is no firearms use or carry without a CCW permit. There are a few exceptions to this rule:

- When open to hunting
- When open to target shooting
- When unloaded and stored in a locked container or trunk in a vehicle

California State Parks allow concealed carry much like in any public area. There is rarely any “open carry” allowance in a state park.

California State Game Refuges generally do not allow any firearm carry or use except for hunting under strict regulations. Please check the local refuge office to ensure lawful firearm carry or storage during your visit.

Planes, Trains, and Buses

It is lawful to transport a legal firearm on an airplane, if you follow certain steps. Declare the transportation to the airline and check the website for authorized containers in CHECKED BAGGAGE ONLY. You cannot, without an exception, carry a firearm into an airport sterile area, which includes the line for the security checkpoint.

It is lawful to transport a legal firearm on an Amtrak Train. Declare the transportation to the conductor or ticket office and check the website for authorized containers in CHECKED BAGGAGE ONLY.

Greyhound lines prohibits transport of firearms or ammunition on their buses.

If you cross state lines with a firearm on a common carrier, even if the carrier allows firearms transportation, federal law requires you to surrender the possession of your firearm to the carrier operator during the entire trip. Also, federal law only protects you from state prosecution for violating a state’s firearms laws if your firearm is not immediately accessible. This means if you enter a state on a carrier and where it is illegal to possess a firearm without a permit (e.g. New Jersey) and you do not have a permit, federal law DOES NOT protect you from prosecution under that state’s laws if a firearm is in your carry on bag or otherwise accessible.

PROHIBITED AREAS:

CALEXPO
COURTROOMS/COURTHOUSES
POST OFFICES
SCHOOLS
LEGISLATIVE OFFICES
THE GOVERNORS MANSION
POLLING PLACES
PICKET LINES

FEDERAL BUILDINGS OR FACILITIES
MILITARY BASES
STATE PRISONS
AIRPORT SECURE AREAS
GUN SHOWS
SOCIAL REHABILITATION FACILITY
CRISIS NURSERY
TRANSITIONAL HOUSING

*Reservations - Contact Tribal Police

NOTE: In accordance with the California CCW Application, it is prohibited to possess a firearm as a patron in a drinking establishment. You also cannot use or carry a firearm legally after any alcohol or drug use that may impair your judgment or actions, prescribed or not.

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

Drawing or Exhibiting a Firearm (Brandishing)

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.)

Obliteration or Alteration of Firearm Identification

It is illegal for any person to obliterate or alter the identification marks placed on any firearm (Pen. Code, § 23900.)

Discharge of a Firearm at a Building or Vehicle

Any person who shall maliciously and willfully discharge a firearm at an inhabited dwelling house, occupied building, occupied motor vehicle, occupied aircraft, inhabited housecar, as defined in Section 362 of the Vehicle Code, or inhabited camper, as defined in Section 243 of the Vehicle Code, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for three, five, or seven years, or by imprisonment in the county jail for a term of not less than six months and not exceeding one year. (Pen. Code, § 246.)

(*As used in this section, “inhabited” means currently being used for dwelling purposes, whether occupied or not.)

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.)

Criminal Storage P.C. § 25105, 25205, 25135, 25140, 25452

“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.)

Living with a person who is prohibited from possessing firearms or ammunition

If you live with a person who is prohibited from owning, possessing, purchasing or receiving firearms or ammunition, this prohibition also includes all magazine devices and speed loaders. There are generally five ways to “store” the firearms to legally restrict access. (these methods also apply to minor children in a home).

- The firearm can be kept in a locked container.
- The firearm can be kept in a locked trunk (be mindful of loaded firearms within a vehicle).
- The firearm can be disabled through the use of a firearms locking device like a cable lock, or trigger lock
- The firearm can be disassembled to the point where it will not operate. This does not include taking the magazine out of the firearm.
- The firearm can be carried on a non-prohibited person.

Storage of Handgun in Unattended Vehicle

A handgun that is unattended in a vehicle must be locked in the vehicle's trunk, or toolbox in a truck that is permanently affixed to the vehicle, locked in a container that is out of "plain view" or locked in a container that is permanently affixed to the vehicles interior and not in plain view.

For the purpose of this law, a handgun is considered unattended when the person transporting the handgun is not within close enough proximity to the vehicle to reasonably prevent unauthorized access to the vehicle or its contents. The term "plain view" includes any area of the vehicle that is visible by peering through the windows of the vehicle with or without illumination and regardless of whether the windows are tinted.

For the purposes of all storage and transportation laws of handguns, the utility or glove compartment is not a legal method of storage or transportation of firearms without a CCW. As the term "utility compartment" is not defined, in order to be compliant, it is advised that you not store a handgun in a console or rear cargo area of a hatchback vehicle. Pen. Code § 25610.

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.

Notes

NON-RESIDENT CCW INFO AND INSTRUCTIONS

Overview - If your training certificate has the words “NON-RESIDENT” on it this means you have completed the training for the following states:

This course is authorized training for the states of AZ, FL, and OR.

Each of these Non-Resident CCW's is recognized in numerous states. For example; with an AZ Non-Resident CCW you can carry in any state that recognizes the permit including NV, and 31 other states!

The website that details the states using interactive maps is www.usacarry.com.

How do I apply for an AZ Non-Resident CCW?

1. Visit www.azdps.gov
2. Submit the training certificate from NFI and the appropriate fees via USPS.
3. Application will include a fingerprint card which can be completed at any law enforcement agency or business authorized to “roll prints”.

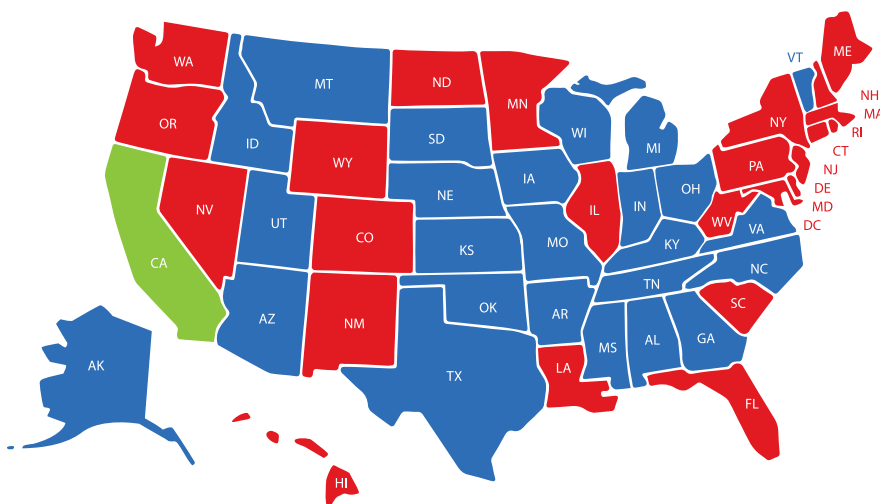
How Do I apply for a Florida Non-Resident CCW?

4. Visit www.freshfromflorida.com
5. Either order a paper application or fill it out electronically.
6. Submit the training certificate from NFI and the appropriate fees via USPS.
7. Application will include a fingerprint card which can be completed at any law enforcement agency or business authorized to “roll prints”.
8. Application will also require a passport photo and notarized signature.

How Do I apply for an OR CCW?

The OR Non-Resident CCW must be applied for in person. Many counties in OR will not issue to Non-Residents so our recommendation is to find one that will. Klamath County is a “CCW Friendly County”

Contact Klamath County Sheriff at 541-883-5130 and ask about making an appointment for a Non-Resident CCW.



California Permit(s) Honored In:

Alabama, Alaska, Arizona, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Michigan, Mississippi, Missouri, Montana, Nebraska, North Carolina, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Wisconsin

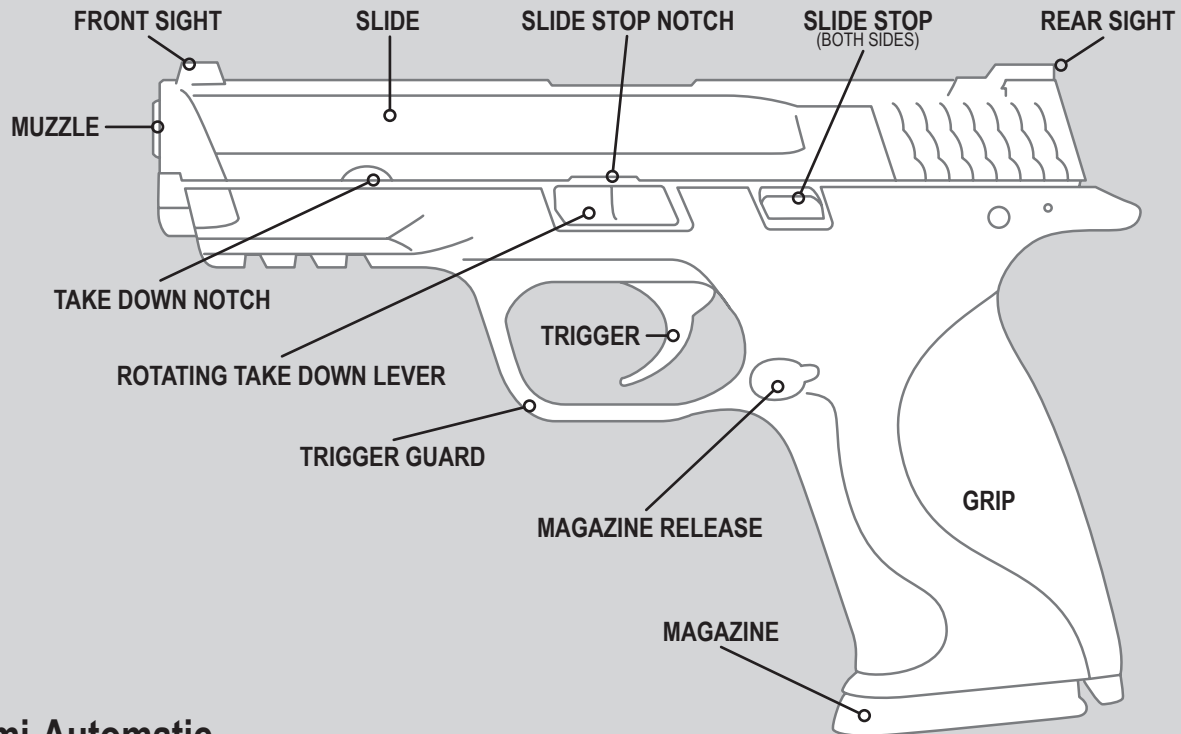
California Permit(s) Not Honored In:

Colorado, Connecticut, Delaware, District of Columbia, Florida, Guam, Hawaii, Illinois, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Virgin Islands, Washington, West Virginia, Wyoming, American Samoa, N. Mariana Islands

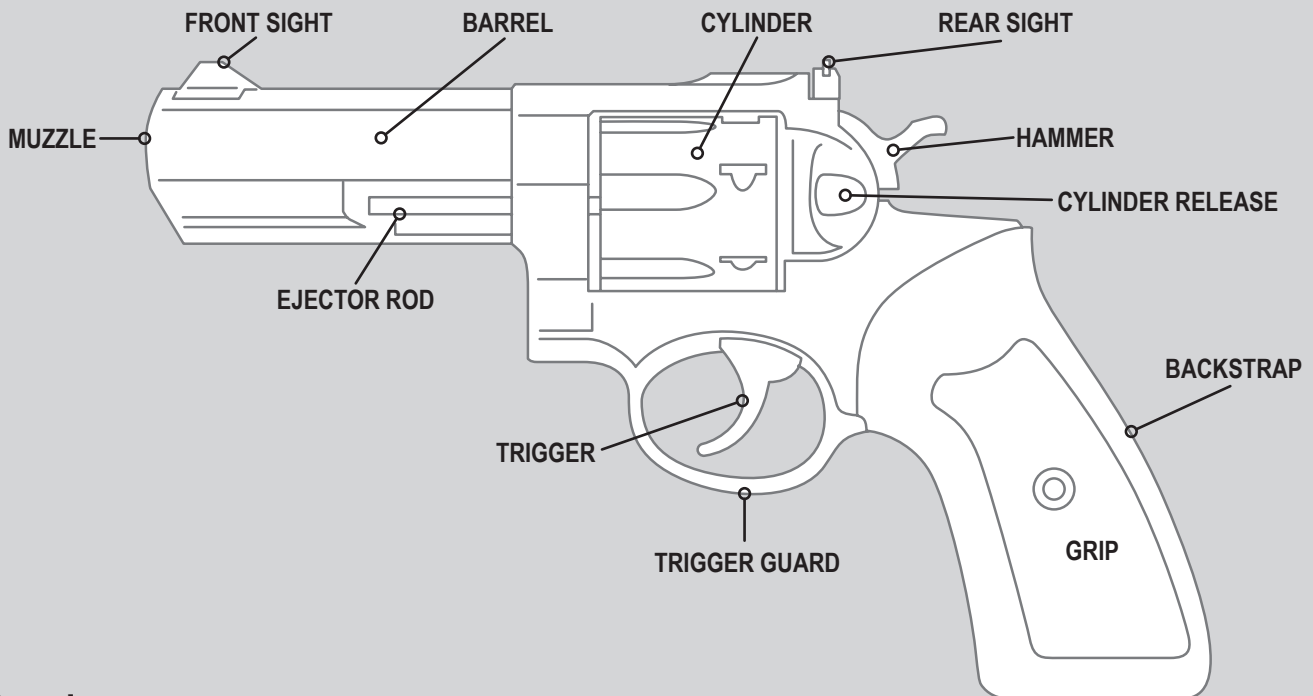
Additional States with Arizona CCW...

Louisiana, Nevada, New Hampshire, Delaware, Maine, New Mexico, Wyoming, West Virginia

TYPES OF DEFENSIVE HANDGUNS



Semi-Automatic

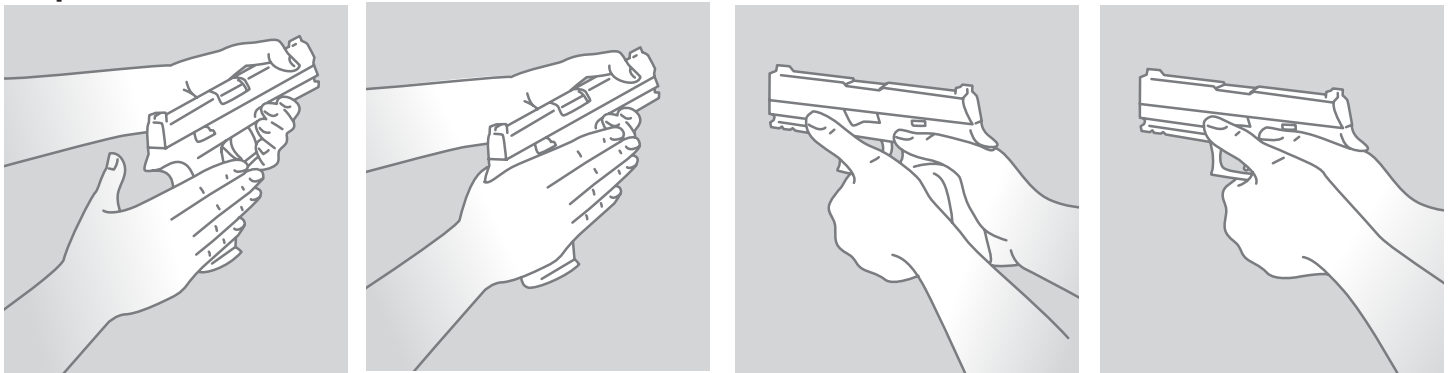


Revolver

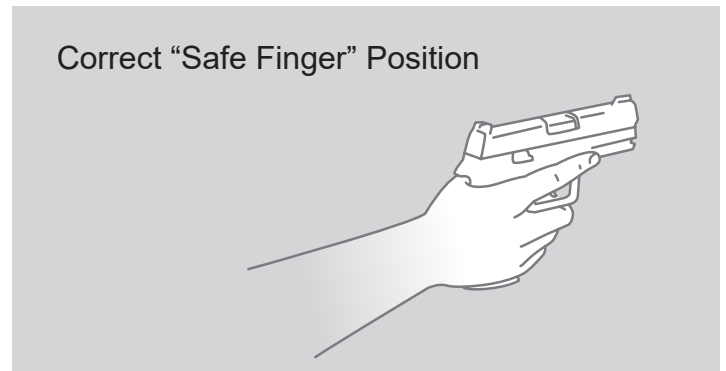
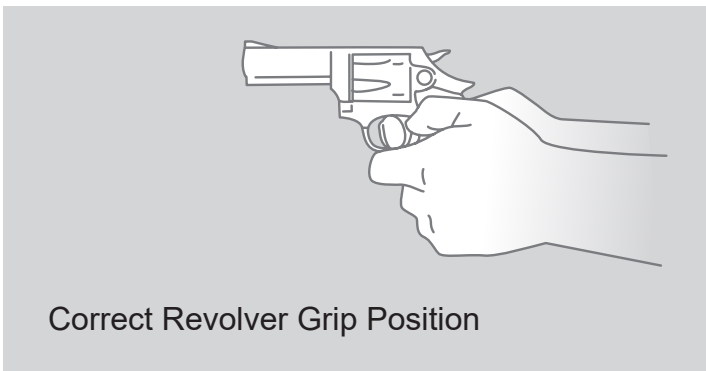
HOLD CONTROL

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Grip and Stance



Grip the handgun using a “thumbs-forward” technique. Thumbs should be “notched” and laid on the side of the handgun. When shooting a revolver, cross the thumbs on the side of the handgun with the non-shooting thumb pad covering the nail of the shooting thumb.



The three main positions in defensive shooting: The Low-Ready Position, the High-Compressed Ready Position and the Action Extension should be practiced whenever you shoot. Note the 45-degree angle used to keep the handgun away from the shooter’s toes when using the Low-Ready Position. The muzzle should remain directly on target when using the other two positions. Balance and comfort are very important with positioning.

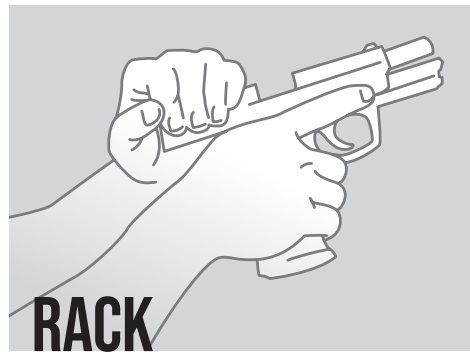
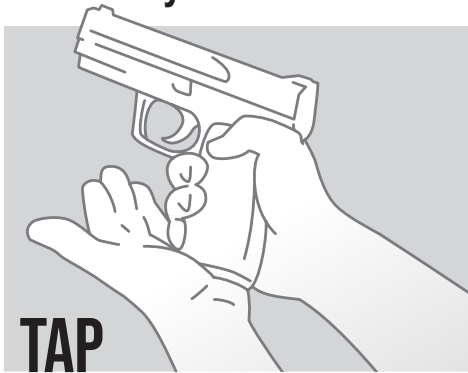
SCANNING AND ASSESSING

Scanning and assessing the environment is a very important skill to practice.



Once you have engaged or identified a threat in your environment, continually look around and behind for any other threats that could harm you. This should become a habit during your personal protection training.

Using an acronym to learn how to clear a misfire with a semi-automatic handgun. The acronym is T-R-A-M.



If your handgun does not fire during a critical incident, use the acronym **T-R-A-M** to “clear” the handgun:

- (T) - Tap up on the magazine,
- (R) - Rack the slide to the rear,
- (A) - Assess the threat and engage if appropriate,
- (M) - Move to cover or make space to decrease the threat while clearing the handgun.

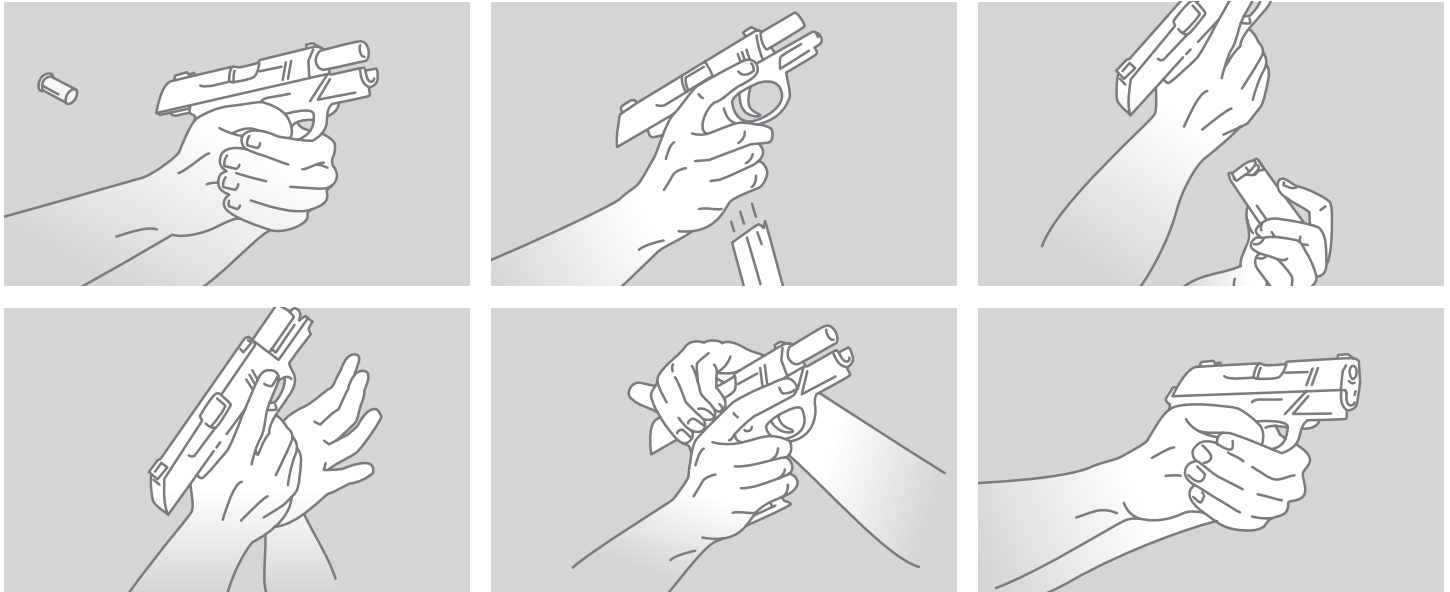
*Normally, lateral movement of a few feet is the minimum for training on a range, based on available space and other shooters.



***IF YOUR FIREARM STOPS
YOUR FEET START!**

RELOADING

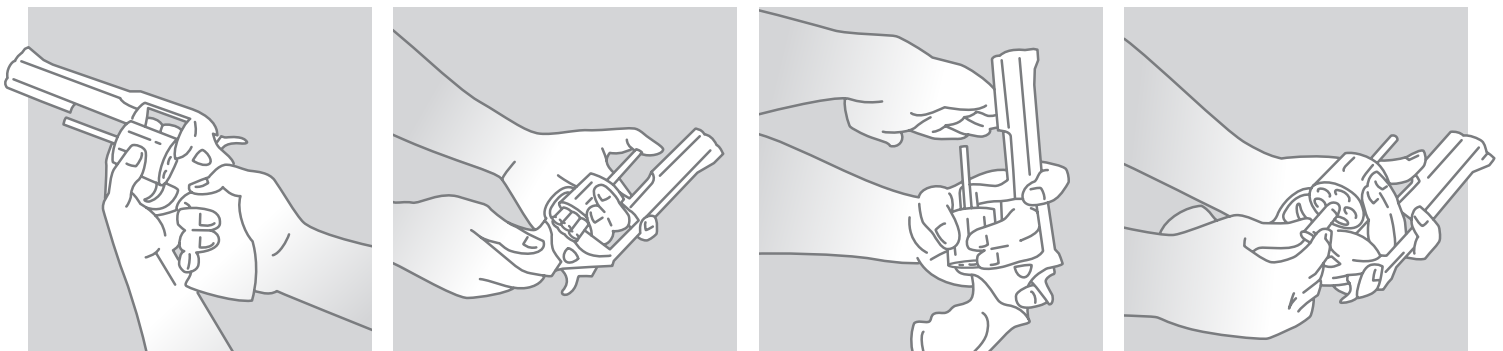
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Immediate reloading sequence for a semi-automatic handgun.

To immediately reload your semi-automatic handgun, these steps need to be practiced in order:

- Move to cover or make space to decrease the threat while loading the handgun
- Bring your firearm into your “workspace” by drawing it in near your chest
- Press the magazine release, dropping the empty magazine
- Access the loaded magazine from the magazine carrier
- Insert the loaded magazine into the magazine well
- “Rack” the slide on the new magazine to put the handgun into battery
- Assess your threat and engage if appropriate



Immediate reloading of a revolver takes some practice. Learn the sequence and practice it.

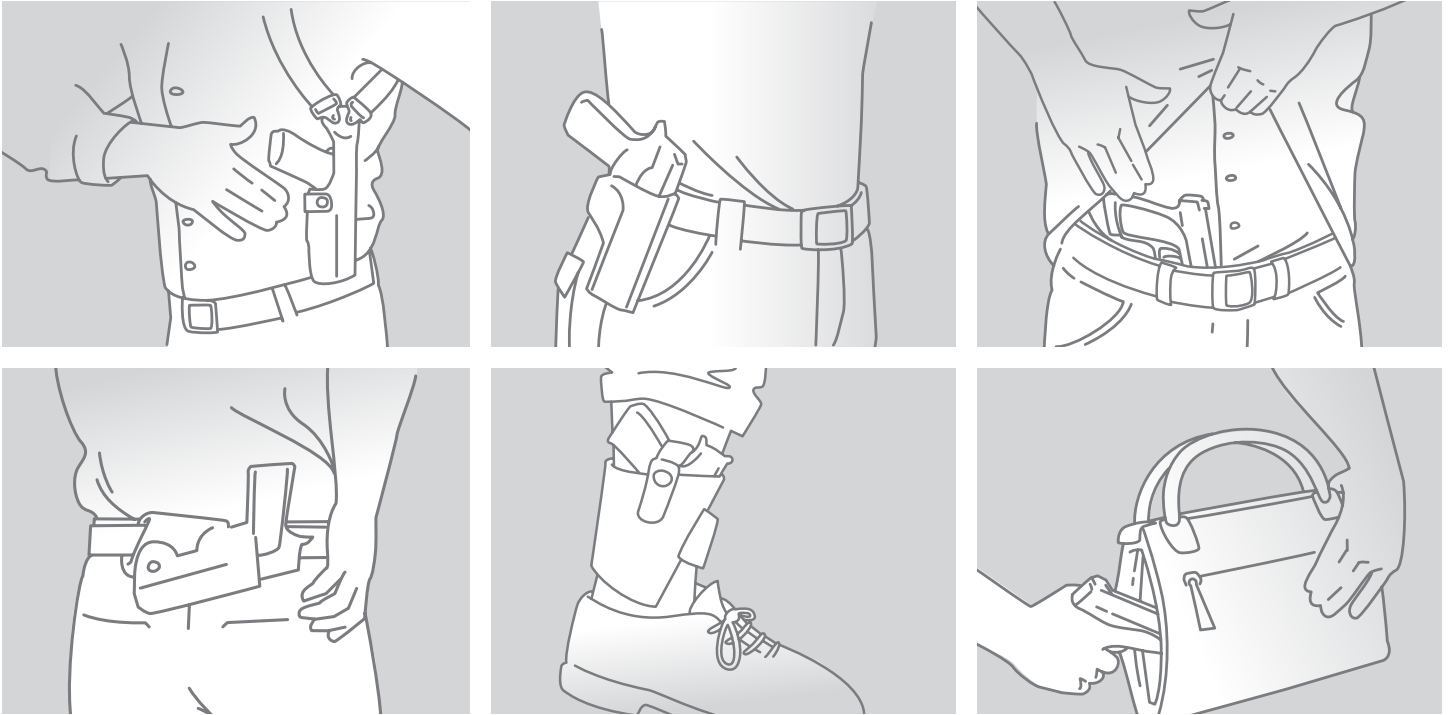
To immediately reload your revolver, these steps need to be practiced in order:

- Move to cover or make space to decrease the threat while loading the handgun
- Bring your firearm into your “workspace” by drawing it in near your chest
- Press the cylinder release, opening the cylinder
- Insert the ring and middle finger of your non-shooting hand through the frame and secure the cylinder with the fingers and thumb
- Press down on the ejector rod to eject spent cartridges
- Load cylinder, close and lock the cylinder
- Assess your threat and engage if appropriate



***IF YOUR FIREARM STOPS
YOUR FEET START!**

CONCEALMENT METHODS



Concealment takes on many forms. It must be comfortable and functional.

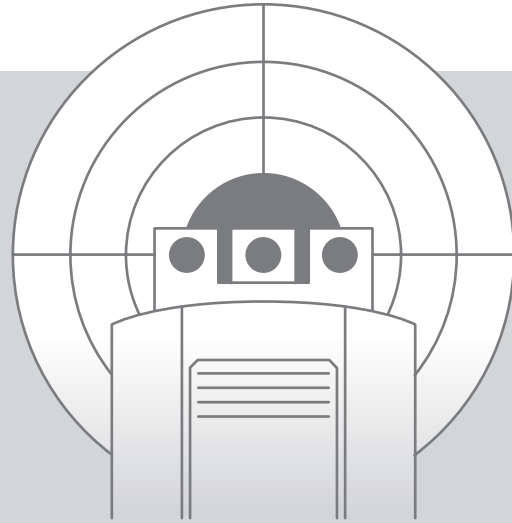
Concealment methods change based on seasonality, wardrobe, and other environmental factors. Follow a few simple rules and experiment with different methods:

- a. The method must cover the trigger of the handgun;
- b. The method must be comfortable and secure;
- c. The method must retain the handgun yet release when needed;
- d. “Off-body carry”, like a purse or briefcase must be considered carefully. You can lose control of the handgun;
- e. Consider factors like presentation time, concealment effectiveness and external risk factors when deciding on a method.

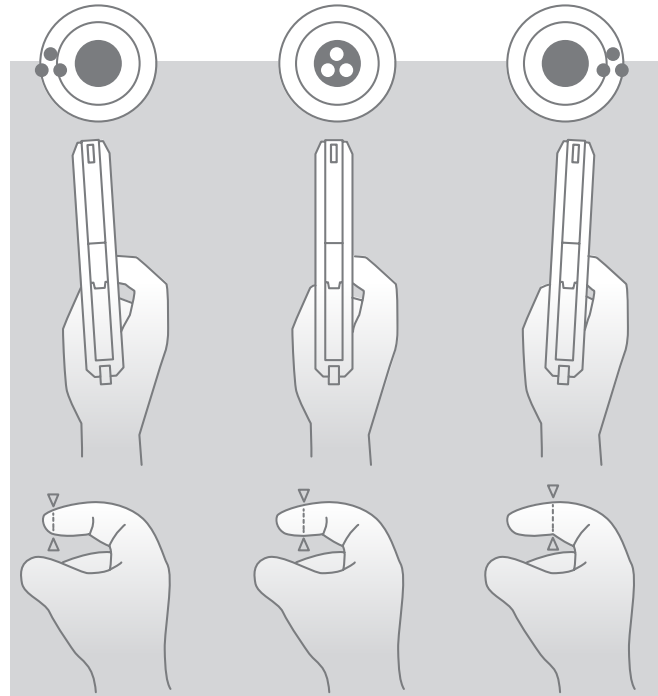
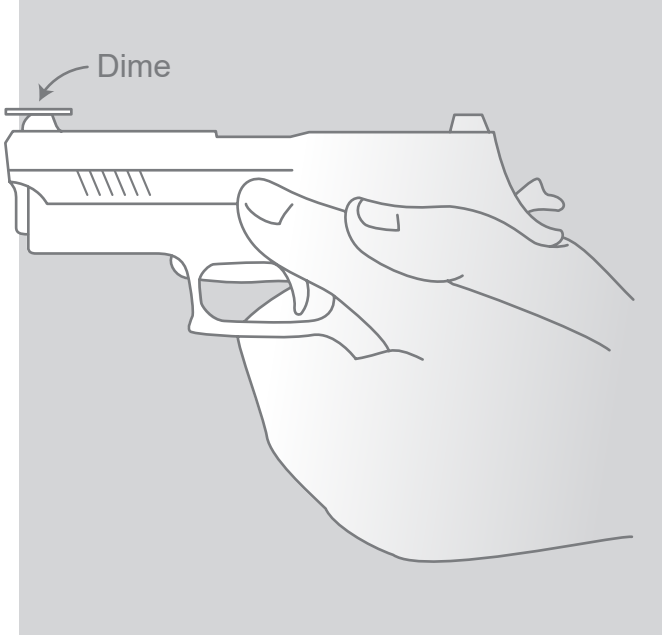
AIMING

Aiming consists of two functions: (a) sight alignment, and (b) sight picture.

Both are critical to handgun marksmanship and represented in this figure



TRIGGER CONTROL



Practice trigger control on the range or at home. One of the most effective “dry-practice” drills is the dime-washer drill. This drill incorporates many of the skills needed to shoot a handgun effectively. Place a dime on the front-sight of an UNLOADED handgun and try to squeeze the trigger to “practice fire” the handgun without disturbing the dime. Proper trigger placement is very important.

Trigger control is the number one factor in handgun marksmanship. The tip of the trigger finger must be placed centered on the trigger, using the pad between the last joint and tip of the finger. For revolvers, the trigger finger is placed on the trigger directly on the last joint of the trigger finger. Press the trigger straight to the rear smoothly until the trigger “breaks” or releases the hammer, firing pin, or striker. The dime-washer drill, pictured above, is one of many drills NFI Instructors use to teach trigger control.

NFI CCW AND FIREARM SAFETY QUIZ

1. AS A FIREARM OWNER, IT IS YOUR RESPONSIBILITY TO ENSURE THAT ALL OF YOUR FIREARMS ARE:

- a. Safe to operate
- b. Safely stored when not in use
- c. Inaccessible to children
- d. All of the above

2. EASY ACCESS TO LOADED FIREARMS IN HOMES IS A MAJOR CAUSE OF ACCIDENTAL SHOOTINGS INVOLVING CHILDREN

- a. True
- b. False

3. HOW OFTEN MUST YOU RENEW A CALIFORNIA CCW?

- a. Every three years
- b. Every time you receive a DUI
- c. Whenever you remember to
- d. Every two years

4. WHAT IS THE ONLY LEGAL JUSTIFICATION FOR USING DEADLY FORCE?

- a. To stop a threat which may end in your own (or somebody else's) death or great bodily injury
- b. The person has too many tattoos
- c. The person walked into your house
- d. The person was hiding in the bushes

5. THE SALE OR TRANSFER OF A FIREARM BETWEEN TWO PRIVATE PARTIES (NON-DEALERS) MUST BE COMPLETED THROUGH A LICENSED FIREARMS DEALER ONLY IF THE BUYER AND SELLER DO NOT PERSONALLY KNOW EACH OTHER

- a. True
- b. False

6. MOST AMMUNITION CAN PENETRATE RESIDENTIAL DOORS AND WALLS

- a. True
- b. False

7. THE LEGAL RIGHT OF SELF-DEFENSE ENDS WHEN THERE IS NO FURTHER PHYSICAL DANGER FROM AN ASSAILANT

- a. True
- b. False

8. BRINGING A FIREARM INTO THE HOME INCREASES THE RISK OF SUICIDE FOR EVERYONE IN THE HOME, INCLUDING THE GUN OWNER, SPOUSE, AND CHILDREN

- a. True
- b. False

9. SHOOTING A PROWLER OUTSIDE OF YOUR HOME AND THEN DRAGGING THEM INSIDE OF YOUR HOME

- a. Would be all right if you eliminate blood stains and other evidence
- b. Would be the cause of your arrest and prosecution
- c. Would be justified if he were attempting to break in
- d. Would be justified if he/she were stealing your property

10. IF YOU ARE AWAKENED BY AN INTRUDER INSIDE YOUR HOME, IT IS GENERALLY BELIEVED THAT THE SAFEST ACTION WOULD BE

- a. Confront the intruder while you still have the element of surprise
- b. Fire a few shots into the floor
- c. Arm yourself, call the police and take a defensive position with your loved ones
- d. Pretend to continue sleeping
- e. Try to apprehend the intruder

11. THE CRIME OF "DRAWING OR EXHIBITING" (BRANDISHING) A FIREARM OCCURS WHEN YOU DRAW OR EXHIBIT A FIREARM IN A RUDE, ANGRY OR THREATENING MANNER

- a. And you are confronting an intruder in your home
- b. And you are being forced from your vehicle at gunpoint
- c. And you are being sexually assaulted
- d. And you do not have a reasonably perceived threat of death or great bodily injury.

12. A CALIFORNIA CCW PERMIT IS NOT VALID WHEN

- a. When at a party
- b. When you are out of your county of residence
- c. When you are in a place where children play
- d. When you have any measurable drugs or alcohol in your system

13. GENERALLY, IT IS LEGAL TO CARRY A CONCEALED FIREARM IN PUBLIC UNDER WHICH OF THE FOLLOWING CIRCUMSTANCES?

- a. You are in an unsafe part of town.
- b. You are an experienced gun handler and know all of the safety rule
- c. You were honorably discharged from the military.
- d. None of the above

14. WHICH OF THE FOLLOWING STEPS WILL HELP YOU “CHILDPROOF” YOUR HOME?

- a. Using a trigger or caution locking device and storing the firearm in a locked container
- b. Storing the firearm unloaded
- c. Store the ammunition in a locked container and separate it from the firearm
- d. All of the above

15. GENERALLY, IT IS ILLEGAL TO CARRY A LOADED HANDGUN IN PUBLIC

- a. True
- b. False

16. YOU CAN SAFELY ASSUME A SEMI-AUTOMATIC FIREARM IS UNLOADED IF ITS MAGAZINE HAS BEEN REMOVED

- a. True
- b. False

17. BEFORE EMPLOYING DEADLY FORCE, IT IS WISE TO

- a. Make every effort to avoid the conflict
- b. Leave the situation if you can do so safely
- c. Shout at an attacker that you want to be left alone
- d. All the above

18. WHICH OF THE FOLLOWING IS A LEGAL AND SAFE WAY OF TRANSPORTING YOUR FIREARM IN A MOTOR VEHICLE?

- a. Unloaded in the trunk of the vehicle
- b. Unloaded in the glove compartment of the vehicle
- c. Loaded on the passenger seat in plain view
- d. Loaded but under the passenger’s seat, out of reach of the driver

19. YOU MAY BE GUILTY OF “CRIMINAL STORAGE OF A FIREARM” IF YOU KEEP A LOADED FIREARM WHERE A CHILD OBTAINS ACCESS TO THE FIREARM AND THEREBY CAUSES INJURY OR DEATH, OR CARRIES THE FIREARM TO A PUBLIC PLACE

- a. True
- b. False

20. AS POLICE ARE CALLED TO THE SCENE OF A SHOOTING

- a. Ask for an ambulance if people are injured
- b. Describe yourself to the dispatcher
- c. If there is still a threat on the scene, report it to the dispatcher
- d. Show open hands to arriving officers
- e. All the above

21. A RESIDENT WITH A CALIFORNIA CCW MUST SUBMIT THE CCW PERMIT AND FIREARM(S) TO A LAW ENFORCEMENT OFFICER IF REQUESTED

- a. True
- b. False

22. YOU ARE RESPONSIBLE FOR A FIREARM STORED IN YOUR HOUSE:

- a. At all times
- b. Only when you use it
- c. Only if the children are present
- d. Only when it is loaded

23. THE FIRST THING YOU SHOULD DO WHEN CLEANING YOUR FIREARM IS:

- a. Make sure it is unloaded
- b. Put a bore brush through the barrel
- c. Oil the hammer
- d. Remove the grips

24. LOCATIONS SUCH AS SCHOOLS AND FEDERAL BUILDINGS ARE “PROHIBITED AREAS” - SO FIREARMS ARE PROHIBITED TO CARRY BY CCW HOLDERS

- a. True
- b. False

25. WHEN YOUR FIREARM AND AMMUNITION ARE NOT IN USE, YOU SHOULD MAKE SURE:

- a. They are easily accessible to anyone
- b. They are stored safely, securely, and separately
- c. They are in the same container
- d. They are close to your other valuables

26. YOU SHOULD ALWAYS KEEP YOUR FINGER OFF THE TRIGGER UNTIL:

- a. The safety is in the on position
- b. You are ready to shoot
- c. The firearm is unloaded
- d. There are no children in the area

27. THE SAFEST DIRECTION TO POINT A FIREARM IS:

- a. Up at all times
- b. Down at all times
- c. Where an accidental discharge of the firearm will not cause injury or damage
- d. Away from the nearest object

28. WHEN A PERSON IS CONVICTED OF A FELONY OFFENSE, HE/SHE IS PROHIBITED FROM OWNING OR POSSESSING FIREARMS FOR WHAT LENGTH OF TIME?

- a. Ten years
- b. The rest of his/her life
- c. Twenty-five years
- d. Five years

29. WHEN NOT USING A FIREARM, STORE IT LAWFULLY BY THE USE OF A FIREARMS SAFETY DEVICE, STORE IT IN A LOCKED CONTAINER, OR

- a. Bury it in the yard
- b. Take it to a law enforcement agency
- c. Store it in the garage on a shelf
- d. none of the above

30. THE "CASTLE DOCTRINE" IS THE POPULAR NAME FOR A LEGAL PHILOSOPHY THAT EVERY PERSON IS THE "KING" OR "QUEEN" OF THEIR OWN HOME AND DOES NOT HAVE TO "FLEE" THE CASTLE BEFORE USING DEADLY FORCE AGAINST AN INTRUDER. THE CALIFORNIA VERSION OF THE "CASTLE DOCTRINE" CAN BE FOUND IN THE CALIFORNIA CRIMINAL JURY INSTRUCTIONS AND CALIFORNIA PENAL CODE

- a. True
- b. False

31. CALIBER INFORMATION CAN TYPICALLY BE FOUND ON:

- a. The slide of a semi-automatic pistol
- b. A box of ammunition
- c. The barrel of a revolver
- d. All of the above

32. THE FOLLOWING IS A PROHIBITED PLACE FOR THE CARRY OF A FIREARM, WITH OR WITHOUT A CCW:

- a. A grocery store
- b. Sidewalks in a neighborhood
- c. A pawnshop
- d. A polling place
- e. Chuck E. Cheese's

33. TO LEGALLY PURCHASE A HANDGUN IN CALIFORNIA, YOU MUST BE AT LEAST:

- a. 16 years old
- b. 18 years old
- c. 21 years old
- d. 25 years old

34. A LAWFUL WAY FOR A PERSON WHO IS AT LEAST 18 YEARS OF AGE AND NOT PROHIBITED, TO OBTAIN LEGAL OWNERSHIP OF A HANDGUN IS

- a. Apply for a "minor firearms license"
- b. Buy it from a friend
- c. Apply for and be approved for a CCW
- d. Obtain it through an "Intra-familial firearms transaction"
- e. Use a valid hunting license as an exemption to the law

35. A BASIC SAFETY RULE WHEN HANDLING A FIREARM IS TO KNOW YOUR:

- a. Barrel length
- b. Bullet velocity
- c. Target and its surroundings
- d. None of the above

36. EXCEPT IN SELF-DEFENSE, DRAWING OR EXHIBITING A FIREARM IN THE PRESENCE OF ANOTHER PERSON, WHETHER LOADED OR UNLOADED, IN A RUDE, ANGRY, OR THREATENING MANNER OR UNLAWFULLY USING A FIREARM IN ANY FIGHT OR QUARREL IS COMMONLY CALLED

- a. Brandishing
- b. Printing
- c. Showing
- d. Bragging
- e. Belting

37. IT IS LEGAL TO SELL A FIREARM WITHOUT COMPLETING THE TRANSFER THROUGH A LICENSED FIREARMS DEALER TO:

- a. Your best friend
- b. Your brother/sister
- c. Your co-worker
- d. None of the above

38. AS LONG AS THE SAFETY IS ON, IT IS SAFE TO REST YOUR FINGER ON THE TRIGGER

- a. True
- b. False

39. GENERALLY, TO LEGALLY PURCHASE A LONG GUN IN CALIFORNIA, YOU MUST BE AT LEAST:

- a. 18 years old
- b. 16 years old
- c. 25 years old
- d. 21 years old

CA FIREARM REFERENCES

Ammunition Possession	Pen. Code § 30312, 30352
Assault Weapon Transportation	Pen. Code § 30945
Assault Weapons	Pen. Code § 30600
Brandishing, Drawing, Exhibiting a Firearm	Pen. Code § 417
Carry CCW at Governor’s Mansion	Pen. Code § 171d
Carry CCW at State Capitol	Pen. Code § 171c
Carry CCW in Public Transit Facilities	Pen. Code § 171.7
Carry CCW in State or Local Building	Pen. Code § 171b
CCW Licensing Requirements	Pen. Code § 26165
Criminal CCW	Pen. Code § 25400,25850
Firearm on School Ground	Pen. Code § 626.9
Form-Firearm Ownership Report	BOF 4542A WWW.OAG.CA.GOV
Form-Firearm Record Request	BOF 053 WWW.OAG.CA.GOV
Form-New Resident Report of Firearm Ownership	BOF 4010A WWW.OAG.CA.GOV
Form-Notice Of No Longer In Possession	BOF 4546 WWW.OAG.CA.GOV
Form-Personal Firearms Eligibility Check	BOF 116 WWW.OAG.CA.GOV
Form-Intra-Familial	BOF 4544A WWW.OAG.CA.GOV
Homicide	Pen. Code § 187
Immediate Family Defined	Pen. Code § 16730
Infrequent Transactions Defined	Pen. Code § 16730
Intra-Familial Firearms Transaction	Pen. Code § 27875 BOF 4544A
Justifiable Homicide	Pen. Code § 197
Loaded Firearm Defined	Pen. Code § 16840
Loaning a Firearm to Adult	Pen. Code § 27880
Loaning a Firearm to Adult “Owner Present”	Pen. Code § 27885
Loaning a Handgun to a Minor	Pen. Code § 27889
Loaning to a Minor 16 Years of Age	Pen. Code § 29615
Negligent Discharge of Firearm	Pen. Code § 246.3
Protecting One’s Home	Pen. Code § 198.5
Serial Numbers on Firearms	Pen. Code § 29180
Storage of Firearm Prohibited/Children	Pen. Code § 25100, 25200
Transportation of Handgun	Pen. Code § 25610
Trespassing	Pen. Code § 602
Unregistered Handguns	Pen. Code § 25400, 25850

INTRODUCING NORTHERN FIREARMS INSTRUCTION



TED LIDIE

Founder, Chief Instructor - ted@usgunpro.com

Welcome to Northern Firearms Instruction (NFI).

Our goal is to ensure you gain the knowledge skills and attitude necessary to use a firearm safely and responsibly. Our 100% NRA credentialed professional staff has been through extensive training to ensure we provide our students with the best possible experience. It is our JOB to ensure you learn in a safe and comfortable environment, as well as being an information resource for you in the future. Relax and enjoy your class!

~ Ted



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Vice President, Director of Training
Sacramento County



MIKE MOFFAT

Director of Training
Shasta & Trinity Counties



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SETH STOUT

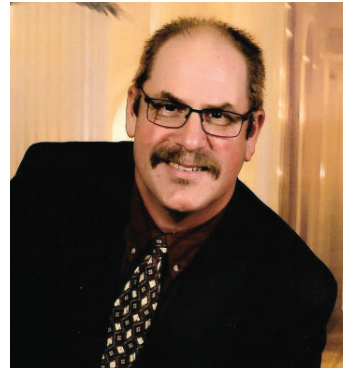
Student Services Director



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