

1 The right to bear arms is a constitutional personal right and any legislation regulating that  
 2 right must not be evaluated under a rational basis test, but instead under a heightened standard of  
 3 review. In *Heller*, the Court stated that the rational basis test “ could not be used to evaluate the  
 4 extent to which a legislature may regulate a specific enumerated right, be it the freedom of  
 5 speech, the guarantee against double jeopardy, the right to counsel, or the right to keep and bear  
 6 arms.” *Heller*, at 2818, fn. 27. It went on to say, “if all that was required to overcome the right  
 7 to keep and bear arms was a rational basis, the Second Amendment would be redundant with all  
 8 the separate constitutional prohibitions on irrational laws, and would have no effect. *Heller*, at  
 9 2818, fn. Further, “[w]henver a state law infringes a constitutionally protected right, [the  
 10 courts] undertake intensified equal protection scrutiny of that law.” *Attorney Gen. of New York*  
 11 *v. Soto-Lopez*, 476 U.S. 898, 904 (1986). The Second Amendment is a constitutionally protected  
 12 right.

13 Defendant Gore asserts that the rational basis test is the appropriate standard of review in  
 14 this case because weapon permit applicants do not constitute a protected class. (Motion to  
 15 Dismiss, pg. 4, line 20.) However, as *Heller* explained, the Second Amendment cannot be  
 16 evaluated under the rational basis test. The Court declined to establish a level of scrutiny for  
 17 evaluating the Second Amendment, but it did make clear that rational basis was not appropriate  
 18 and implied a heightened level of scrutiny was necessary. Thus, Defendant Gore’s actions must  
 19 bear more than just a rational relationship to his action of arbitrarily deciding that Plaintiff did  
 20 not qualify for the concealed carrying permit.

21 *Plaintiff is a resident of San Diego but is*  
 22 *being treated differently than other residents*

23 The Equal Protection Clause of the 14<sup>th</sup> Amendment requires that all similarly situated  
 24 persons be treated alike. Under California Penal Code section 12050, the appropriate and  
 25 rightful county to which application should be made for a license to carry a concealed weapon is  
 26 the county where the individual resides.

27 Plaintiff is a resident of San Diego but is not being treated like all residents of San Diego.  
 28 Residents of San Diego are afforded the opportunity to obtain a license to carry a concealed

1 weapon. Plaintiff, a San Diego resident, is being denied that opportunity because Defendant  
2 Gore has arbitrarily decided to demand that Plaintiff show he is resides fulltime in San Diego.

3 Defendant Gore is discriminating against Mr. Peruta by arbitrarily deciding that Mr.  
4 Peruta is not a resident of San Diego. Apparently, Defendant Gore believes he has the discretion  
5 to determine who is and who is not a resident of San Diego and is attempting to apply the same  
6 definition of a person's domicile to a person's residence. However, a domicile is different than a  
7 resident. Penal Code Section 12050 only makes it a requirement that a person be a resident of a  
8 county in which they are applying for a concealed carrying weapons permit. Penal Code Section  
9 12050 does not require that a person be domiciled in the county in which they apply for the  
10 permit.

11 There is a distinct difference between a person's domicile and person's residence. First,  
12 it should be noted that Penal Code section 12050 does not define residence. However, other  
13 California code sections make it clear that a residence is temporary in nature and a person may  
14 have more than one residence, where as a domicile is fixed in nature and a person can only have  
15 one domicile. See, California Election Code section 349(b),(c). See, also, California Election  
16 section 2032. From these code sections, a residence is unmistakably temporary in nature and an  
17 individual can have more than one residence.

18 Defendant Gore has attempted to describe Plaintiff as an occasional visitor and not a  
19 resident of San Diego so that Plaintiff can be denied a license to carry a concealed weapon.  
20 Defendant Gore is discriminating against Plaintiff because he has more than one residence and  
21 lives fulltime in a motor home. Since January 2006, Plaintiff and his wife have resided fulltime  
22 in their motor home.

23 As previously discussed, Plaintiff's San Diego residency dates back 15 years, as he has  
24 maintained and had nearly exclusive use of a single room in a residence located at 3151 Driscoll  
25 Drive, San Diego, CA. Also, as previously discussed, Plaintiff has resided regularly in San  
26 Diego since 2007, although not fulltime. Between February 2007 and April 2009, Plaintiff spent  
27 one-third of his time living in San Diego, including continuously living for five months in San  
28 Diego between November 15, 2008 and April, 15 2009. It was during that time in which he

1 applied for the license to carry a concealed weapon. At the very least, Plaintiff resided in San  
2 Diego for 80 consecutive days prior to applying for a license to carry a concealed weapon. That  
3 is the period of time during which Plaintiff was living in his motor home at Campland on the  
4 Bay, in San Diego. Undoubtedly, this shows Plaintiff's San Diego residency. Further, proof that  
5 Plaintiff is a San Diego resident is evidenced from the fact that Plaintiff has a California  
6 identification card identifying San Diego as his place of residence.

7 If, at the time Plaintiff applied for the concealed carrying weapons permit in San Diego,  
8 Plaintiff would have applied for the permit in any other county; he would have been denied the  
9 permit. He would have been denied the permit, because, as the facts show, he was residing in  
10 San Diego. Thus, Plaintiff did appropriately apply for a license to carry a concealed weapon in  
11 San Diego, because he is a resident of San Diego.

12 Plaintiff is being discriminated against and is not being treated like other similarly  
13 situated residents of San Diego, because Defendant Gore refused to recognize his status as a  
14 resident of San Diego. Thus, Defendant Gore is in violation of the 14<sup>th</sup> Amendment's Equal  
15 Protection Clause.

16 *Defendant Gore discriminated against Plaintiff by*  
17 *arbitrarily determining that Plaintiff did not have*  
18 *good cause for a concealed carrying permit*  
19

20 California Penal Code section 12050 requires that an applicant applying for a carrying  
21 concealed weapons permit show good cause for the permit. California Penal Code section 12050  
22 does not include any definition or guidelines of what constitutes good cause. Determining  
23 whether an applicant has good cause for the permit is left to the discretion of county sheriffs.  
24 Due to the fact that county sheriffs have complete discretion to determine whether an applicant  
25 has good cause nothing is in place to prevent the unequal treatment of applicants. Defendant  
26 Gore's actions in denying Plaintiff a license to carry a concealed weapon are irrational and  
27 arbitrary.  
28

1 Plaintiff showed good cause by informing Defendant Gore that his business as a breaking  
2 news media member at times places him in violent situations. Plaintiff also informed Defendant  
3 Gore that he is retired and often carries valuable and large sums of money while traveling in  
4 remote areas alone with wife. Plaintiff's age and health conditions have taken away his ability to  
5 defend himself or retreat from attackers. Plaintiff is sixty years old and has a defibrillator in his  
6 chest as a result of being struck with a heart attack. As such, Plaintiff is limited in his ability to  
7 retreat or protect himself from violent attacks. Violent attacks are a real possibility due to the fact  
8 he and his wife travel in rural areas with large sums of cash and valuables because they are  
9 retired and live fulltime in a motor home. Often, Plaintiff parks his motor home at rest areas  
10 along the highway for the night, which attracts numerous unknown visitors of all walks of life.  
11 Frequently, they stay overnight in rural areas, which are commonly visited by retired persons in  
12 motor homes. Violent predators take advantage of the remoteness of the location and  
13 vulnerability of the elderly. This is a real threat for Plaintiff, and is exactly the type of situation  
14 for which the right to bear arms to be *armed and ready* in case of conflict with another person, is  
15 intended to provide protection for.

16 Unfortunately, Defendant Gore refused to fully contemplate the real threat of danger that  
17 Plaintiff is at risk for and the necessity to protect himself against those threats. Defendant Gore  
18 has an irrational policy of refusing to find good cause unless an applicant can show a specific  
19 individual who poses a threat, such as a known domestic violent perpetrator. This is a  
20 completely irrational policy because often a person is attacked by an unknown individual. It's  
21 also irrational, because, as Plaintiff has shown, there are countless situations that place a person  
22 at risk of violent attacks. By placing such narrow limits on finding of good cause, Defendant  
23 Gore discriminates against persons such as Plaintiff who have good cause for a concealed  
24 carrying permit. Defendant Gore's actions are irrational, arbitrary and violate Mr. Peruta's right  
25 to equal protection of the laws.

26 ///

27 ///

**III.**  
**DEFENDANT GORE'S POLICY OF REQUIRING FULLTIME**  
**RESIDENCY VIOLATES PLAINTIFF'S RIGHT TO TRAVEL**

Plaintiff's right to travel is being violated because Defendant Gore is demanding that Plaintiff reside fulltime and not travel outside of San Diego before considering whether to grant Plaintiff a license to carry a concealed weapon. "A state law implicates the right to travel when it actually deters such travel..." *Attorney Gen. of New York v. Soto-Lopez*, 476 U.S. 898, 903 (1986). Defendant Gore's fulltime residency requirement actually deters such travel because San Diego residents, such as Plaintiff, must stay fulltime in San Diego in order to have any sort of opportunity to apply and be granted a concealed carrying weapons permit. This deters retired persons, such as Plaintiff, from traveling and spending time outside of San Diego if they desire to lawfully invoke their Second Amendment right to bear arms. Again, this boils down to the fact that in California the only way for a person to bear arms to be *armed and ready* in case of conflict with another person, is to obtain a concealed carrying weapons permit. Plaintiff has established his residency in San Diego, but is being forced to not travel outside of San Diego if he wants to obtain a permit to carry a concealed weapon.

**CONCLUSION**

The complaint has stated claims on constitutional grounds. Plaintiff has shown that Defendant Gore has infringed on his constitutionally protected right to bear arms. Additionally, Plaintiff has shown that Defendant Gore has violated the Equal Protection Clause and also Plaintiff's right to travel. Thus, Defendant Gore's motion to dismiss should not be granted.

Respectfully Submitted,

Dated: December 7, 2009

By: s/ PAUL H. NEUHARTH, JR.  
PAUL H. NEUHARTH, JR.  
Attorney for Plaintiff, Edward Peruta

**Edward Peruta v. County of San Diego, et al.  
Case No. 09-CV-2371 –IEG (BLM)**

**DECLARATION OF SERVICE**

I, the undersigned, declare under penalty of perjury that I am over the over the age of 18 years and not a party to the within action. I am employed in, or am a resident of the County of San Diego. My business address is 1140 Union Street, Suite 102, San Diego, California 92101.

On December 7, 2009, I served the following document: **(1) PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANT WILLIAM GORE'S MOTION TO DISMISS**, in the following manner:

By electronic filing, I served each of the above-referenced documents by E-filing, in accordance with the rules governing the electronic filing of documents in the United States District Court for the Southern District of California, as to the following parties:

John J. Sansone, County Counsel  
Answering Defendant of San Diego  
By: James M. Chapin, Senior Deputy (SBN118530)  
1600 Pacific Highway, Room 355  
San Diego, CA 92101  
Telephone (619) 531-5244  
[James.chapin@sdccounty.ca.gov](mailto:James.chapin@sdccounty.ca.gov)  
Attorney for Defendant William D. Gore

I declare under penalty of perjury that the foregoing is true and correct. Executed at San Diego, California this 7<sup>th</sup> day of December 2009.

By: s/ PAUL H. NEUHARTH, JR.  
Email: [pneuarth@sbcglobal.net](mailto:pneuarth@sbcglobal.net)

# **EXHIBIT “A”**



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\* THIS DOCUMENT REFLECTS ALL URGENCY LEGISLATION ENACTED THROUGH CH. 643 OF \*  
THE 2009-2010 REG. SESS., CH. 12 OF THE 2009-2010 2d EX. SESS.,  
CH. 30 OF THE 2009-10 3d EX. SESS., CH. 24 OF THE 2009-10 4th EX. SESS.,  
THE GOVERNOR'S REORG. PLAN #1 OF 2009, EFF. MAY 10, 2009 & PROP IF APPROVED  
EFF. MAY 20, 2009

PENAL CODE  
Part 4. Prevention of Crimes and Apprehension of Criminals  
Title 2. Control of Deadly Weapons  
Chapter 1. Firearms  
Article 2. Unlawful Carrying and Possession of Weapons

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*Cal Pen Code § 12025 (2009)*

**§ 12025. Carrying concealed firearm; Misdemeanor or felony offense; Sentencing**

(a) A person is guilty of carrying a concealed firearm when he or she does any of the following:

(1) Carries concealed within any vehicle which is under his or her control or direction any pistol, revolver, or other firearm capable of being concealed upon the person.

(2) Carries concealed upon his or her person any pistol, revolver, or other firearm capable of being concealed upon the person.

(3) Causes to be carried concealed within any vehicle in which he or she is an occupant any pistol, revolver, or other firearm capable of being concealed upon the person.

(b) Carrying a concealed firearm in violation of this section is punishable, as follows:

(1) Where the person previously has been convicted of any felony, or of any crime made punishable by this chapter, as a felony.

(2) Where the firearm is stolen and the person knew or had reasonable cause to believe that it was stolen, as a felony.

(3) Where the person is an active participant in a criminal street gang, as defined in subdivision (a) of Section 186.22, under the Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

(4) Where the person is not in lawful possession of the firearm, as defined in this section, or the person is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Section 12021 or 12021.1 of this code or *Section 8100 or 8103 of the Welfare and Institutions Code*, as a felony.

(5) Where the person has been convicted of a crime against a person or property, or of a narcotics or dangerous drug violation, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(6) By imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment if both of the following conditions are met:

(A) Both the pistol, revolver, or other firearm capable of being concealed upon the person and the unexpended ammunition capable of being discharged from that firearm are either in the immediate possession of the person or



readily accessible to that person, or the pistol, revolver, or other firearm capable of being concealed upon the person is loaded as defined in subdivision (g) of Section 12031.

**(B)** The person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106, as the registered owner of that pistol, revolver, or other firearm capable of being concealed upon the person.

**(7)** In all cases other than those specified in paragraphs (1) to (6), inclusive, by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

**(c)** A peace officer may arrest a person for a violation of paragraph (6) of subdivision (b) if the peace officer has probable cause to believe that the person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106 as the registered owner of the pistol, revolver, or other firearm capable of being concealed upon the person, and one or more of the conditions in subparagraph (A) of paragraph (6) of subdivision (b) is met.

**(d)**

**(1)** Every person convicted under this section who previously has been convicted of a misdemeanor offense enumerated in Section 12001.6 shall be punished by imprisonment in a county jail for at least three months and not exceeding six months, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for at least three months.

**(2)** Every person convicted under this section who has previously been convicted of any felony, or of any crime made punishable by this chapter, if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

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

**(f)** Firearms carried openly in belt holsters are not concealed within the meaning of this section.

**(g)** For purposes of this section, "lawful possession of the firearm" means that the person who has possession or custody of the firearm either lawfully owns the firearm or has the permission of the lawful owner or a person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the lawful owner or without the permission of a person who has lawful custody of the firearm does not have lawful possession of the firearm.

**(h)**

**(1)** The district attorney of each county shall submit annually a report on or before June 30, to the Attorney General consisting of profiles by race, age, gender, and ethnicity of any person charged with a felony or a misdemeanor under this section and any other offense charged in the same complaint, indictment, or information.

**(2)** The Attorney General shall submit annually, a report on or before December 31, to the Legislature compiling all of the reports submitted pursuant to paragraph (1).

**(3)** This subdivision shall remain operative until January 1, 2005, and as of that date shall be repealed.

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PENAL CODE  
Part 4. Prevention of Crimes and Apprehension of Criminals  
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Chapter 1. Firearms  
Article 2. Unlawful Carrying and Possession of Weapons

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*Cal Pen Code § 12031 (2009)*

**Legislative Alert:** LEXSEE 2009 Cal. ALS 288 -- see section 1, effective 01/01/2010.

**§ 12031. Felony or misdemeanor of carrying loaded firearm in public place or on public street; Exceptions**

(a)

(1) A person is guilty of carrying a loaded firearm when he or she carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory.

(2) Carrying a loaded firearm in violation of this section is punishable, as follows:

(A) Where the person previously has been convicted of any felony, or of any crime made punishable by this chapter, as a felony.

(B) Where the firearm is stolen and the person knew or had reasonable cause to believe that it was stolen, as a felony.

(C) Where the person is an active participant in a criminal street gang, as defined in subdivision (a) of Section 186.22, under the Street Terrorism Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

(D) Where the person is not in lawful possession of the firearm, as defined in this section, or is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Section 12021 or 12021.1 of this code or *Section 8100 or 8103 of the Welfare and Institutions Code*, as a felony.

(E) Where the person has been convicted of a crime against a person or property, or of a narcotics or dangerous drug violation, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.

(F) Where the person is not listed with the Department of Justice pursuant to Section 11106, as the registered owner of the pistol, revolver, or other firearm capable of being concealed upon the person, by imprisonment in the state prison, or by imprisonment in a county jail not to exceed one year, or by a fine not to exceed one thousand dollars (\$1,000), or both that fine and imprisonment.

(G) In all cases other than those specified in subparagraphs (A) to (F), inclusive, as a misdemeanor, punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed one thousand dollars (\$1,000), or by both that imprisonment and fine.



(3) For purposes of this section, "lawful possession of the firearm" means that the person who has possession or custody of the firearm either lawfully acquired and lawfully owns the firearm or has the permission of the lawful owner or person who otherwise has apparent authority to possess or have custody of the firearm. A person who takes a firearm without the permission of the lawful owner or without the permission of a person who has lawful custody of the firearm does not have lawful possession of the firearm.

(4) Nothing in this section shall preclude prosecution under Sections 12021 and 12021.1 of this code, *Section 8100 or 8103 of the Welfare and Institutions Code*, or any other law with a greater penalty than this section.

(5)

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

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

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

(B) A peace officer may arrest a person for a violation of subparagraph (F) of paragraph (2), if the peace officer has probable cause to believe that the person is carrying a loaded pistol, revolver, or other firearm capable of being concealed upon the person in violation of this section and that person is not listed with the Department of Justice pursuant to paragraph (1) of subdivision (c) of Section 11106 as the registered owner of that pistol, revolver, or other firearm capable of being concealed upon the person.

(6)

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

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

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

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

(1) Peace officers listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.33, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, other honorably retired peace officers who during the course and scope of their employment as peace officers were authorized to, and did, carry firearms, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of those officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the law enforcement agency from which the officer has retired. The issuing agency may charge a fee necessary to cover any reasonable expenses incurred by the agency in issuing certificates pursuant to this paragraph and paragraph (3).

Any officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a loaded firearm.

No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it is in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between

January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a loaded firearm pursuant to this section, shall not be required to have an endorsement in the format set forth in subparagraph (D) of paragraph (1) of subdivision (a) of Section 12027 until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(2) A retired peace officer, except an officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a loaded firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke for good cause the retired officer's privilege to carry a loaded firearm. A peace officer who is listed in Section 830.1 or 830.2, subdivision (a) of Section 830.33, or subdivision (c) of Section 830.5 who is retired prior to January 1, 1981, shall have his or her privilege to carry a loaded firearm denied or revoked by having the agency from which the officer retired stamp on the officer's identification certificate "No CCW privilege."

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

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

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

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

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

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

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

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

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

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

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also, under the express terms of the charter, (A) are subject to suspension



or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (B) are not less than 18 years of age or more than 40 years of age, (C) possess physical qualifications prescribed by the commission, and (D) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry the weapons, or by persons who are authorized to carry the weapons pursuant to *Section 14502 of the Corporations Code*, while actually engaged in the performance of their duties pursuant to that section.

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

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

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

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

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

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

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

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

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to this section constitutes probable cause for arrest for violation of this section.

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

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

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by that person for lawful purposes connected with that