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**Re: The Information on the Attorney General's Website, to Which California Law
Requires Firearm Manufacturers and Dealers to Refer Californians, Is Woefully
Out of Date**

Dear Attorney General Xavier Becerra, Assembly Member Catharine Baker, Department of Justice
Bureau of Firearms Chief Stephen Lindley, and Chief Deputy Attorney General Sean McCluskie:

We write on behalf of our clients, the National Rifle Association of America ("NRA") and the California Rifle & Pistol Association, Incorporated ("CRPA"), as well as the hundreds of thousands of California firearm dealers, instructors, and owners who are their members. Our clients are deeply concerned by the material lack of updates to the firearms information on the Attorney General's website referenced by Assembly Bill ("AB") 1525. AB 1525 passed with wide margins, was signed by Governor Brown, and contained certain provisions that took effect on January 1, 2018. One of the provisions that took effect on January 1, an amendment to Penal Code section 23640, changed the warning language required to be included in the packaging of firearms so that it, among other things, directs purchasers to visit the Attorney General's website to learn how to comply with California's numerous firearms laws.

There are serious concerns that the purchasers are bound to rely on outdated information provided by the California Department of Justice ("DOJ") on the Attorney General's website¹. As such, we write to urge DOJ to promptly update the information on the Attorney General's website. Correspondingly, we write to respectfully remind the recipients of this letter about the urgency of this matter and the possible consequences of any further delay. Failure to act timely in the matter can result in the arrest and prosecutions of Californians who rely upon the outdated, incorrect language located on the Attorney General's website.

¹ Bureau of Firearms, CAL. DEPT. OF JUSTICE, BUREAU OF FIREARMS, <https://oag.ca.gov/firearms> (last visited Dec. 28, 2017).

I. LEGAL BACKGROUND

California law requires that when a firearm is transferred or delivered for sale in this state by a licensed manufacturer, or licensed dealer, the packaging and any descriptive materials must possess warning language in both English and Spanish in conspicuous and legible type.² And when a firearm is transferred without the accompanying packaging, a warning label with the same required language must be attached to the firearm according to DOJ regulations.³

As a result of AB 1525 and as of January 1, 2018, the aforesaid warning language changed to:

Firearms must be handled responsibly and securely stored to prevent access by children and other unauthorized users. California has strict laws pertaining to firearms, and you may be fined or imprisoned if you fail to comply with them. *Visit the Web site of the California Attorney General at <https://oag.ca.gov/firearms> for information on firearm laws applicable to you and how you can comply.* Prevent child access by always keeping guns locked away and unloaded when not in use. If you keep a loaded firearm where a child obtains and improperly uses it, you may be fined or sent to prison.⁴

The information located at the California Attorney General's website at <https://oag.ca.gov/firearms> (the "Website") is woefully out of date. For example, DOJ has not issued reports on new firearms legislation, nor has it updated the "California Firearms Laws Summary" since 2016.⁵ Necessarily, this information must be updated to allow firearm manufacturers, dealers, and owners to refer to information that is current and reliable.

It is crucial that DOJ promptly update this information. The "background" section of the Senate Floor Analysis for AB 1525 has the following language:

Given the number of new laws firearm owners are expected to follow, it is important not only to update these postings to better reflect existing law, but also to provide the purchaser with information as to where they can learn more detailed information about new laws and how to comply.⁶

² Pen. Code, § 23640. Of note, California has required warnings on firearm certificates and instructional pamphlets since 1993. BILL ANALYSIS: HEARING ON AB 1525 BEFORE THE SENATE COMM. ON PUBLIC SAFETY (Jun. 20, 2017). In 2001, Senate Bill 52 repealed portions of the original requirement, and the language has been standard since then. *Id.*

³ Pen. Code, § 23640(b).

⁴ Pen. Code, § 23640(a) (emphasis added); *see* AB 1525, 2016-2017 Leg., Reg. Sess. (Cal. 20167), *available at* https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1525 (last visited Dec. 28, 2017).

⁵ *See* CAL. DEPT. OF JUSTICE, *California Firearms Laws Summary* (revised 2016), *available at* <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/pdf/cfl2016.pdf> (last visited Dec. 28, 2017).

⁶ BILL ANALYSIS: HEARING ON AB 1525 BEFORE THE SENATE COMM. ON PUBLIC SAFETY at 3 (Jun. 20, 2017).

By passing AB 1525 and amending Penal Code section 23640, the legislature intended for DOJ to update the Website with relevant information regularly.

II. PRESSING NEED FOR DOJ AND THE ATTORNEY GENERAL TO UPDATE THE WEBSITE

Given that one of the stated purposes behind the amendment of section 23640 is to provide purchasers with information about new firearms laws, it is unsettling that the source of information provided by section 23640 for new firearms law is currently old and unreliable. DOJ's failure to update the Website not only misinforms sellers and consumers reading Penal Code section 23640's warning language about firearm laws, but it also subverts California law.

Notably, there has been a slew of new firearms laws passed since 2016, but none of them are included within the Website's "California Firearms Laws Summary," which is a relatively short, 16-page pamphlet. It is not unreasonable to request that this pamphlet be updated immediately, although we know how difficult staying on top of the changes to California's firearms can be. Every year, we update our book, *California Gun Laws*. Our book exceeds 400 pages and takes over 100 hours a year to update, but we still put in the effort to educate our readers. Regardless of how labor-intensive it is to explain the many changes in law each year, we do not shirk our duty to put forth the explanations. Therefore, although we understand the hardships in providing updates, we cannot condone DOJ's failure to do so, especially because it is contrary to legislative intent. And, unfortunately, the problem with updating the Website is not just with the "California Firearms Laws Summary" pamphlet.

Upon reviewing the Website, we discovered errors throughout the Website referencing laws that were out of date as of four or more years ago. Simply put, many Californians following the advice on the Website will find themselves unwittingly arrested for a violation of California law. Contrary to what is stated in the warning language required by Penal Code section 23640, Californians *cannot* accurately learn about the "information on firearm laws applicable to you and how you can comply" by visiting the Website.⁷ Rather, Californians would be misled, prejudiced, and potentially arrested for relying on the Website's information.

Additionally, we are also requesting that DOJ revise its *Assault Weapon Identification Guide*, as it was last updated in 2001 and does not contain the most up to date "assault weapon" identification information.⁸ It is imperative that DOJ advise Californians of what firearms meet the definition of an "assault weapon." These laws are often confusing, exacerbated by the fact that they have been recently changed, and failure to comply with them can result in felony criminal prosecution. And this is a big problem. Our experience in this field causes us to believe that hundreds to thousands of Californians have been prosecuted for possessing firearms they did not know were "assault weapons" or for mistakenly believing that their continued possession of these firearms were lawful.

⁷ See Pen. Code, § 23640(a).

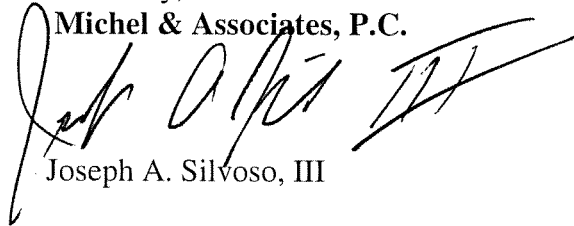
⁸ See CAL. ATTORNEY GENERAL, *Assault Weapons Identification Guide* (revised 2001), available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/awguide.pdf> (last visited Dec. 28, 2017).

DOJ's website states that the *Assault Weapon Identification Guide* is "currently under revision," but that statement has been posted for at least six months and still no changes have been made.

We look forward to DOJ's prompt action in this matter. We have faith that this matter will be resolved efficiently to make any court action unnecessary. Thank you for your time and consideration, and please do not hesitate to contact me directly if you have any questions.

Sincerely,

Michel & Associates, P.C.

A handwritten signature in black ink, appearing to read "Joe Silvoso III", written over the printed name.

Joseph A. Silvoso, III