

San Diego District Attorney

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Remember 9/11/01—Support our Troops

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THIS EDITION’S WORDS OF WISDOM:

“If everything seems to be going well, you have obviously overlooked something.”
(Steven Wright)

IN THIS ISSUE:

Page:

Administrative Notes:

New and Amended Statutes; Disclaimer 2

New and Amended Statutes:

Alcohol 2
Animals 4
Bounty Hunters 5
Child Abuse 9
Controlled Substances 11
Domestic Violence 13
Elder and Dependent Adult Abuse 14
Evidence Admissibility 15
Financial Crimes 17
Firearms 17
Human Trafficking 21
Juveniles 24
Landlord-Tenant Law 26
Parent/Child 27

Pawned Property	28
Picketing	29
Prisoners	29
Public Employees	30
Public Transportation	32
Schools	32
Search Warrants	34
Security Guards	36
Sex Offenses	36
Theft	38
Vandalism	38
Vehicle Code Violations	39
Victims	44
Violent Crimes	45

ADMINISTRATIVE NOTES:

New and Amended Statutes; Disclaimer: The statutes listed here are not intended to cover the entire body of the Legislature’s work for 2012. Only those statutes believed to be of interest to most law enforcement officers, with the concerns of prosecutors in mind, are included. Sentencing rules (*of which there are many*), typically covered better in other publications, have been avoided except when important to a new or amended offense. Mere changes in the potential sentence for an offense are also not included unless the offense’s classification is also affected (e.g., misdemeanor to felony). Rewritten statutes, constituting cosmetic changes only without any substantive changes to the elements of a crime, have been avoided. Most of the statutes that are included have been severely paraphrased, the degree of detail being dependent upon the newness, importance, and/or complexity of the statute. Although I have made a sincere effort to avoid taking any part of a statute out of context, it is *strongly* recommended that the unedited statute be consulted before attempting to use it either in the field or the courtroom. The effective date of each new or amended statute is January 1, 2013, unless otherwise indicated.

NEW AND AMENDED STATUTES:

Alcohol:

Pub. Util. Code § 5384.1 (Repealed and Added): *Minors and Alcohol in Party Buses and Limousines:*

The section is expanded from limousine drivers only to include all charter-party carriers of passengers (e.g., party buses and limousines), while adding new requirements.

Subd. (a): At the time transportation services are arranged, the chartering party shall disclose whether alcohol will be served and whether any passengers will be under 21 years of age.

Subd. (b)(1)(A): If a person under age 21 is to be present and alcohol will be served, the chartering party must supply a designee who is age 25 or older to be present whenever a person under age 21 is being transported and is not accompanied by a parent or legal guardian.

Subd. (b)(1)(B): The designee is required to make reasonable efforts to ensure compliance with all laws prohibiting the consumption of alcoholic beverages by persons under age 21.

Subd. (b)(1)(C), (b)(7): The designee shall check the identification of all passengers to determine who is under age 21 and read to all passengers under age 21 the following statement: "Consumption of alcoholic beverages by persons under 21 years of age is illegal. It is also illegal for an adult to provide alcoholic beverages to a person under 21 years of age. If you consume alcoholic beverages, this trip will be terminated and all payments for transportation services shall be forfeited and not subject to refund."

Subd. (b)(1)(E): The designee is liable for any reasonably foreseeable personal injury or property damage that is proximately caused by the consumption of alcoholic beverages by a person under age 21.

Subd. (e)(1): It is a misdemeanor for a driver when alcohol is served and a member of the party is under age 21 to:

Transport the party without a designee, unless all persons under age 21 have parents or guardians present.

Fail to obtain the designee's signature on the proper forms.

Commence transport without the designee verifying the age of all passengers and reading the no-alcohol statement to passengers under age 21.

Fail to terminate the trip when the driver is told or learns that a person under age 21 is consuming or has consumed alcohol.

Subd. (e)(2): It is a misdemeanor for a driver when alcohol is served and the driver is told that no passenger is under age 21 to:

Fail to take steps to verify the age of any passenger reasonably believed to be under age 21.

Commence transport if a party member is under age 21, unless all alcohol is removed and locked in the trunk or other locked compartment.

Fail to terminate the trip if the driver learns that a person under age 21 is consuming or has consumed alcohol.

Subd. (e)(3): It is a misdemeanor for a driver when informed that no alcohol will be served and that there are passengers under age 21 to:

Fail to take reasonable steps to verify that no alcohol was brought into the vehicle.

Commence or continue to transport if the driver learns that alcohol was brought into the vehicle, unless all alcohol is

removed and locked in the trunk or other locked compartment.

Subd. (f): It is a misdemeanor for the designee to:

Fail to check the identification of all passengers.

Fail to read the no-alcohol statement (see above).

Fail to notify the driver if a person under age 21 is consuming or has consumed alcohol.

Fail to return safely home any passenger under age 21 if a trip is terminated because of alcohol consumption.

Subd. (g): It is a misdemeanor for a parent or guardian to fail to notify the driver when an underage passenger the parent is responsible for is consuming or has consumed alcohol.

See also V.C. § 23229.1 (Amended); “*Open Containers of Alcohol*,” under “*Vehicle Code Violations*,” below.

Animals:

Pen. Code § 597.1 (Amended; Effective 9/26/12): *Administration of Tranquilizers by Animal Control and Humane Officers:*

An animal control officer or humane officer is authorized to administer a tranquilizer that contains a controlled substance when necessary to gain control of a wild, stray, or abandoned animal if the officer has received training from a licensed veterinarian, has successfully completed the firearms component of a course relating to the exercise of police powers as set forth in P.C. § 832, is authorized by his or her agency to possess and administer the tranquilizer, has successfully completed euthanasia training,

has completed a state and federal fingerprinting background check, and does not have any drug- or alcohol-related convictions.

Bounty Hunters:

Pen. Code § 1299 (New): *The Bail Fugitive Recovery Persons Act:*

Designates this article as the “***Bail Fugitive Recovery Persons Act.***”

Note: **The Bail Fugitive Recovery Persons Act, which expired on January 1, 2010, has been reenacted here with almost identical provisions to those enacted on January 1, 2000.**

Pen. Code § 1299.01 (New): *Definitions:*

For purposes of this article, the following definitions apply:

Subd. (a): “*Bail Fugitive*” is defined as a defendant in a pending criminal case who has been released from custody under a financially secured appearance, cash, or other bond and has had that bond declared forfeited, or a defendant in a pending criminal case who has violated a bond condition whereby apprehension and reincarceration are permitted.

Subd. (b): “*Bail*” is defined as a person licensed by the Department of Insurance pursuant to **Ins. Code § 1800**.

Subd. (c): “*Depositor of Bail*” is defined as a person who, or entity that, has deposited money or bonds to secure the release of a person charged with a crime or offense.

Subd. (d): “*Bail Fugitive Recovery Person*” is defined as a person who is provided written authorization pursuant to **P.C. §§ 1300 and 1301** by the bail or depositor of bail, and is contracted to investigate, surveil, locate, and arrest a bail fugitive for surrender to the appropriate court, jail, or police department, and any person who is employed to assist a bail or depositor of bail to investigate, surveil, locate, and arrest a bail fugitive for surrender to the appropriate court, jail, or police department.

Note: Also known by the non-statutory term as a “*Bounty Hunter.*”

Pen. Code § 1299.02 (New): *Persons Authorized to Arrest Bail Fugitives:*

Subd(a): No person, other than a certified law enforcement officer, shall be authorized to apprehend, detain, or arrest a bail fugitive unless that person meets *one* of the following conditions:

(1) Is a “*bail*” as defined in **P.C. § 1299.01(b)** or a “*depositor of bail*” as defined in **P.C. § 1299.01(c)**.

(2) Is a “*bail fugitive recovery person*” as defined in **P.C. § 1299.01(d)**.

(3) Holds a bail license issued by a state other than California or is authorized by another state to transact and post bail and is in compliance with the provisions of **P.C. § 847.5** with respect to the arrest of a bail fugitive.

(4) Is licensed as a private investigator as provided in **Chapter 11.3** (commencing with **B&P Code § 7512**) of **Division 3** of the **Business and Professions Code**.

(5) Holds a private investigator license issued by another state, is authorized by the bail or depositor of bail to apprehend a bail fugitive, and is in compliance with the provisions of **P.C. § 847.5** with respect to the arrest of a bail fugitive.

Subd. (b): This article shall not prohibit an arrest pursuant to **P.C. §§ 837, 838, and 839**.

Pen. Code § 1299.04 (New): *Qualifications of a Bail Fugitive Recovery*

Person:

Subd. (a): A bail fugitive recovery person, a bail agent, bail permittee, or bail solicitor who contracts his or her services to another bail agent or surety as a bail fugitive recovery person for the purposes specified in subdivision **P.C. § 1200.01(d)**, and any bail agent, bail permittee, or bail solicitor who obtains licensing after January 1, 2000, and who engages in the arrest of a defendant pursuant to **P.C. § 1301**, shall comply with the following requirements:

(1): The person shall be at least 18 years of age.

(2): The person shall have completed a 40-hour power of arrest course certified by the Commission on Peace Officer Standards and Training pursuant to **P.C. § 832**. Completion of the course shall be for educational purposes only and not intended to confer the power of arrest of a peace officer or public officer, or agent of any federal, state, or local government, unless the person is so employed by a governmental agency.

(3): The person shall have completed a minimum of 20 hours of classroom education certified pursuant to **Ins. Code § 1801.7**.

(4): The person shall not have been convicted of a felony, unless the person is licensed by the Department of Insurance pursuant to **Ins. Code § 1800**.

Subd. (b): Upon completion of any course or training program required by this section, an individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive shall carry certificates of completion with him or her at all times in the course of performing his or her duties under this article.

Pen. Code § 1299.05 (New): *Bail Fugitive Apprehensions:*

In performing a bail fugitive apprehension, an individual authorized by **P.C. § 1299.01** to apprehend a bail fugitive shall comply with all laws applicable to that apprehension.

Pen. Code § 1299.06 (New): *Required Apprehension Documentation:*

An individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive shall have in his or her possession proper documentation of authority to apprehend issued by the bail or depositor of bail as prescribed in **P.C. §§ 1300 and 1301** before making any apprehension. The authority to apprehend document shall include all of the following information:

1. The name of the individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive and any fictitious name, if applicable;
2. The address of the principal office of the individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive; *and*
3. The name and principal business address of the bail agency, surety company, or other party contracting with the individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive.

Pen. Code § 1299.07 (New): *Representing Oneself to be a Sworn Law Enforcement Officer:*

Subd. (a): An individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive shall not represent himself or herself in any manner as being a sworn law enforcement officer.

Subd. (b): An individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive shall not wear any uniform that represents himself or herself as belonging to any part or department of a federal, state, or local government. Any uniform shall not display the words United States, Bureau, Task Force, Federal, or other substantially similar words that a reasonable person may mistake for a government agency.

Subd. (c): An individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive shall not wear or otherwise use a badge that represents himself or herself as belonging to any part or department of the federal, state, or local government.

Subd. (d): An individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive shall not use a fictitious name that represents himself or herself as belonging to any federal, state, or local government.

Subd. (e): An individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive may wear a jacket, shirt, or vest with the words "BAIL BOND RECOVERY AGENT," "BAIL ENFORCEMENT," or "BAIL ENFORCEMENT AGENT" displayed in letters at least two inches high across the front or back of the jacket, shirt, or vest and in a contrasting color to that of the jacket, shirt, or vest.

Pen. Code § 1299.08 (New): *Procedural Requirements in Making Arrests:*

Subd. (a): Except under exigent circumstances, an individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive shall, prior to and no more than six hours before attempting to apprehend the bail fugitive, notify the local police department or sheriff's department of the intent to apprehend a bail fugitive in that jurisdiction by doing all of the following:

(1): Indicating the name of an individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive entering the jurisdiction.

(2): Stating the approximate time an individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive will be entering the jurisdiction and the approximate length of the stay.

(3): Stating the name and approximate location of the bail fugitive.

Subd. (b): If an exigent circumstance does arise and prior notification is not given as provided in **subd. (a)**, an individual authorized by **P.C. §**

1299.02 to apprehend a bail fugitive shall notify the local police department or sheriff's department immediately after the apprehension, and upon request of the local jurisdiction, shall submit a detailed explanation of those exigent circumstances within three working days after the apprehension is made.

Subd. (c): This section shall not preclude an individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive from making or attempting to make a lawful arrest of a bail fugitive on bond pursuant to **P.C. §§ 1300 and 1301**. The fact that a bench warrant is not located or entered into a warrant depository or system shall not affect a lawful arrest of the bail fugitive.

Subd. (d): For the purposes of this section, notice may be provided to a local law enforcement agency by telephone prior to the arrest or, after the arrest has taken place, if exigent circumstances exist. In that case the name or operator number of the employee receiving the notice information shall be obtained and retained by the bail, depositor of bail, or bail fugitive recovery person.

Pen. Code § 1299.09 (New): *Forcible Entries:*

An individual, authorized by **P.C. § 1299.02** to apprehend a bail fugitive shall not forcibly enter a premises except as provided for in **P.C. § 844** (i.e., “*knock and notice*” requirements).

Pen. Code § 1299.10 (New): *Use of Firearms or Other Weapons:*

An individual authorized by **P.C. § 1299.02** to apprehend a bail fugitive shall not carry a firearm or other weapon unless in compliance with the laws of the state.

Pen. Code § 1299.11 (New): *Violating the Bail Fugitive Recovery Persons Act:*

It is a misdemeanor to violate or conspire to violate any provision of the Bail Fugitive Recovery Persons Act, or to hire an individual to apprehend a bail fugitive, knowing that the individual is not authorized by P.C. § 1299.02 to apprehend a bail fugitive.

Punishment: Misdemeanor: Up to one year in county jail and/or a \$5,000 fine.

Pen. Code § 1299.12 (New): *Licensing Private Investigators.*

The above is specifically *not* intended to exempt from licensure persons otherwise required to be licensed as private investigators pursuant to **B&P §§ 7512 et seq.**

Child Abuse:

Pen. Code § 11165.7 (Amended): *Mandatory Child Abuse Reporters.*

The list of mandated child abuse reporters is expanded by adding:

1. An employee or administrator of a public or private postsecondary institution, whose duties bring him or her into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution.
2. An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1-12, inclusive.
3. A commercial computer technician. (See **P.C. § 11166**, below.)
4. An athletic coach, including but not limited to, an assistant coach or a graduate assistant involved in coaching, at a public or private postsecondary institution (e.g., a college).

The definition of a commercial film and photographic print processor (already specified as a mandated child abuse reporter) has been expanded to refer to this person as a “commercial film and photographic print or *image* processor” and to add the activities of preparing, publishing, producing, or printing any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disk, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image, for compensation.

Pen. Code § 11166 (Amended): *Commercial Computer Technicians as Mandatory Child Abuse Reports:*

A commercial computer technician who has knowledge of, or observes, within the scope of his or her professional capacity or employment, any representation of information, data, or image depicting a child under age 16 engaged in an act of sexual conduct, is required to immediately, or as soon as practical, telephonically report the instance of suspected abuse to the law enforcement agency in the county where the image or material is seen.

Also the commercial computer technician is required to prepare and send, fax, or electronically transmit a written follow-up report with a brief description of the image.

The reporting responsibilities of commercial film and photographic print processors is expanded by adding “*image processors*” so that this category of mandated child abuse reporters now refers to a “*commercial film, photographic print, or image processor.*”

Lastly, additional items depicting a child under age 16 engaging in an act of sexual conduct were added to what triggers the reporting requirement: i.e., any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment or computer-generated image.

See **P.C. § 11172, protecting** Commercial Computer Technicians from civil or criminal liability for providing child abuse evidence to law enforcement.

Controlled Substances:

Health & Safe. Code § 11376.5 (New): *Immunity from Prosecution in Cases of a Drug-Related Overdose:*

Persons who experience a drug-related overdose and other persons at the scene, where medical assistance is sought, are immune from prosecution for being under the influence of a controlled substance or in possession for personal use of a controlled substance or drug paraphernalia.

To qualify for immunity, a person experiencing the overdose or other person at the scene of the overdose must in good faith seek medical assistance and must not obstruct medical or law enforcement personnel.

Not qualifying for immunity are:

Violations of laws prohibiting selling, providing, giving, or exchanging drugs, or forcibly administering drugs against a person's will.

Any offense made dangerous by the consumption of a controlled substance, including but not limited to wet reckless violations (V.C. § 23103 as specified in V.C. § 23103.5) and driving under the influence (V.C. §§ 23152 or 23153).

A “*drug-related overdose*” is defined as an acute medical condition that is the result of the ingestion or use of one or more controlled substances or one or more controlled substances plus alcohol, in quantities that are excessive for that individual that may result in death, disability, or serious injury, where a reasonable person of ordinary knowledge would believe the condition to be a drug-related overdose that may result in death, disability, or serious injury.

Veh. Code § 2810.2 (New): *Vehicle Stops Involving Agricultural Irrigation Supplies:*

Subd. (a)(1): A peace officer may stop any vehicle transporting agricultural irrigation supplies that are in plain view for the purpose of inspecting the bills of lading, shipping, or delivery papers, or other evidence, to determine whether the driver is in legal possession of the load, whenever the vehicle is on an unpaved road within the jurisdiction of the Department of Parks and Recreation, the Department of Fish & Game, the Department of Forestry and Fire Protection, the State Lands Commission, a regional park district, the U.S. Forest Service, or the Bureau of Land Management, or is in a timberland production zone.

Subd. (a)(2): If there is a “*reasonable belief*” that the driver of a vehicle is not in legal possession of the load, the peace officer “*shall*” take custody of the load and turn it over to the sheriff for investigation.

Subd. (b): the Sheriff is thereafter responsible for the “care and safekeeping” of the apprehended materials, and for its “legal disposition” and any resulting investigation.

Subd. (c): Any expense incurred by the sheriff is a “legal charge against the county.”

Subds. (d) & (e): If the driver is in violation of **V.C. § 12500** (driving without a valid license), the peace officer who makes the stop shall make a reasonable attempt to identify the registered owner of the vehicle and release the vehicle to him or her. Impoundment of the vehicle is prohibited if the driver’s only offense is **V.C. § 12500**.

Subd. (f): “*Agricultural irrigation supplies*” include agricultural irrigation water bladder and one-half inch diameter or greater irrigation line.

Subd. (g): A county board of supervisors must adopt a resolution before this section may be implemented in a particular county.

Note: The stated purpose of the above statute is to assist law enforcement in combating illegal marijuana cultivation sites in state parks and other resource lands due to the negative environmental effects of such grows (but not necessarily just because illegal grows are a bad thing). (**Stats 2012, ch 390.**)

Domestic Violence:

Fam. Code § 6306 (Amended): *Domestic Violence Protective Orders:*

A court, before a hearing on the issuance or denial of a domestic violence protective order, is required to determine (among other things already listed) whether the potential subject of a restraining order has a registered firearm.

Note: The other things already listed that the court must determine are whether there are any serious or violent felony convictions, misdemeanor convictions involving violence or weapons, outstanding warrants, plus the subject's current status on probation or parole, the existence prior restraining orders, and violations of a prior restraining order.

Fam. Code § 6389 (Amended): *Surrender of Firearms by Restrained Persons:*

A law enforcement officer who is serving a protective order that indicates the restrained person “possesses weapons (sic) or ammunition” is to “request that the firearm be immediately surrendered.”

Note: It is unknown why the Legislature referred to “*weapons*” in general when the section deals with firearms and ammunition.

The restrained person (in addition to the already-existing requirement to file the original of a receipt with the court showing the firearm was surrendered) must file a *copy* of the receipt with the law enforcement agency that served the protective order. Failure to file a copy of the receipt with the law enforcement agency (or the original with the court) is a violation of the protective order.

Pen. Code § 243 (Amended): *Domestic Violence Battery:*

Subd. (e)(5): When a peace officer makes an arrest for a violation of P.C. § 243(e)(1) (domestic violence battery), the peace officer is *not* required to inform the victim of his or her right to make a citizen's arrest despite the requirements of P.C. § 836(b).

Pen. Code § 273.5 (Amended): *Domestic Violence Involving Corporal Injury:*

Subd. (j): When a peace officer makes an arrest for a violation of domestic violence involving corporal injury, the peace officer is not

required to inform the victim of his or her right to make a citizen's arrest despite the requirements of **P.C. § 836(b)**.

Pen. Code § 1387 (Amended): *Refiling of Domestic Violence Charges after Dismissal when Victim is Held in Contempt for Refusing to Testify.*

Charges in a sexual assault or domestic violence case may be refiled within six months of a dismissal that occurred because the sexual assault or domestic violence victim was found in contempt for refusing to testify. This procedure may be invoked only once in each action.

This provision applies to felony sexual assault charges, felony domestic violence charges, or to misdemeanor sexual assault or domestic violence charges that includes any felony in the same case.

See also **C.C.P. § 1219 (Amended)**, authorizing, but not requiring, a court to refer a domestic violence victim for consultation with a domestic violence counselor before finding the victim in contempt for refusing to testify. All communications between the victim and counselor that occur as a result of the referral are confidential pursuant to **Evid. C. § 1037.2**; the domestic violence counselor-victim privilege.

Pen. Code. § 18250 (Amended): *Taking Temporary Custody of Firearms and Other Deadly Weapons.*

The authority to take temporary custody of any firearm or deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present is extended to when a law enforcement officer is serving a domestic violence protective order as defined in **Fam. Code § 6218** (enjoining specific acts of abuse, excluding a person from a dwelling, or enjoining other specific behavior).

Elder and Dependent Adult Abuse:

Civ. Code § 1946.7 (Amended): *Elder and Dependent Adults as Tenants; Right to Terminate a Lease:*

Elder and dependent adult abuse victims are added to the provisions allowing victims of domestic violence, sexual assault, and stalking, to terminate a long-term lease without penalty.

“Elder or dependent adult abuse” is as defined in **W&I § 15610.07**, which specifies physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment resulting in physical harm or pain or mental suffering.

Code of Civ. Proc. § 1161.3 (Amended): *Elder and Dependent Adults as Tenants; Protection from Eviction:*

Subd. (a): Elder or dependent adult abuse victims, where the abuse has been documented and the perpetrator does not live with the victim, are added to the list of those who a landlord is prohibited from terminating the tenancy of, or failing to renew a tenancy of, with exceptions (**subd. (b)**), when such termination is based upon the abuse inflicted upon the elder or dependent adult.

“Elder or dependent adult abuse” is as defined in **W&I § 15610.07**, which specifies physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment resulting in physical harm or pain or mental suffering.

Gov’t. Code § 8594.10 (New): *Silver Alert Notification System:*

A *“Silver Alert”* notification system, informing the public when a person 65 years of age or older is reported missing, is established. A law enforcement agency may request the California Highway Patrol to activate a Silver Alert when all of the following conditions are met:

1. The missing person is 65 years of age or older.

2. The investigating law enforcement agency has utilized all available local resources.
3. The person has gone missing under unexplained or suspicious circumstances.
4. The law enforcement agency believes that the person is in danger because of age, health, mental or physical disability, or because of environment or weather conditions, or because the person is in the company of a potentially dangerous person, or because there are other factors indicating the person may be in peril.
5. There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

Evidence Admissibility:

Evid. Code § 1161 (New): *Human Trafficking Victims:*

Evidence that a victim of human trafficking has engaged in any commercial sex act as a result of being a victim of human trafficking is *inadmissible* to prove the victim's criminal liability for any conduct related to that activity.

Evidence of the sexual history or history of any commercial sex act of a victim of human trafficking, offered for the purpose of attacking the credibility or impeaching the character of the victim, is *inadmissible* in any civil or criminal proceeding.

Evid. Code § 1552 (Amended): *Red Light Cameras; Printed Computer-Generated Representations:*

The printed representations of computer-generated information stored by an automated traffic enforcement system is presumed to be accurate. This

presumption affects the burden of producing evidence. If the presumption is rebutted, the party introducing the printed representation into evidence then has the burden of proving by a preponderance of the evidence that the printed representation is accurate.

See Veh. Code § 21455.5 (Amended); “Automated Traffic Enforcement Systems (i.e., Red Light Cameras),” under “Vehicle Code Violations,” and below.

Note. See *People v. Borzakian* (2012) 203 Cal.App.4th 525 and *People v. Goldsmith* (2012) 203 Cal.App.4th 1515, dealing with the admissibility of Red Light Camera testimony; petitions for review granted in both cases by the California Supreme Court.

Evid. Code § 1553 (Amended): *Red Light Cameras; Printed Video or Photograph Images.*

The printed representations of video or photographic images stored by an automated traffic enforcement system on a video or digital medium is presumed to be an accurate representation. This presumption affects the burden of producing evidence. If rebutted, the party introducing the printed representation into evidence has the burden of proving by a preponderance of the evidence that the printed representation is accurate.

See Veh. Code § 21455.5 (Amended); “Automated Traffic Enforcement Systems (i.e., Red Light Cameras),” under “Vehicle Code Violations,” and below.

Note. See *People v. Borzakian* (2012) 203 Cal.App.4th 525 and

People. v. Goldsmith (2012) 203 Cal.App.4th 1515, dealing with the admissibility of Red Light Camera testimony; petitions for review granted in both cases by the California Supreme Court.

Veh. Code § 21455.5 (Amended): *Hearsay; Printed, Video, or Photographic Images Stored by an Automated Traffic Enforcement System:*

The printed representation of computer-generated information, video, or photographic images stored by an automated traffic enforcement system do *not* constitute an out-of-court hearsay statement by a declarant under the Evidence Code.

See Veh. Code § 21455.5 (Amended); “Automated Traffic Enforcement Systems (i.e., Red Light Cameras),” under “Vehicle Code Violations,” below.

Note. See *People v. Borzakian* (2012) 203 Cal.App.4th 525 and *People. v. Goldsmith* (2012) 203 Cal.App.4th 1515, dealing with the admissibility of Red Light Camera testimony; petitions for review granted in both cases by the California Supreme Court.

Financial Crimes:

Bus. & Prof. Code § 10130 (Amended): *Mortgage Loan Originator:*

Section that makes it illegal for an unlicensed real estate broker or salesperson to engage in such business is amended to add persons who engage in the business of, act in the capacity of, advertise as, or assume to act as a mortgage loan originator without a license endorsement.

Firearms:

Bus. & Prof. Code § 7583.12 (Amended): *Private Security Guards:*

Authorizes a security guard or security patrol person to carry or use a firearm before receiving the actual firearm qualification card if he or she has been approved to carry a firearm by the Bureau of Security and Investigative Services and carries on his or her person a hardcopy printout of the Bureau's approval from the Bureau's Internet Web site and a valid picture identification.

Fam. Code § 6306 (Amended): *Domestic Violence Protective Orders:*

A court, before a hearing on the issuance or denial of a domestic violence protective order, is required to determine (among other things already listed) whether the potential subject of a restraining order has a registered firearm.

Note: The other things already listed that the court must determine are whether there are any serious or violent felony convictions, misdemeanor convictions involving violence or weapons, outstanding warrants, plus the subject's current status on probation or parole, the existence prior restraining orders, and violations of a prior restraining order.

Fam. Code § 6389 (Amended): *Surrender of Firearms by Restrained Persons:*

A law enforcement officer who is serving a protective order that indicates the restrained person "possesses weapons (sic) or ammunition" is to "request that the firearm be immediately surrendered."

Note: It is unknown why the Legislature referred to "weapons" in general when the section deals with firearms and ammunition.

The restrained person (in addition to the already-existing requirement to file the original of a receipt with the court showing the firearm was surrendered) must file a *copy* of the receipt with the law enforcement agency that served the protective order. Failure to file a copy of the receipt

with the law enforcement agency (or the original with the court) is a violation of the protective order.

Pen. Code § 1299.10 (New): *Use of Firearms or Other Weapons by Bail Fugitive Recovery Persons:*

An individual authorized by **P.C. § 1299.02** (a “*Bail Fugitive Recovery Person*”) to apprehend a bail fugitive shall not carry a firearm or other weapon unless in compliance with the laws of the state.

See Pen. Code § 1299.01(d), under “*Bounty Hunters,*” above.

Pen. Code § 16505 (New): *“Encased” Defined:*

The term “*encased*” for purposes of new **P.C. §§ 26400** and **26405**, which have to do with the carrying of an unloaded, non-handgun (i.e., long gun) firearm (see below), is defined as being enclosed in a case that is expressly made for the purpose of containing a firearm that is completely zipped, snapped, buckled, tied, or otherwise fastened with no part of the firearm exposed.

Pen. Code § 16520 (Amended): *Long Guns to Include the Frame or Receiver of a Firearm:*

New P.C. §§ 26400 and 26405 (which have to do with the carrying of an unloaded, non-handgun [long gun] firearm; see below) are added to the list of firearms sections for which “*firearm*” includes the frame or receiver of the weapon.

Pen. Code. § 18250 (Amended): *Taking Temporary Custody of Firearms and Other Deadly Weapons:*

The authority to take temporary custody of any firearm or deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search as necessary for the protection of the peace officer or other persons present is extended to when a law enforcement officer is serving a domestic violence protective order as defined in **Fam. Code § 6218** (enjoining specific acts of abuse, excluding a person from a dwelling, or enjoining other specific behavior).

Pen. Code § 26366.5 (New): *Exception to Prohibitions of Carrying an Unloaded Handgun for Hunters:*

An exception to the crime of openly carrying an unloaded handgun (see **P.C. § 26350**) is added to the existing 29 exceptions (See *Legal Update*, Vol. 17, No. 1, Jan. 1, 2012, pg. 25.), allowing for the open carrying of an unloaded handgun by a licensed hunter while actually engaged in training a dog for the purpose of using the dog in hunting, or while transporting the firearm while going to or returning from the training.

Pen. Code § 26390 (New): *Exceptions to Prohibitions of Carrying an Unloaded Handgun:*

Additional exceptions to the exceptions to the crime of openly carrying an unloaded handgun (P.C. § 26350): The open carrying of an unloaded handgun by a person who holds a permit;

For the manufacture or sale of a destructive device (P.C. § 18900);

For the manufacture or sale of assault weapons (P.C. § 31005);

For the manufacture or possession of machineguns (P.C. § 32650); *and*

For the manufacture, sale, or possession of short-barreled rifles or short-barreled shotguns (P.C. § 33300).

Pen. Code § 26391 (Amended): *Exceptions to Prohibitions of Carrying an Unloaded Handgun; In Accordance with P.C. § 171.5(d):*

Another exception is added to the numerous already-existing exceptions (see above) to the crime of openly carrying an unloaded handgun (**P.C. § 26350**); the open carrying of an unloaded handgun when done in accordance with **P.C. § 171.5(d)**; a peace officer or other authorized person in a secured area of an airport or passenger vessel terminal.

Pen. Code § 26400 (New): *Carrying Unloaded Non-Handgun Firearm in Public:*

It is a misdemeanor to carry an unloaded, non-handgun (i.e., a “long gun”) firearm on the person, outside a vehicle, in an incorporated city or county.

Punishment:

Misdemeanor: Up to six months in county jail and/or by a fine of up to \$1,000 (pursuant to **P.C. § 19.**)

If the firearm and unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the defendant and the defendant is not in lawful possession of the firearm, then the punishment increases to a maximum of one year in county jail and/or a fine of up to \$1,000.

Each individual firearm constitutes a distinct and separate offense.

Note: See exceptions in **P.C. 26405 (New), below.**

Pen. Code § 26405 (New): *Exceptions to P.C. § 26400(above):*

Exceptions to the crime of carrying an unloaded non-handgun firearm, include:

When done in one's residence.

When the firearm is in a locked container or encased.

When a person reasonably believes he or she is in grave danger because of the circumstances forming the basis of a current restraining order.

By a peace officer or honorably retired peace officer.

By a licensed hunter.

Within a gun show.

At a target range.

By a person who holds a specified permit.

Definitions:

"Lawful possession of the firearm:" See P.C. § 16750.

"Locked container:" See P.C. § 16850.

"Unloaded:" See P.C. § 17295.

"Encased:" See P.C. § 16505 (New).

"Firearm" includes the frame or receiver of a firearm (See P.C. § 16520).

Human Trafficking:

Evid. Code § 1161 (New): *Human Trafficking Victims:*

Evidence that a victim of human trafficking has engaged in any commercial sex act as a result of being a victim of human trafficking is

inadmissible to prove the victim's criminal liability for any conduct related to that activity.

Evidence of the sexual history or history of any commercial sex act of a victim of human trafficking, offered for the purpose of attacking the credibility or impeaching the character of the victim, is *inadmissible* in any civil or criminal proceeding.

Pen. Code § 236.1 (Amended; Effective 11/7/12): *Human Trafficking*:

Subd. (a): Depriving or violating the personal liberty of another person with the intent to obtain forced labor or services.

Punishment: Felony: 5, 8 or 12 years in prison and a fine of up to \$500,000.

Subd. (b): Depriving or violating the personal liberty of another person with the intent to effect or maintain a violation of P.C. §§ 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518.

Punishment: Felony: 8, 14, or 20 years in prison and a fine of up to \$500,000.

Subd. (c): Causing, inducing, persuading, or attempting to cause, induce, or persuade, a minor to engage in a commercial sex act, with the intent to effect or maintain a violation of P.C. §§ 266, 266h, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518.

Punishment:

Felony: 5, 8, or 12 years in prison and a fine of up to \$500,000, *or*

Felony: 15 years to life and a fine of up to \$500,000 if the offense involves force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person.

Subd. (d): In determining whether a minor was caused, induced, or persuaded to engage in a commercial sex act, the total circumstances, including the age of the victim and his or her relationship to the trafficker or agents of the trafficker, and any handicap or disability of the victim, shall be considered.

Subd. (e): The consent by a minor victim is not a defense.

Subd. (f): Mistake of fact as to the age of a victim is not a defense.

Subd. (g): The Legislature found that the definition of human trafficking in this section is equivalent to the federal definition of a severe form of trafficking found in **22 USC § 7102(8)**.

Subd. (h): Definitions:

(1): “*Coercion*” is defined as a scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or the abuse or threatened abuse of the legal process; or debt bondage; or the provision and facilitation of any controlled substance to a person with the intent to impair the person’s judgment.

(2): “*Commercial sex act*” is defined as sexual conduct on account of which anything of value is given or received by any person.

(3): “*Deprivation or violation of the personal liberty of another*” includes substantial and sustained restriction of another’s liberty accomplished through force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.

(4): “*Duress*” includes a direct or implied threat of force, violence, danger, hardship, or retribution sufficient to cause a reasonable person to acquiesce in or perform an act which one would otherwise not have submitted to or performed; a direct or implied threat to destroy, conceal, remove, confiscate, or possess any actual or purported passport or immigration document of the victim; or knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or immigration document of the victim.

(5): “*Forced labor or services*” is defined as labor or services performed or provided by a person and obtained or maintained through force, fraud, duress, or coercion, or equivalent conduct that would reasonably overbear the will of the victim.

(6): “*Great bodily injury*” is defined as a significant or substantial physical injury.

(7): “*Minor*” is defined as a person under age 18.

(8): “*Serious harm*” includes any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor, services, or commercial sex acts in order to avoid incurring that harm.

Subd. (i): The total circumstances, including the age of the victim, the relationship between the victim and the trafficker or agents of the trafficker, and any handicap or disability of the victim, shall be factors to consider in determining the presence of “*deprivation or violation of the personal liberty of another,*” “*duress,*” and “*coercion,*” as described above.

See Pen. Code § 236.4 (New; Effective 11/7/12) for additional fines and sentence enhancements.

See Pen. Code § 236.6 (New) for certain “*freeze and seize*” provisions, thereby permitting the preservation of property and assets for the payment of victim restitution and fines, even if the property or assets are not tools or instrumentalities of human trafficking that are subject to forfeiture.

See Pen. Code §§ 236.7, 236.8, 236.9, 236.10, 236.11 and 236.12 (New) for forfeiture provisions for human trafficking offenses that involve a commercial sex act and a minor under age 18.

Pen. Code § 236.2 (Amended; Effective 11/7/12): *Human Trafficking Indicators*:

Adds to the list of factors that should trigger a peace officer’s inquiry about whether indicators of human trafficking are present; i.e., finding

that a minor has engaged in a commercial sex act, a person being suspected of violating P.C. § 647(a) or (b), or when a person is a victim of a crime of domestic violence or sexual assault.

Pen. Code § 11225 (Amended): *Buildings Used for Human Trafficking as a Nuisance:*

Every building or place used for human trafficking is a nuisance that shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

Pen. Code § 13519.14 (Amended): *Human Trafficking Training for Investigators:*

Every law enforcement officer who is assigned field or investigative duties is required to complete a minimum of two hours of human trafficking training by July 1, 2014, or within six months of being assigned to field or investigative duty, whichever is later.

Juveniles:

Educ. Code § 48264.5 (Amended): *Consequences of Truancy Reports:*

Consequence for the first time truancy report: The pupil and a parent or legal guardian may be requested to attend a meeting with a school counselor to discuss the root causes of the attendance issue and develop a joint plan to improve the pupil's attendance.

Consequences for a second truancy report: A written warning by a peace officer and afterschool or weekend study programs.

Consequences for a third truancy report: Classification as a habitual truant and referral to an attendance review board or truancy mediation program.

Consequences for a fourth truancy report: The pupil *may* (rather than “*shall*”) be within the jurisdiction of the juvenile court.

It remains within the discretion of the Juvenile Court as to whether a truant pupil should be adjudged a **W&I § 601** ward.

Educ. Code § 48645.5 (Amended): *Pupil Readmission:*

A pupil shall not be denied enrollment or readmission to a public school solely on the basis that he or she has had contact with the juvenile justice system, including, but not limited to arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention for any length of time in a juvenile facility, or enrollment in a juvenile court school.

Educ. Code § 48900 (Amended): *Cyberbullying:*

Examples of what constitutes “posting on a social network Internet Web site,” as it relates to “*cyberbullying*” and as conduct that may result in suspension or expulsion from school, are added to the section to include, but not being limited to; (1) posting to or creating a burn page for the purpose of having one or more of the effects listed in the section (see below), or (2) creating a credible impersonation of another actual student for the purpose of having one or more of the effects listed in the section, or (3) creating a false profile for the purpose of having one or more of the effects listed in the section.

Note: The section already prohibits bullying by means of an electronic act, which includes the transmission of a message, text, sound, or image, or a post on a social network Internet Web site.

The “*effects*” referred to above are placing a reasonable pupil in fear of harm to his or her person or property; causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health; causing a reasonable pupil to experience substantial interference with his or her academic performance; or causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from services, activities, or privileges provided by a school.

Definitions:

“*Bullying*” is defined as “any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act . . . directed toward one or more pupils that has or can be reasonably predicted to have the effect of one” of the effects listed above

An addition to the section by this amendment notes that an electronic act shall *not* constitute “*pervasive*” conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

“Credible impersonation” is defined as knowingly and without consent, impersonating a pupil for the purpose of bullying the pupil, such that another pupil would reasonably believe that the pupil was or is the pupil who was impersonated.

“False profile” is defined as a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

Educ. Code § 49076.5 (Amended): *Pupil Identity or Location Information:*

Limits the release of information about a pupil’s identity and location by a school district to a peace officer or law enforcement agency, requiring that the peace officer or law enforcement agency (1) obtain prior written consent from one parent; or (2) provide information indicating that there is an emergency in which the information is necessary to protect the health or safety of the pupil or other individuals; or (3) obtain a lawfully issued subpoena or court order.

Welf. & Inst. Code § 222 (Amended): *Restraining Pregnant Juvenile Prisoners:*

This section, having to do with the restraining of a pregnant juvenile offender in the custody of a *local juvenile facility*, is amended to cross-reference P.C. § 3407 (New). (See “*Restraining Pregnant Prisoners,*” under “*Prisoners,*” below.)

Welf. & Inst. Code § 1774 (Amended): *Restraining Pregnant Juvenile Prisoners:*

This section, having to do with the restraining of a pregnant juvenile offender in the custody of *the Division of Juvenile Facilities*, is amended to

cross-reference **P.C. § 3407** (New). (See “*Restraining Pregnant Prisoners*,” under “*Prisoners*,” below.)

Landlord-Tenant Law:

Civ. Code § 1942.7 (New): *Declawed and Devocalized Animals:*

Landlords are prohibited from requiring a tenant to declaw or devocalize an animal that is allowed on the premises, to deny occupancy because of a potential tenant’s refusal to declaw or devocalize their animal, or to advertise a rental in a manner designed to discourage a potential tenant whose animal has not been declawed or devocalized.

Penalty: Civil suit for declaratory or injunctive relief; civil penalties of up to \$1,000.

Civ. Code § 1946.7 (Amended): *Elder and Dependent Adults as Tenants; Right to Terminate a Lease:*

Elder and dependent adult abuse victims are added to the provisions allowing victims of domestic violence, sexual assault, and stalking, to terminate a long-term lease without penalty.

“*Elder or dependent adult abuse*” is as defined in **W&I § 15610.07**, which specifies physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment resulting in physical harm or pain or mental suffering.

Code of Civ. Proc. § 1161.3 (Amended): *Elder and Dependent Adults as Tenants; Protection from Eviction:*

Subd. (a): Elder or dependent adult abuse victims, where the abuse has been documented and the perpetrator does not live with the victim, are added to the list of those who a landlord is prohibited from terminating

the tenancy of, or failing to renew a tenancy of, with exceptions (subd. (b)), when such termination is based upon the abuse inflicted upon the elder or dependent adult.

“Elder or dependent adult abuse” is as defined in W&I § 15610.07, which specifies physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment resulting in physical harm or pain or mental suffering.

Parent/Child:

Pen. Code § 273j (New): *“Caylee’s Law,” Reporting Deceased or Missing Children:*

It is a crime for a parent or guardian who has the care, custody, or control of a child under the age of 14 and who knows or should have known that the child has died, to fail to notify a public agency within 24 hours.

Does not apply if the child is under the immediate care of a physician at the time of death or if a public safety agency, a coroner, or a medical examiner is otherwise aware of the death.

It is a crime for a parent or guardian who has the care, custody, or control of a child under age 14 and fails to notify law enforcement within 24 hours of the time the parent or guardian knows or should have known that the child is a missing person and there is evidence that the child is a person at risk, as defined in P.C. § 14213.

Does not apply if law enforcement is aware the child is missing.

P.C. § 14213: “*Evidence that the person is at risk*” includes but is not limited to, evidence or indications that the missing person; (1) is the victim of a crime or foul play, (2) is in need of medical attention, (3) has no pattern of running away or disappearing, (4) may be the victim of parental abduction, or (5) is mentally impaired.

Punishment: Misdemeanor; punishable by up to one year in county jail and/or by a fine of up to \$1,000.

Pawned Property:

Bus. & Prof. Code §§ 21627, 21628, 21641, and 21642 (Amended), Bus. & Prof. Code § 21642.5 (New; Effective 8/7/12): *Pawn Broker and Second Hand Dealer; Reporting Requirements.*

A statewide, uniform electronic reporting system for the reporting of pawned and secondhand goods to law enforcement is implemented by these sections. Instead of submitting information on paper forms, pawn brokers and secondhand dealers are to submit information through an online database developed by the Department of Justice (DOJ). A revised schedule of fees is set out.

All coin dealers (instead of only those who engage in fewer than 10 transactions per week) must report their transactions on forms developed by the Attorney General and transmit them by facsimile or mail to the chief of police or sheriff.

Fin. Code §§ 21208 (Repealed and Added); 21300 (Amended); 21301 (Amended; Effective 8/7/12): *Pawn Broker and Second Hand Dealer; Reporting Requirements.*

A statewide, uniform electronic reporting system for the reporting of pawned and secondhand goods to law enforcement is implemented by these sections. Instead of submitting information on paper forms, pawn brokers and secondhand dealers are to submit information through an online database developed by the Department of Justice (DOJ). A revised schedule of fees is set out.

All coin dealers (instead of only those who engage in fewer than 10 transactions per week) must report their transactions on forms developed by the Attorney General and transmit them by facsimile or mail to the chief of police or sheriff.

Picketing.

Pen. Code § 594.37 (New): *Picketing Funerals:*

It is a misdemeanor to engage in picketing on public property where such picketing targets a funeral, during the time period beginning one hour prior to the funeral and ending one hour after it ends.

Definitions:

***“Picketing”* is defined as protest activities engaged in by any person within 300 feet of a burial site, mortuary, or place of worship.**

***“Funeral”* is defined as the ceremony or memorial service held in connection with the burial or cremation of a deceased person.**

Punishment: Misdemeanor: Up to six months in county jail and/or by a fine of up to \$1,000.

Prisoners:

Pen. Code § 851.5 (Amended): *Telephone Calls for Arrested Persons:*

Subd. (c): An arresting or booking officer is required to inquire as to whether an arrested person is a custodial parent with responsibility for a minor child and if so, to notify the arrestee that he or she is entitled to make two additional telephone calls to arrange child care.

Subd. (d): Police facilities and places of detention shall post a sign stating that a custodial parent with responsibility for a minor child has the right to two additional telephone calls.

Subd. (f): Such signs shall be in English and in any non-English language spoken by a substantial number of the public who are served by the police facility.

Pen. Code § 3407 (New): *Restraining Pregnant Prisoners:*

Subd. (a) & (f): The restraining of an adult or juvenile inmate incarcerated in a local or state correctional facility by the use of leg irons, waist chains, or handcuffs behind the body is prohibited if the inmate is known to be pregnant or in recovery after delivery.

Subd. (b): A pregnant inmate or ward in labor, during delivery, or in recovery after delivery shall not be restrained by the wrists, ankles, or both, unless deemed necessary for the safety and security of the inmate, the staff, or the public.

Subd. (c): Restraints shall be removed when a professional who is currently responsible for the medical care of a pregnant inmate or ward during a medical emergency, labor, delivery, or recovery after delivery determines that the removal of restraints is medically necessary.

Subd. (d): This section shall not be interpreted to require restraints in a case where restraints are not required pursuant to a statute, regulation, or correctional facility policy.

Subd. (e): Upon confirmation of pregnancy, the inmate be shall advised, orally or in writing, of the standards and policies governing pregnant inmates.

Pen. Code § 289.6 (Amended): *Sexual Activity with Consenting Prisoner.*

Subd. (a)(2): A peace officer is added to those persons (employees or officers of a detention facility) who are prohibited from engaging in sexual activity with a consenting adult who is confined in a detention facility.

Subd. (c)(4): The definition of “*detention facility*” is expanded to include in a vehicle while transporting a person after he or she has been arrested but before booking.

Punishment: Felony (wobbler): 16 months, 2 or 3 years in prison, or one year in county jail and up a fine of \$10,000 (**Subd. (h)**)

Public Employees:

Gov't. Code § 6254 (Amended): *Home Address and Telephone Number Disclosure:*

Prosecutors and public defenders are added to the list of persons (i.e., judges, peace officers, court commissioners and magistrates) whose home address and telephone number is *not* subject to disclosure under the California Public Records Act.

Pen. Code § 289.6 (Amended): *Sexual Activity with Consenting Prisoner.*

Subd. (a)(2): A peace officer is added to those persons (employees or officers of a detention facility) who are prohibited from engaging in sexual activity with a consenting adult who is confined in a detention facility.

Subd. (c)(4): The definition of “*detention facility*” is expanded to include in a vehicle while transporting a person after he or she has been arrested but before booking.

Punishment: Felony (wobbler): 16 months, 2 or 3 years in prison, or one year in county jail and up a fine of \$10,000 (**Subd. (h)**)

Pen. Code § 597.1 (Amended; Effective 9/26/12): *Administration of Tranquilizers by Animal Control and Humane Officers.*

An animal control officer or humane officer is authorized to administer a tranquilizer that contains a controlled substance when necessary to gain control of a wild, stray, or abandoned animal if the officer has received training from a licensed veterinarian, has successfully completed the firearms component of a course relating to the exercise of police powers as set forth in **P.C. § 832**, is authorized by his or her agency to possess and administer the tranquilizer, has successfully completed euthanasia training, has completed a state and federal fingerprinting background check, and does not have any drug- or alcohol-related convictions.

Pen. Code § 13510.4 (New): *Peace Officer Trainees Cheating on Basic Course Examinations:*

Any peace officer trainee who knowingly cheats, assists in cheating, or knowingly conceals efforts by others to cheat on a basic course examination mandated by the Commission on Peace Officer Standards and Training (POST) is liable for a civil fine of up to \$1,000 per occurrence.

A “*peace officer trainee*” is defined as an applicant for a basic course examination who has not been hired by a department or agency and who has not been sworn as a peace officer.

Pen. Code § 13519.14 (Amended): *Human Trafficking Training for Investigators:*

Every law enforcement officer who is assigned field or investigative duties is required to complete a minimum of two hours of human trafficking training by July 1, 2014, or within six months of being assigned to field or investigative duty, whichever is later.

Public Transportation:

Pen. Code § 640 (Amended): *Crimes on Property of Public Transportation Systems:*

Subd. (b)(6): It is illegal to sell or peddle any goods or services of any kind on the facilities, vehicles, or property of a public transportation

system, if the public transportation system has prohibited those acts and neither the transportation system nor its representatives have granted written consent.

Punishment: Infraction: A fine of up to \$250 and up to 48 hours of community service.

Schools:

Educ. Code § 48264.5 (Amended): *Consequences of Truancy Reports:*

Consequence for the first time truancy report: The pupil and a parent or legal guardian may be requested to attend a meeting with a school counselor to discuss the root causes of the attendance issue and develop a joint plan to improve the pupil's attendance.

Consequences for a second truancy report: A written warning by a peace officer and afterschool or weekend study programs.

Consequences for a third truancy report: Classification as a habitual truant and referral to an attendance review board or truancy mediation program.

Consequences for a fourth truancy report: The pupil *may* (rather than "*shall*") be within the jurisdiction of the juvenile court.

It remains within the discretion of the Juvenile Court as to whether a truant pupil should be adjudged a **W&I § 601** ward.

Educ. Code § 48645.5 (Amended): *Pupil Readmission:*

A pupil shall not be denied enrollment or readmission to a public school solely on the basis that he or she has had contact with the juvenile justice system, including, but not limited to arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention for any length of time in a juvenile facility, or enrollment in a juvenile court school.

Educ. Code § 48900 (Amended): *Cyberbullying*:

Examples of what constitutes “posting on a social network Internet Web site,” as it relates to “*cyberbullying*” and as conduct that may result in suspension or expulsion from school, are added to the section to include, but not being limited to; (1) posting to or creating a burn page for the purpose of having one or more of the effects listed in the section (see below), or (2) creating a credible impersonation of another actual student for the purpose of having one or more of the effects listed in the section, or (3) creating a false profile for the purpose of having one or more of the effects listed in the section.

***Note:* The section already prohibits bullying by means of an electronic act, which includes the transmission of a message, text, sound, or image, or a post on a social network Internet Web site.**

The “*effects*” referred to above are placing a reasonable pupil in fear of harm to his or her person or property; causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health; causing a reasonable pupil to experience substantial interference with his or her

academic performance; or causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from services, activities, or privileges provided by a school.

Definitions:

***“Bullying:* is defined as “any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act . . . directed toward one or more pupils that has or can be reasonably predicted to have the effect of one” of the effects listed above**

An addition to the section by this amendment notes that an electronic act shall *not* constitute “*pervasive*” conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

***“Credible impersonation”* is defined as knowingly and without consent, impersonating a pupil for the purpose of bullying the pupil, such that another pupil would reasonably believe that the pupil was or is the pupil who was impersonated.**

***“False profile”* is defined as a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.**

Educ. Code § 49076.5 (Amended): *Pupil Identity or Location Information:*

Limits the release of information about a pupil's identity and location by a school district to a peace officer or law enforcement agency, requiring that the peace officer or law enforcement agency (1) obtain prior written consent from one parent; or (2) provide information indicating that there is an emergency in which the information is necessary to protect the health or safety of the pupil or other individuals; or (3) obtain a lawfully issued subpoena or court order.

Search Warrants:

Educ. Code § 49076.5 (Amended): *Pupil Identity or Location Information:*

Limits the release of information about a pupil's identity and location by a school district to a peace officer or law enforcement agency, requiring that the peace officer or law enforcement agency (1) obtain prior written consent from one parent; or (2) provide information indicating that there is an emergency in which the information is necessary to protect the health or safety of the pupil or other individuals; or (3) obtain a lawfully issued subpoena or court order.

Pen. Code § 1524 (Amended): *Tracking Device Search Warrants:*

Subd. (a)(12): A search warrant may be issued for the use of a tracking device when the information to be received from the tracking device constitutes evidence that tends to show any of the following:

1. That a felony has been committed or is being committed; *or*
2. That a misdemeanor violation of the **F&G Code** or the **Pub. Res. Code** has been committed or is being committed;
3. That a particular person has committed or is committing any of these crimes;
4. That will assist in locating a person who has committed or is committing any of these crimes.

A tracking device search warrant shall be executed pursuant to the provisions of **P.C. § 1534(b)** (Amended; below).

P.C. § 1534 (Amended): *Tracking Device Procedures:*

Subd. (b):

(1): A tracking device search warrant issued pursuant to **P.C. § 1524(a)(12)** (see above) shall identify the person or property to be tracked and shall specify a reasonable length of time, not to exceed 30 days from the date the warrant is issued, that the device may be used.

The court may, for good cause, grant one or more extensions for the time that the device may be used, with each extension lasting for a reasonable length of time, not to exceed 30 days.

The search warrant shall command the officer to execute the warrant by installing a tracking device or serving a warrant on a third-party possessor of the tracking data.

The officer shall perform any installation authorized by the warrant during the daytime unless the magistrate, for good cause, expressly authorizes installation at another time.

Execution of the warrant shall be completed no later than 10 days immediately after the date of issuance. A warrant executed within this 10-day period shall be deemed to have been timely executed and no further showing of timeliness need be made. After the expiration of 10 days, the warrant shall be void, unless it has been executed.

(2): An officer executing a tracking device search warrant shall not be required to knock and announce his or her presence before executing the warrant.

(3): No later than 10 calendar days after the use of the tracking device has ended, the officer executing the warrant shall file a return to the warrant.

(4): No later than 10 calendar days after the use of the tracking device has ended, the officer who executed the tracking device warrant shall serve a copy of the warrant on the person who was tracked or whose property was tracked. Upon the request of a government agency, the magistrate may, for good cause, delay

service of a copy of the warrant.

(5): An officer installing a device authorized by a tracking device search warrant may install and use the device only within California.

(6): As used in this section, “*tracking device*” means any electronic or mechanical device that permits the tracking of the movement of a person or object.

(7): As used in this section, “*daytime*” means the hours between 6 a.m. and 10 p.m. according to local time.

(c): If a duplicate original search warrant has been executed, the peace officer who executed the warrant shall enter the exact time of its execution on its face.

(d): A search warrant may be made returnable before the issuing magistrate or his or her court.

Note: **Subds. (c) & (d)**, above, were previously lettered as **Subds. (b) & (c)**, but are otherwise unchanged.

Security Guards:

B&P 7583.12 (Amended): *Private Security Guards.*

Authorizes a security guard or security patrol person to carry or use a firearm before receiving the actual firearm qualification card if he or she has been approved to carry a firearm by the Bureau of Security and Investigative Services and carries on his or her person a hardcopy printout of the Bureau’s approval from the Bureau’s Internet Web site and a valid picture identification.

Sex Offenses:

Pen. Code § 289.6 (Amended): *Sexual Activity with Consenting Prisoner.*

Subd. (a)(2): A peace officer is added to those persons (employees or officers of a detention facility) who are prohibited from engaging in sexual activity with a consenting adult who is confined in a detention facility.

Subd. (c)(4): The definition of “*detention facility*” is expanded to include in a vehicle while transporting a person after he or she has been arrested but before booking.

Punishment: Felony (wobbler): 16 months, 2 or 3 years in prison, or one year in County jail and up a fine of \$10,000 (**Subd. (h)**)

Pen. Code § 290 (Amended; Effective 11/7/12): *Registerable Sex Offenses:*

P.C. § 236.1(b) and P.C. § 236.1(c) (New) (see “*Human Trafficking*,” above) are added to the list of mandatory sex registration offenses.

**Pen. Code §§ 290.012, 290.014, 290.15 (Amended; Effective 11/7/12):
*Information Provided to Law Enforcement by Registered Sex Offenders:***

Added to the information a registered sex offense must provide to law enforcement each year within five working days of his or her birthday is (1) a list of all Internet identifiers established or used by the person, and (2) a list of all Internet service providers used.

This same information must be provided to law enforcement when first registering. Also, the information must be provided to law enforcement in writing within 24 hours of adding or changing an Internet service provider or an Internet identifier. If already registered, the person must provide this information to law enforcement “immediately.”

Definitions (per **Pen. Code §§ 290.024**) (**New; Effective 11/7/12**):

“*Internet Service Provider*” is defined as any business, organization, or other entity providing directly to consumers a computer and communications facility through which a person may obtain access to the Internet, but not a business that provides only telecommunications services, cable services, or video services.

“*Internet Identifier*” is defined as any electronic mail address, user name, screen name, or similar identifier used for the purpose of Internet forum discussions, Internet chat room discussions, instant messaging, social networking, or similar Internet communication.

Pen. Code § 1387 (Amended): *Refiling of Sexual Assault Charges after Dismissal when Victim is Held in Contempt for Refusing to Testify.*

Charges in a sexual assault or domestic violence case may be refiled within six months of a dismissal that occurred because the sexual assault or domestic violence victim was found in contempt for refusing to testify. This procedure may be invoked only once in each action.

This provision applies to felony sexual assault charges, felony domestic violence charges, or to misdemeanor sexual assault or domestic violence charges that includes any felony in the same case.

Theft:

Pen. Code § 496e (Amended): *Possession of Stolen Property from a Public Agency.*

Subd. (a): A person who is engaged in the salvage, recycling, purchase, or sale of scrap metal, possessing any of the following items if owned or previously owned by a public agency, city, county, or utility, that have been stolen or obtained in any manner constituting theft or extortion, knowing

the property to be so stolen or obtained, or failing to report the possession of the items pursuant to new **B&P § 21609.1**: (1) a fire hydrant or any reasonably recognizable part; (2) any fire department connection, including reasonably recognizable bronze or brass fittings; (3) a manhole cover or lid, or any reasonably recognizable part; or (4) a backflow device and connection, or any part.

Punishment: Misdemeanor: Six month in county jail and up to \$3,000 fine. (**P.C. § 19.4 & Subd. (b)**)

Note. **Bus. & Prof. Code § 21609.1** (New) provides that a junk dealer or recycler is prohibited from possessing any reasonably recognizable, disassembled, or inoperative fire hydrant or fire department connection or part, any manhole cover or lid or part, or any backflow device or part, that was owned by a public agency, city, county, or private utility, without a written certification on the letterhead of the agency that the agency has sold or is offering the material for sale, salvage, or recycling, and that the person possessing the certification and identified in the certification is authorized to negotiate the sale of the material.

Vandalism:

Pen. Code § 594.05 (New): “*Damages*” *Defined*:

“*Damages*” for purposes of **P.C. § 594** (vandalism) include damage caused to public transit property and facilities, public parks property and facilities, and public utilities and water property and facilities, in the course of stealing or attempting to steal nonferrous material as defined in **B&P § 21608.5** (copper, copper alloys, stainless steel, or aluminum, but not beverage containers that are subject to a redemption payment).

Vehicle Code Violations:

Veh. Code § 2810.2 (New): *Vehicle Stops Involving Agricultural Irrigation Supplies:*

Subd. (a)(1): A peace officer may stop any vehicle transporting agricultural irrigation supplies that are in plain view for the purpose of inspecting the bills of lading, shipping, or delivery papers, or other evidence, to determine whether the driver is in legal possession of the load, whenever the vehicle is on an unpaved road within the jurisdiction of the Department of Parks and Recreation, the Department of Fish & Game, the Department of Forestry and Fire Protection, the State Lands Commission, a regional park district, the U.S. Forest Service, or the Bureau of Land Management, or is in a timberland production zone.

Subd. (a)(2): If there is a “*reasonable belief*” that the driver of a vehicle is not in legal possession of the load, the peace officer “*shall*” take custody of the load and turn it over to the sheriff for investigation.

Subd. (b): the Sheriff is thereafter responsible for the “care and safekeeping” of the apprehended materials, and for its “legal disposition” and any resulting investigation.

Subd. (c): Any expense incurred by the sheriff is a “legal charge against the county.”

Subds. (d) & (e): If the driver is in violation of **V.C. § 12500** (driving without a valid license), the peace officer who makes the stop shall make a reasonable attempt to identify the registered owner of the vehicle and release the vehicle to him or her. Impoundment of the vehicle is prohibited if the driver's only offense is **V.C. § 12500**.

Subd. (f): “*Agricultural irrigation supplies*” include agricultural irrigation water bladder and one-half inch diameter or greater irrigation line.

Subd. (g): A county board of supervisors must adopt a resolution before this section may be implemented in a particular county.

Note: The stated purpose of the above statute is to assist law enforcement in combating illegal marijuana cultivation sites in state parks and other resource lands due to the negative environmental effects of such grows (but not necessarily just because illegal grows are a bad thing). (**Stats 2012, ch 390.**)

Veh. Code § 2814.1 (Amended): *Vehicle Checkpoints:*

Subd. (d): Motorcycle-only checkpoints are prohibited.

Veh. Code § 5201.1 (Amended): *Obscuring License Plates:*

Subd. (a): It is illegal to sell a product or device that obscures, or is intended to obscure, the reading of a license plate, including the obscuring of the reading or recognition of a plate by visual means or by an electronic device.

Subd. (b): It is illegal to operate a vehicle with a product or device that obscures the reading of the license plate either by visual or electronic means.

Subd. (c): It is illegal to erase the reflective coating of, or painting over the reflective coating of, or altering a license plate to avoid visual or electronic capture of the license plate by law enforcement.

Punishment: Infraction; \$250 fine. (**Subd. (d)**)

Veh. Code § 21455.5 (Amended): *Automated Traffic Enforcement Systems (i.e., Red Light Cameras)*:

Subd. (a)(1): Signs must be posted within 200 feet of an intersection notifying motorists of an automated traffic enforcement system. The signs need only be visible to traffic that is subject to the system.

Subd. (e): The printed representation of computer-generated information, video, or photographic images stored by an automated traffic enforcement system do NOT constitute an out-of-court hearsay statement by a declarant under the **Evidence Code**.

See **Evid. Code §§ 1552, 1553** (Amended), above, under
“Evidence Admissibility.”

Subd. (h)(3): A governmental agency that proposes to install or operate an automated traffic enforcement system is prohibited from considering revenue generation, beyond recovering its actual costs of operation, as a factor when considering whether or not to install a system.

Subd. (i): A manufacturer or supplier that operates a system is required to submit, in cooperation with the governmental agency, an annual report to the Judicial Council that includes the number of violations captured by the system, the number of citations issued, the number of violations that involved traveling straight through the intersection or turning right or left, the number and percentage of citations dismissed by the court, and the number of traffic collisions at each intersection that occurred prior to, and after the installation of the system.

Veh. Code § 23123.5 (Amended): *Texting While Driving; Exceptions:*

Subd. (a): It is an exception to the prohibition against writing, sending, or reading a text while driving, if the electronic wireless communications device is specifically designed and configured to allow voice-operated and hands-free operation to dictate, send, or listen to a text-based communication, and it is used in that manner while driving.

Subd. (c): A person shall not be deemed to be writing, reading, or sending a text-based communication if the person activates or deactivates a feature or function on an electronic wireless communications device.

Punishment: Infraction: Fine of \$20 for first offense, \$50 for each subsequent offense.

Veh. Code § 23229.1 (Amended): *Open Containers of Alcohol:*

Expands this section from applying only to limousine drivers to applying to any driver providing transportation services on a prearranged basis (e.g., party bus drivers and limousine drivers), so that the crimes of **V.C. § 23223** (driver or passenger in possession of an open container of alcohol) and **V.C. § 23225** (registered owner of a vehicle keeping an open container of alcohol in the vehicle) apply to all drivers providing

prearranged transportation services when transporting any passenger under 21 years of age.

See also **Pub. Util. Code § 5384.1 (Repealed and Added);**
“Minors and Alcohol in Party Buses and Limousines,” under
“Alcohol,” above.

Veh. Code § 23612 (Amended): *DUI Testing for Drugs.*

The option of a urine test in cases involving driving under the influence of drugs and driving under the combined influence of alcohol and drugs (except for hemophiliacs and people with heart conditions who use anticoagulants) has been eliminated.

If a blood test is not available, the person is deemed to have consented to a urine test.

Veh. Code § 26708.7 (New): *Tinted Windows in Police Cars.*

Vehicles operated by peace officers in the performance of their duties are exempted from laws that prohibit or limit window tinting or glazing.

Veh. Code § 38600 (New): *Operating a Recreational Off-Highway Vehicle.*

A person operating a “*recreational off-highway vehicle*” shall be at least 16 years of age, or be directly supervised in the vehicle by a parent or guardian or by an adult authorized by the parent or guardian.

See **V.C. § 500 (New)**” A “*Recreational off-highway vehicle*” is defined a motor vehicle meeting *all* of the following criteria:

- (a): Designed by the manufacturer for operation primarily off of the highway.

- (b): Has a steering wheel for steering control.
- (c): Has nonstraddle seating provided by the manufacturer for the operator and all passengers.
- (d)(1): Has a maximum speed capability of greater than 30 miles per hour, *or*
- (d)(2): A vehicle designed by the manufacturer with a maximum speed capability of 30 miles per hour or less but is modified so that it has a maximum speed capability of greater than 30 miles per hour.
- (e): Has an engine displacement equal to or less than 1,000cc (61 ci).

Punishment: Infraction; V.C. §§ 40000.1, 42001:

First Offense: \$100

Second Offense within one year: \$200.

Third and Subsequent Offense within one year: \$250.

See V.C. §§ 38000–38397 for rules governing off-highway vehicles.

See V.C. §§ 38500–38506 for rules governing all-terrain vehicle.

Veh. Code, § 38601 (New): *Helmet Requirement:*

A person shall not operate, or allow a passenger in, a recreational off-highway vehicle unless the person and the passenger are wearing safety helmets meeting the requirements established for motorcycles and motorized bicycles pursuant to V.C. § 27802.

Punishment: Infraction; V.C. §§ 40000.1, 42001:

First Offense: \$100

Second Offense within one year: \$200.

Third and Subsequent Offense within one year: \$250.

See V.C. § 500 (New), above, for definition of A “*Recreational off-highway vehicle.*”

Veh. Code § 38602 (New): *Seatbelt Requirement:*

A person operating, and any passenger in, a recreational off-highway vehicle shall wear a seatbelt and shoulder belt or safety harness that is properly fastened when the vehicle is in motion.

Punishment: Infraction; V.C. §§ 40000.1, 42001:

First Offense: \$100

Second Offense within one year: \$200.

Third and Subsequent Offense within one year: \$250.

See V.C. § 500 (New), above, for definition of A “*Recreational off-highway vehicle.*”

Veh. Code § 38603 (New; Effective 9/25/12; Operative 7/1/13): Seat Requirement:

Subd. (a): A person operating a recreational off-highway vehicle shall not allow a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger.

Subd. (b): This section shall become operative on July 1, 2013.

Punishment: Infraction; V.C. §§ 40000.1, 42001:

First Offense: \$100

Second Offense within one year: \$200.

Third and Subsequent Offense within one year: \$250.

See V.C. § 500 (New), above, for definition of A “*Recreational off-highway vehicle.*”

Veh. Code § 38604 (New; Effective 9/25/12; Operative 7/1/13): Passenger Seating Requirement:

A person operating a recreational off-highway vehicle shall not ride with a passenger, unless the passenger, while seated upright with his or her back against the seatback, can grasp the occupant handhold with the seatbelt and shoulder belt or safety harness properly fastened.

Punishment: Infraction; V.C. §§ 40000.1, 42001:

First Offense: \$100

Second Offense within one year: \$200.

Third and Subsequent Offense within one year: \$250.

See V.C. § 500 (New), above, for definition of A “*Recreational off-highway vehicle.*”

Victims:

Pen. Code § 868.5 (Amended): *Support People for Prosecution Witnesses:*

The list of offenses for which a prosecuting witness is entitled to have up to two support people present during his or her testimony at a preliminary hearing, trial, or juvenile court proceeding has been expanded to include:

P.C. § 236.1: Human trafficking

P.C. § 266: Procuring a person for the purpose of prostitution.

P.C. § 266a: Taking a person against his or her will or fraudulently inducing consent, for the purpose of prostitution.

P.C. § 266b: Compelling illicit relation by menace.

P.C. § 266c: Inducing commission of sex act through false representation creating fear.

P.C. § 266d: Procuring a person to cohabit with another.

P.C. § 266e: Hiring/a panderer.

P.C. § 266f: Selling a person for immoral purposes.

P.C. § 266g: Prostituting one’s wife.

P.C. § 266h: Pimping.

P.C. § 266i: Pandering.

P.C. § 266j: Providing a child under age 16 for a lewd act.

P.C. § 266k (sic; not a crime).

Evid. Code § 1161 (New): *Human Trafficking Victims:*

Evidence that a victim of human trafficking has engaged in any commercial sex act as a result of being a victim of human trafficking is *inadmissible* to prove the victim's criminal liability for any conduct related to that activity.

Evidence of the sexual history or history of any commercial sex act of a victim of human trafficking, offered for the purpose of attacking the credibility or impeaching the character of the victim, is *inadmissible* in any civil or criminal proceeding.

Violent Crimes:

Pen. Code § 243.85 (New): *Reporting Violence at Sports Facilities:*

The owner of any professional sports facility is required to post written notices displaying the text message number and telephone number for security in order to report violence. The written notices shall be visible from a majority of the seating, at entrances, and at parking facilities.