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SECURING FIREARMS IN VEHICLES

BY: RICHARD PINCKARD

It is common for the law enforcement community to band together in support of new laws which get tough on criminals. Far less frequent, however, are new criminal laws which specifically target members of the law enforcement community. Such is the case with the recent addition of Sections 25140, 25452 and 25612 to the California Penal Code on January 1, 2017.

Penal Code §25140 states:

- (a) *A person shall, when leaving a handgun in an unattended vehicle, lock the handgun in the vehicle's trunk, lock the handgun in a locked container and place the container out of plain view, or lock the handgun in a locked container that is permanently affixed to the vehicle's interior and not in plain view.*
- (b) *A violation of subdivision (a) is an infraction punishable by a fine not exceeding one thousand dollars (\$1,000).*
- (c)(1) *As used in this section, "vehicle" has the same meaning as specified in Section 670 of the Vehicle Code.*
- (c)(2) *As used in this section, "locked container" has the same meaning as specified in Section 16850.*
- (c)(3) *For purposes of this section, a vehicle is unattended when a person who is lawfully carrying or transporting a handgun in a vehicle is not within close enough proximity to the vehicle to reasonably prevent unauthorized access to the vehicle or its contents.*
- (d) *This section does not apply to a peace officer during circumstances requiring immediate aid or action that are within the course of his or her official duties.*

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

As used in Penal Code §25140, “handgun” means any pistol, revolver or firearm capable of being concealed upon the person; and “locked container” means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock or similar locking device.

Penal Code §25452 states:

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

Penal Code §25612 states:

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

As a result of these new laws, any peace officers (on or off duty) and any retired officers who may ever have a reason to leave a handgun in their unattended vehicle should obtain a locking storage container which can be attached or secured to part of the vehicle. The only exception for on-duty law enforcement officers would be circumstances requiring immediate aid or action within the course of their duties. Placing a handgun in the back of a duty SUV without first placing the gun in a locked container would violate these new laws — even for an on-duty officer. However, locking a duty handgun in the trunk would constitute compliance with the new laws for on-duty officers who drive sedans, as well as off-duty and retired officers.

Prior to the passage of the new laws, a flurry of public record requests were sent to law enforcement agencies throughout the state, seeking information regarding the theft of firearms from on-duty and off-duty law enforcement officers. The result of the data collected through these requests revealed hundreds of firearms had been reported stolen from officers’ personal vehicles. These laws were drafted in direct response to that data. As a result, no law enforcement officers can reasonably expect to “dodge a bullet” if they violate the provisions of Penal Code §25140.

At the present time, violation of the new laws is considered an infraction, punishable with a fine of up to \$1,000. In addition to this statutory fine, however, violating officers can also anticipate administrative discipline for “conformance to laws” violations. In the worst-case scenario, an officer could learn that his/her stolen firearm had been used to take an innocent victim’s life — a tragic loss which could easily have been prevented.

If the new measures are not sufficiently effective, the California Legislature always has the option of amending them to make multiple violations increasingly punishable with each additional offense. Therefore, spending twenty dollars for a lockbox and cable may be a very wise investment and a small price to pay to potentially save someone's life.



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