

1 George M. Lee (SBN 172982)
gml@seilerepstein.com
2 **SEILER EPSTEIN LLP**
3 4 Embarcadero Center, 14th Floor
San Francisco, CA 94111
4 Phone: (415) 979-0500
Fax: (415) 979-0511
5

6 Raymond M. DiGuiseppe (SBN 228457)
law.rmd@gmail.com
7 **THE DIGUISEPPE LAW FIRM, P.C.**
8 4320 Southport-Supply Road, Suite 300
Southport, North Carolina 28461
9 Phone: (910) 713-8804
Fax: (910) 672-7705

10 Attorneys for Plaintiffs

11 UNITED STATES DISTRICT COURT

12 FOR THE EASTERN DISTRICT OF CALIFORNIA

13 WILLIAM WIESE, et al.,
14
15 Plaintiffs,
16
17 vs.

Case No. 2:17-cv-00903-WBS-KJN

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF PLAINTIFFS' MOTION AND
MOTION FOR SUMMARY JUDGMENT**

[FRCP 56]

18 ROB BONTA, in his official capacity as
19 Attorney General of California, et al.,
20
21 Defendants.

Date: July 10, 2023
Time: 1:30 p.m.

22 REQUEST FOR JUDICIAL NOTICE

23 Pursuant to Fed. Rule of Evidence 201, Plaintiffs respectfully request the Court to take
24 judicial notice of the following matters, in support of their Motion for Summary Judgment:
25

26 //
27 //
28 //

SEILER EPSTEIN LLP
Attorneys at Law

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ITEM	DESCRIPTION
Exhibit A:	California Department of Justice Department’s “Finding of Emergency” promulgated on or about December 16, 2016 (less exhibits thereto)
Exhibit B:	California Senate Rules Committee, Office of Senate Floor Analyses - Analysis published 5/19/16 re SB 1446
Exhibit C:	Certified Copy of California Penal Code § 32406, chaptered pursuant to SB 1446
Exhibit D:	Certified Copy of California Penal Code § 32406, chaptered pursuant to Prop. 63
Exhibit E:	SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop 63 (Proposition 63)

Dated: March 7, 2023

SEILER EPSTEIN LLP

/s/ George M. Lee
George M. Lee

THE DIGUISEPPE LAW FIRM, P.C.

/s/ Raymond M. DiGuiseppe
Raymond M. DiGuiseppe

Attorneys for Plaintiffs

SEILER EPSTEIN LLP
Attorneys at Law

EXHIBIT A

Finding of Emergency

The Department of Justice (Department or DOJ) finds that an emergency exists, and that the immediate adoption of sections within Chapter 39, of Division 5, of Title 11 is necessary to avoid serious harm to the public peace, health, safety, or general welfare.

Specific Facts Demonstrating the Need for Immediate Action

Proposition 63, a measure banning the possession of large-capacity magazines, was approved by the voters on November 8, 2016 and took effect November 9, 2016. In anticipation of its passages, the Legislature pre-amended Proposition 63 with the passage of Senate Bill 1446 (Chapter 48, Statutes of 2016). The clarifying amendments take effect on January 1, 2017.

Pursuant to Proposition 63, as amended, beginning July 1, 2017, it will be an infraction punishable by a fine for a person to possess any large-capacity magazine, regardless of the date the magazine was acquired. (Penal Code, § 32310, subdivision (b).) The new law requires a person in lawful possession of a large-capacity magazine prior to July 1, 2017 to dispose of the magazine. Some persons are exempt from the ban, including active and retired law enforcement, armored car entities, and licensed gun dealers. (Penal Code, §§ 32400, 32405, 32406, 32410, 32430, 32435, 32450.) Starting July 1, 2017, anyone who violates the ban is subject to a year in jail, and a \$100 fine for a first offence, \$250 fine for a second offense, and a \$500 fine for a third offense. (Penal Code § 32310, subdivision (b).)

These emergency regulations are necessary for the implementation and on-going enforcement of the ban on large-capacity magazines. The proposed regulations provide guidance to California residents on how to comply with the ban. These regulations need to be established as soon as possible so the Department has time to notify gun owners and gun owners have time to make the necessary changes to comply with the ban.

There are likely hundreds of thousands of large-capacity magazines in California at this time. In recent years, there has been an increase in these types of firearms on the market. The Department therefore expects many gun owners to be affected by the new ban. Under the new law, gun owners have six months to dispose of or permanently alter their large-capacity magazines. Pursuant to Penal Code section 32310, subdivision (c), a person who legally possesses a large-capacity magazine shall dispose of that magazine by any of the following means prior to July 1, 2017: (1) remove the large-capacity magazine from the state; (2) sell the large-capacity magazine to a licensed firearms dealer; (3) destroy the large-capacity magazine; or (4) surrender the large-capacity magazine to a law enforcement agency for destruction.

Alternatively, gun owners may permanently alter large-capacity magazines by reducing their ammunition capacity so that it no longer meets the definition of a “large-capacity magazine.” Penal Code section 16740 defines “large-capacity magazine” to mean any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds. If a gun owner chooses to permanently reduce the capacity of their large-capacity

magazines, these emergency regulations provide guidance for doing so with what the Department has determined to be the acceptable minimum level of permanence.

By providing this information to the public in a timely manner, through the emergency process, the Department will avert serious harm to public peace, health, safety, or general welfare.

Technical, Theoretical, and Empirical Study, Report, or Similar Document, if any, Upon Which the Department Relied

In addition to existing regulations forming the basis of these proposed regulations, the following documents were used:

UTAS MAKINE LTD., UTS-15 owners manual, attached for reference
KEL TEC, KSG owners manual, Rev 042814, attached for reference
Standard MFG. DP-12 shotgun owners manual, attached for reference

Authority and Reference Citations

Authority: Penal Code sections 26905, 26910, 32310, 32311, 32315.

Reference: Penal Code sections 16740, 32310, 32311, 32315, 32400, 32405, 32406, 32410, 32415, 32425, 32430, 32435, 32440, 32445, 32450.

Repealed: Penal Code section 32420 was removed from the authority of section 5480 because SB 1446 repealed that section.

Informative Digest/Policy Statement Overview

Existing law prohibits the sale, gift, and loan of a large-capacity magazine. A violation of this prohibition is punishable as a misdemeanor with specified penalties, or as a felony. The new law goes further and provides that possession of large-capacity magazines by a non exempt person is an infraction punishable by a fine not to exceed \$100 for the first offense, by a fine not to exceed \$250 for the second offense, and by a fine not to exceed \$500 for the third or subsequent offense, regardless of the date the magazine was acquired. The law requires a person in lawful possession of a large-capacity magazine prior to July 1, 2017, to dispose of the magazine as provided. By creating a new crime, this law imposes a state-mandated local program.

Existing law creates various exceptions to the prohibition on the sale, gift or loan of a large-capacity magazine including, but not limited to, the sale of, giving of, lending of, importation into this state, or purchase of, any large-capacity magazine to, or by the holder, of a special weapons permit for use as a prop for a motion picture or any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties, whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties. The new law makes conforming changes to those exceptions by including possession of a large-capacity magazine in those provisions and would establish additional exceptions, including exceptions to allow

licensed gunsmiths and honorably retired sworn peace officers to possess large-capacity magazines.

The objective of the proposed regulations is to inform California gun owners of their options for complying with new California laws while maintaining public safety.

Article 4. Large-Capacity Magazine Permits

§ 5480. Requirements for Large-Capacity Magazine Permits Pursuant to Penal Code Section 32315.

This section is amended to state that a separate Large-Capacity Magazine Permit is needed for each licensed location. The permit will automatically transfer with an existing California Firearms Dealer if their physical store moves and they notify the Department prior to moving. Large-Capacity Magazine Permit applications can only be submitted online.

§ 5483. Large-Capacity Magazine Permit Record Keeping.

This section is amended to include instructions on how permittees shall document the Large-Capacity Magazine Permit records, which form to use, any additional documentation to be kept with the form, and timeframe for completing the documentation.

§ 5484. Large-Capacity Magazine Permit Revocations.

This section is amended to include the grounds for revocation of a Large-Capacity Magazine Permit, and the factors surrounding the revocation.

Article 5. Large-Capacity Magazines and Large-Capacity Magazine Conversion Kits

§ 5490. Large-Capacity Magazine; manufacturing

This section has been added to inform gun owners who legally possess a large-capacity magazine that they may disassemble and clean the magazine without triggering the ban.

§ 5491. Large-Capacity Magazine; capacity

This section has been added to inform gun owners of the legal definition of a large-capacity magazine and provide guidance on reducing the capacity on their large-capacity magazines.

§ 5492. Large-Capacity Magazine Conversion Kits.

This section has been added to clarify the definition of large-capacity magazine conversion kits.

Government Code Section 11346.5(a)(3)(D) Evaluation

The proposed regulations are not inconsistent or incompatible with existing state regulations.

Mandate on Local Agencies or School Districts

The Department has determined the proposed emergency regulations do impose a state-mandated local program or a mandate requiring reimbursement by the State pursuant to Chapter 58, Statutes of 2016, because it creates a new crime. However, SB 1446 states that no reimbursement

is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction.

Other Matters Prescribed by Statute Applicable to the Agency or to Any Specific Regulation or Class of Regulations

None.

Nonduplication of State Statutes as Necessary To Satisfy Government Code Section 11349.1(a)(6)

To satisfy the requirements of Government Code section 11349.1(a)(6), the text of the proposed regulations are nonduplicative.

Forms Incorporated by Reference

Large-Capacity Magazine Permit Application, BOF 050 (Rev. 12/2016)
Large Capacity Magazine Report, BOF 1002 (Rev. 12/2016)

Cost Estimates

The Department has assessed the potential for significant adverse impact that might result from the proposed emergency action and has determined:

- There will be no non-discretionary costs or savings to local agencies
- There will be no costs to school districts
- There will be no costs or savings in federal funding to the State

As detailed on the attachment to the Economic and Fiscal Impact Statement (STD. 399), the Department estimates its costs (state agency) directly related to the large-capacity magazine permit and enforcement of the large-capacity magazine laws and regulations will be insignificant.

Finding of Emergency

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

Explanation of Failure to Adopt Nonemergency Regulations

The Department is unable to develop regulations in the standard manner because of the short timeframes provided in the legislation. The legislation was signed into law on July 1, 2016, and the ban commences on July 1, 2017. It is the Department's intention to provide guidance to California's gun owners so that by July 1, 2017, they will be in compliance with the law. The proposed regulations provide options for disposal of large-capacity magazines, as well as instructions for reducing the capacity of a large-capacity magazine, and need to be formalized and provided to California residents as soon as possible.

EXHIBIT B

Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: SB 1446
Author: Hancock (D), et al.
Amended: 3/28/16
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-3, 4/19/16
AYES: Hancock, Leno, Liu, Monning
NOES: Anderson, Glazer, Stone

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Firearms: magazine capacity

SOURCE: Author

DIGEST: This bill, commencing July 1, 2017, prohibits the possession of large-capacity magazines, as specified.

ANALYSIS:

Existing law:

- 1) Banned the possession of “assault weapons” and “large capacity ammunition feeding devices,” defined as a magazine capable of holding more than 10 rounds of ammunition, manufactured after that date. That law, the federal assault weapons law (the Violent Crime Control and Law Enforcement Act, H.R. 3355, Pub.L. 103-322,) became effective on September 13, 1994, expired in 2004 and has not been reenacted.
- 2) Defines a “large-capacity magazine” as any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include any of the following:
 - a) A feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.

- b) A .22 caliber tube ammunition feeding device.
 - c) A tubular magazine that is contained in a lever-action firearm. (Penal Code § 16740.)
- 3) Provides that, except as specified, commencing January 1, 2000, any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine is punishable by imprisonment in a county jail not exceeding one year or imprisonment for 16 months, two or three years pursuant to Penal Code Section 1170(h). “Manufacturing” includes both fabricating a magazine and assembling a magazine from a combination of parts, including, but not limited to, the body, spring, follower, and floor plate or end plate, to be a fully functioning large-capacity magazine. (Penal Code § 32310.)
 - 4) Provides that, commencing January 1, 2014, any person in this state who knowingly manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, buys, or receives any large capacity magazine conversion kit is punishable by a fine of not more than \$1,000 or imprisonment in a county jail not to exceed six months, or by both that fine and imprisonment. This section does not apply to a fully assembled large-capacity magazine. A “large capacity magazine conversion kit” is a device or combination of parts of a fully functioning large-capacity magazine, including, but not limited to, the body, spring, follower, and floor plate or end plate, capable of converting an ammunition feeding device into a large-capacity magazine. (Penal Code § 32311.)
 - 5) Provides that, upon a showing that good cause exists, the Department of Justice may issue permits for the possession, transportation, or sale between a licensed firearms dealer and an out-of-state client, of large-capacity magazines. (Penal Code § 32315.)
 - 6) Provides that, except as specified, any large-capacity magazine is a nuisance and is subject to an injunction against its possession, manufacture or sale, and is subject to confiscation and summary destruction. (Penal Code § 32390.)

This bill:

- 1) Provides that, except as specified, commencing July 1, 2017, any person in this state who possesses any large-capacity magazine, regardless of the date the magazine was acquired, is guilty of an infraction punishable by a fine not to

exceed \$100 upon the first offense, by a fine not to exceed \$500 upon the third or subsequent offense.

- 2) Requires that a person who, prior to July 1, 2017, legally possesses a large-capacity magazine dispose of that magazine by any of the following means:
 - a) Remove the large-capacity magazine from the state.
 - b) Prior to July 1, 2017, sell the large-capacity magazine to a licensed firearms dealer.
 - c) Destroy the large-capacity magazine.
 - d) Surrender the large-capacity magazine to a law enforcement agency for destruction.
- 3) Exempts the following:
 - a) An individual who honorably retired from being a sworn peace officer, as specified or an individual who honorably retired from being a sworn federal law enforcement officer, who was authorized to carry a firearm in the course of scope of that officer's duties, as specified.
 - b) A licensed gunsmith for the purpose of maintenance, repair or modification of the large-capacity magazine, as specified.
 - c) Any federal, state or local historical society, museum or institutional society, museum or institutional collection which is open to the public, provided that the large-capacity magazine is property housed, secured from unauthorized handling and unloaded.
 - d) Any person who finds the large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition pursuant to federal or state law, and the person possessed the large-capacity magazine no longer than necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to the law.
 - e) A forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.
 - f) The receipt or disposition of a large-capacity magazine by a trustee of a trust, or an executor or administrator of an estate, including an estate that is subject to probate, that includes a large-capacity magazine.
 - g) Any person lawfully in possession of a firearm that the person obtained prior to January 1, 2000 if no magazine that holds 10 or less rounds of

ammunition is compatible with that firearm and that person possesses the large-capacity magazine solely for use with that firearm.

4) Makes a number of conforming changes to the Penal Code.

Background

Since January 1, 2000, California has banned the importation, manufacture or sale of high capacity magazines. (Penal Code §§ 32310, 32390.) These magazines have also been deemed a public nuisance and are, therefore, subject to confiscation and destruction, although this requires a prosecutor to obtain a civil injunction, which is costly and time-consuming. (Penal Code § 18010.) This bill imposes criminal penalties for possession of high capacity magazines in California.

According to a report released by the Violence Policy Center in December of 2015:

Since 1980, there have been at least 50 mass shootings (3 or more fatalities) where the shooter used high-capacity ammunition magazines. A total of 436 people were killed in these shootings and 425 were wounded. This number is likely a significant undercount of actual incidents since there is no consistent collection or reporting of this data. Even in many high-profile shootings information on magazine capacity is not released or reported.

(http://www.vpc.org/fact_sht/VPCshootinglist.pdf.)

There were at least three mass shootings involving large-capacity magazines in 2015. On December 2, 2015, 14 people were killed and 21 were seriously injured in a mass shooting at the Inland Regional Center in San Bernardino, California. The perpetrators of this mass shooting used four high capacity magazines. In July of 2015, six people were killed (including the shooter) and two were wounded in a shooting at the Navy Operational Support Center and Marine Corps Reserve Center, in Chattanooga, Tennessee. The perpetrator used multiple 30-round magazines. On June 17, 2015, a shooting at the Emanuel African Methodist Episcopal Church, in Charleston, South Carolina, left nine people dead. The perpetrator used 13-round magazines. (*Id.*)

Comments

The Fifth Amendment “Takings” Clause

The “takings clause” of the Fifth Amendment to the United States Constitution states: “nor shall private property be taken for public use without just compensation.” California law already bans the import, manufacture and sale of

high capacity ammunition magazines, and has declared them a nuisance and subject to confiscation and destruction. (Penal Code §§ 32310, 32390, 18010.) Nonetheless, the question has been raised whether adding criminal penalties for possession of these ammunition magazines would constitute a “taking of private property for public use without just compensation,” in violation of the Fifth Amendment.

The U.S. Supreme Court has recognized for well over a century a difference between legislative action that results in a taking of private property for public use through a process of eminent domain and a legitimate use of the police power of the state to protect the public health and welfare. In upholding a statute prohibiting the sale of alcohol, the Court stated:

The exercise of the police power by the destruction of property which is itself a public nuisance, or the prohibition of its use in a particular way, whereby its value becomes depreciated, is very different from taking property for public use, or from depriving a person of his property without due process of law. In the one case, a nuisance only is abated; in the other, unoffending property is taken away from an innocent owner.

(*Mugler v. Kansas*, 123 U.S. 623, 668-669 (1887).)

Specifically in the context of the regulation of firearms, courts have held that prohibiting possession of dangerous weapons is a valid exercise of the government’s police power not to be confused with the power of eminent domain. In 1978, Washington, D.C. passed a law prohibiting the ownership of certain types of weapons, including those that could fire more than 13 rounds without reloading. The law was quickly challenged by a several gun owners who had legally purchased such weapons before the law went into effect and were thus required to dispose of them or be in violation of the law. They claimed this amounted to a taking by the government, without just compensation, in violation of the Fifth Amendment. The Court of Appeals for the District of Columbia held:

Petitioners’ third constitutional challenge alleges that D.C. Code 1978 Supp., § 6-1820(c) provides for a taking of their property without just compensation in violation of the Fifth Amendment. That section of the Code provides three alternatives for disposition within seven days of a firearm denied registration. The unsuccessful applicant may (1) “peaceably surrender” the firearm to the chief of police, (2) “lawfully remove” the firearm from the District for as long as he retains an interest in the firearm, or (3) “lawfully dispose” of his interest in the firearm. Petitioners’ argument is that the second and third alternatives require, under the terms imposed by the Federal Gun Control Act of 1968, 18

U.S.C. § 922 (1970), a quick “forced sale” of the firearms at less than fair market value to a dealer in firearms, while the first alternative would provide not even a salvage value return.

Assuming, arguendo, that the statute authorized a “taking,” we note that the Fifth Amendment prohibits taking of “private property . . . for public use, without just compensation.” Such a taking for the public benefit under a power of eminent domain is, however, to be distinguished from a proper exercise of police power to prevent a perceived public harm, which does not require compensation. *Lamm v. Volpe*, 449 F.2d 1202, 1203 (10th Cir. 1971). That the statute in question is an exercise of legislative police power and not of eminent domain is beyond dispute. The argument of petitioner, therefore, lacks merit.

(*Fesjian v. Jefferson*, 399 A.2d 861, 865-866 (1979).)

Exception for Retired Peace Officers

The assault weapons ban in California (AWCA) allowed law enforcement agencies to sell or transfer assault weapons to a sworn peace officer upon that officer’s retirement. This provision was challenged in *Silveira v. Lockyer*, 312 F.3d 1052 (9th Cir. 2002). The Ninth Circuit held:

We thus can discern no legitimate state interest in permitting retired peace officers to possess and use for their personal pleasure military-style weapons. Rather, the retired officers exception arbitrarily and unreasonably affords a privilege to one group of individuals that is denied to others, including plaintiffs.

In sum, not only is the retired officers’ exception contrary to the legislative goals of the AWCA, it is wholly unconnected to any legitimate state interest. A statutory exemption that bears no logical relationship to a valid state interest fails constitutional scrutiny. The 1999 AWCA amendments include, however, a severability provision providing that should any portion of the statute be found invalid, the balance of the provisions shall remain in force. Accordingly, because the retired officers’ exception is an arbitrary classification in violation of the Fourteenth Amendment, we sever that provision, § 12280(h)-(i), from the AWCA.

(*Id.* at 1091-92.)

Like the AWCA, this bill exempts retired sworn peace officers from the ban on the possession of large-capacity magazines.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 5/17/16)

American Academy of Pediatrics, California
California Academy of Family Physicians
California Chapter of the American College of Emergency Physicians
California Chapters of the Brady Campaign to Prevent Gun Violence
California Church IMPACT
City of Long Beach
City of Oakland
City of Santa Monica
Cleveland School Remembers
Coalition Against Gun Violence
Courage Campaign
David Alvarez, Councilmember, City of San Diego
Eric Garcetti, Mayor of the City of Los Angeles
Law Center to Prevent Gun Violence
Physicians for Social Responsibility
Rabbis Against Gun Violence
Violence Prevention Coalition of Greater Los Angeles
Youth ALIVE!

OPPOSITION: (Verified 5/17/16)

California State Sheriffs' Association
Firearms Policy Coalition
Gun Owners of California
National Rifle Association
Outdoor Sportsman's Coalition of California
Safari Club International Foundation
The California Sportsman's Lobby

ARGUMENTS IN SUPPORT: According to the California Chapters of the Brady Campaign to Prevent Gun Violence:

Since January 2000, California law has prohibited the manufacture, importation, sale, gift, or loan of any large capacity ammunition magazine capable of holding more than ten rounds. SB 1446 is a narrow

bill that would add a prohibition on *possessing* large capacity magazines, as defined in the bill, regardless of the date the magazine was acquired. Current and retired police officers would be exempt from the prohibition.

Mass shootings involving large capacity magazines have demonstrated the tragic carnage caused by these magazines. The shooters in the recent San Bernardino tragedy as well as the gunmen in Santa Monica (2013), Fort Hood, Tucson, Aurora, and Newtown were able to injure or kill large numbers of people very quickly because of their ability to shoot a large number of bullets in a very short period of time. Jared Loughner, who was able to rapidly fire 31 bullets in 15 seconds without reloading, killed six people and wounded thirteen others in Tucson. The shooting ended when bystanders tackled the gunman while he was reloading. Nine year old Christina-Taylor Green was shot by the thirteenth bullet – had there been a magazine limit of ten rounds, she might be alive today.

California had a number of mass shootings involving large capacity ammunition magazines before the ban on their sale and transfer in year 2000 (in San Ysidro, Stockton, San Francisco and Orange). Other rampage shootings involving large capacity magazines have happened since then - and will happen again - because of the prevalence of large capacity magazines and the difficulty of enforcing existing law. It is nearly impossible to prove when a large capacity magazine was acquired or whether the magazine was illegally purchased after the 2000 ban. Furthermore, until 2014, magazine conversion kits were being sold in California. These kits, containing parts to repair large capacity magazines, were legally purchased and later assembled into new large capacity magazines. Since the possession of large capacity magazines is permissible, this practice, which clearly evaded the intent of the law, was able to increase the proliferation of large capacity magazines in the state. SB 1446 would enable the enforcement of existing law regarding large capacity magazines.

With average use, magazines typically last about twelve years. It is now time to end the grandfathering of large capacity magazines and exploitation of the law by prohibiting their possession. Serious hunters do not use large capacity magazines. A prohibition on the sale, transfer, and *possession* of large capacity magazines clearly furthers public

safety. The California Brady Campaign Chapters appreciate your introduction of SB 1446 and are in full support.

ARGUMENTS IN OPPOSITION: The Firearms Policy Coalition states in opposition to this bill:

Most firearms sold in America today, and certainly the highest by volume sold, such as AR-15s and semi-automatic handguns, come standard from the factory with magazines that hold more than ten rounds. Law enforcement agencies and peace officers purchase those same firearms with those same magazines because they are standard kit -- and, most importantly, because no one wants to be under-armed in a self-defense situation.

Furthermore, many magazines are altered and made "California Legal" at some point of manufacture. Given this, SB 1446 would immediately make most full size handguns inoperable as it bans any magazine that has been permanently altered to only accept 10 rounds or less, creating a taking of constitutionally protected property.

Many people have purchased permanently altered magazines to be compliant with California's ever growing body of law surrounding firearms and have based their consumer choices on this being the law of the land. Now the goal posts would appear to be moving yet again.

SB 1446 is simply an unconstitutional taking of personal property and an express infringement on the fundamental civil rights of all Californians. The measure creates significant criminal liability for items currently -- and lawfully -- possessed by hundreds of thousands, if not millions, of Californians. Depriving people of Constitutionally-protected civil rights by criminalizing the possession of items commonplace to gun owners is poor policy and invites litigation.

Even more disturbing, SB 1446 invites a deepening wedge between the police and non-police as it protects "honorably retired peace officers" from the dispossession of their personal property. This wanton violation of the 14th amendment to the United States Constitution creates a caste system of civilians- those who used to be police officers and those who weren't.

According to the federal civil rights case *Silveira v. Lockyer* (9th Cir. 2002), 312 F.3d 1052, retired peace officers are not allowed to maintain

the “assault weapons” they acquired through exemptions they held as active duty peace officers. When they became non-peace officers through separation from their employer, they became civilians.

The State will need to track all of the magazines purchased by peace officers, should they become former, retired or “honorably retired” to ensure the state’s expressed interest in controlling these firearms parts is met and can confiscate magazines from peace officers who retire early, resign, are fired or are otherwise not deemed “honorably retired”.

With no appropriation for outreach in SB 1446, and the untold millions of magazines in circulation, we fear widespread, inadvertent non-compliance and a revolving door of lives upended by the deluge of criminal prosecutions in every courthouse in the state as everyday people become overnight criminals. An appropriation today may save millions of dollars later as the inventory of these parts is significant and the outreach is non-existent, creating a potential wave of prosecutions of otherwise law abiding person whose only “crime” was possession of ammunition feeding devices (including those of 10 rounds or less) that were lawfully acquired.

Without pre-emption, firearms parts owners may be subject to a withering hail of statutes and ordinances aimed at them with different penalties depending on which jurisdiction prosecutes first. Ironically, some local laws are more severe than the proposed state statute.

Prepared by: Jessica Devencenzi / PUB. S. /
5/19/16 10:37:24

**** END ****

EXHIBIT C



State of California

PENAL CODE

Section 32406

32406. Subdivisions (b) and (c) of Section 32310 do not apply to the following:

(a) An individual who honorably retired from being a sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or an individual who honorably retired from being a sworn federal law enforcement officer, who was authorized to carry a firearm in the course and scope of that officer's duties. For purposes of this section, "honorably retired" has the same meaning as provided in Section 16690.

(b) A federal, state, or local historical society, museum or institutional society, or museum or institutional collection, that is open to the public, provided that the large-capacity magazine is unloaded, properly housed within secured premises, and secured from unauthorized handling.

(c) A person who finds a large-capacity magazine, if the person is not prohibited from possessing firearms or ammunition, and possessed it no longer than necessary to deliver or transport it to the nearest law enforcement agency.

(d) A forensic laboratory, or an authorized agent or employee thereof in the course and scope of his or her authorized activities.

(e) The receipt or disposition of a large-capacity magazine by a trustee of a trust, or an executor or administrator of an estate, including an estate that is subject to probate, that includes a large-capacity magazine.

(f) A person lawfully in possession of a firearm that the person obtained prior to January 1, 2000, if no magazine that holds 10 or fewer rounds of ammunition is compatible with that firearm and the person possesses the large-capacity magazine solely for use with that firearm.

(Added by Stats. 2016, Ch. 58, Sec. 4. (SB 1446) Effective January 1, 2017. See same-numbered section added November 8, 2016, by Proposition 63.)

EXHIBIT D



State of California

PENAL CODE

Section 32406

32406. Subdivision (c) of Section 32310 does not apply to an honorably retired sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or honorably retired sworn federal law enforcement officer, who was authorized to carry a firearm in the course and scope of that officer's duties. "Honorably retired" shall have the same meaning as provided in Section 16690.

(Added November 8, 2016, by initiative Proposition 63, Sec. 6.4. See same-numbered section added by Stats. 2016, Ch. 58.)

EXHIBIT E

2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

CALIFORNIA 2016 LEGISLATIVE SERVICE

Additions are indicated by **Text**; deletions by

~~***~~.

Vetoed are indicated by ~~Text~~;
stricken material by ~~Text~~.

PROPOSITION 63
PROPOSITION 63
SAFETY FOR ALL ACT

[Approved by the Voters on Nov. 8, 2016.]

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

PROPOSED LAW

The Safety for All Act of 2016

SECTION 1. Title.

This measure shall be known and may be cited as “The Safety for All Act of 2016.”

SEC. 2. Findings and Declarations.

The people of the State of California find and declare:

1. Gun violence destroys lives, families and communities. From 2002 to 2013, California lost 38,576 individuals to gun violence. That is more than seven times the number of U.S. soldiers killed in combat during the wars in Iraq and Afghanistan combined. Over this same period, 2,258 children were killed by gunshot injuries in California. The same number of children murdered in the Sandy Hook elementary school massacre are killed by gunfire in this state every 39 days.
2. In 2013, guns were used to kill 2,900 Californians, including 251 children and teens. That year, at least 6,035 others were hospitalized or treated in emergency rooms for non-fatal gunshot wounds, including 1,275 children and teens.
3. Guns are commonly used by criminals. According to the California Department of Justice, in 2014 there were 1,169 firearm murders in California, 13,546 armed robberies involving a firearm, and 15,801 aggravated assaults involving a firearm.
4. This tragic violence imposes significant economic burdens on our society. Researchers conservatively estimate that gun violence costs the economy at least \$229 billion every year, or more than \$700 per American per year. In 2013 alone, California gun deaths and injuries imposed \$83 million in medical costs and \$4.24 billion in lost productivity.
5. California can do better. Reasonable, common-sense gun laws reduce gun deaths and injuries, keep guns away from criminals and fight illegal gun trafficking. Although California has led the nation in gun safety laws, those laws still have

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

loopholes that leave communities throughout the state vulnerable to gun violence and mass shootings. We can close these loopholes while still safeguarding the ability of law-abiding, responsible Californians to own guns for self-defense, hunting and recreation.

6. We know background checks work. Federal background checks have already prevented more than 2.4 million gun sales to convicted criminals and other illegal purchasers in America. In 2012 alone, background checks blocked 192,043 sales of firearms to illegal purchasers including 82,000 attempted purchases by felons. That means background checks stopped roughly 225 felons from buying firearms every day. Yet California law only requires background checks for people who purchase firearms, not for people who purchase ammunition. We should close that loophole.

7. Right now, any violent felon or dangerously mentally ill person can walk into a sporting goods store or gun shop in California and buy ammunition, no questions asked. That should change. We should require background checks for ammunition sales just like gun sales, and stop both from getting into the hands of dangerous individuals.

8. Under current law, stores that sell ammunition are not required to report to law enforcement when ammunition is lost or stolen. Stores should have to report lost or stolen ammunition within 48 hours of discovering that it is missing so law enforcement can work to prevent that ammunition from being illegally trafficked into the hands of dangerous individuals.

9. Californians today are not required to report lost or stolen guns to law enforcement. This makes it difficult for law enforcement to investigate crimes committed with stolen guns, break up gun trafficking rings, and return guns to their lawful owners. We should require gun owners to report their lost or stolen guns to law enforcement.

10. Under current law, people who commit felonies and other serious crimes are prohibited from possessing firearms. Yet existing law provides no clear process for those people to relinquish their guns when they become prohibited at the time of conviction. As a result, in 2014, the Department of Justice identified more than 17,000 people who possess more than 34,000 guns illegally, including more than 1,400 assault weapons. We need to close this dangerous loophole by not only requiring prohibited people to turn¹ in their guns, but also ensuring that it happens.

¹ So in enrolled Prop. 63.

11. Military-style large-capacity ammunition magazines—some capable of holding more than 100 rounds of ammunition—significantly increase a shooter's ability to kill a lot of people in a short amount of time. That is why these large capacity ammunition magazines are common in many of America's most horrific mass shootings, from the killings at 101 California Street in San Francisco in 1993 to Columbine High School in 1999 to the massacre at Sandy Hook Elementary School in Newtown, Connecticut in 2012.

12. Today, California law prohibits the manufacture, importation and sale of military-style, large capacity ammunition magazines, but does not prohibit the general public from possessing them. We should close that loophole. No one except trained law enforcement should be able to possess these dangerous ammunition magazines.

13. Although the State of California conducts background checks on gun buyers who live in California, we have to rely on other states and the FBI to conduct background checks on gun buyers who live elsewhere. We should make background checks outside of California more effective by consistently requiring the state to report who is prohibited from possessing firearms to the federal background check system.

14. The theft of a gun is a serious and potentially violent crime. We should clarify that such crimes can be charged as felonies, and prevent people who are convicted of such crimes from possessing firearms.

SEC. 3. Purpose and Intent.

The people of the State of California declare their purpose and intent in enacting "The Safety for All Act of 2016" (the "Act")

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

to be as follows:

1. To implement reasonable and common-sense reforms to make California's gun safety laws the toughest in the nation while still safeguarding the Second Amendment rights of all law-abiding, responsible Californians.
2. To keep guns and ammunition out of the hands of convicted felons, the dangerously mentally ill, and other persons who are prohibited by law from possessing firearms and ammunition.
3. To ensure that those who buy ammunition in California—just like those who buy firearms—are subject to background checks.
4. To require all stores that sell ammunition to report any lost or stolen ammunition within 48 hours of discovering that it is missing.
5. To ensure that California shares crucial information with federal law enforcement by consistently requiring the state to report individuals who are prohibited by law from possessing firearms to the federal background check system.
6. To require the reporting of lost or stolen firearms to law enforcement.
7. To better enforce the laws that require people to relinquish their firearms once they are convicted of a crime that makes them ineligible to possess firearms.
8. To make it illegal in California to possess the kinds of military-style ammunition magazines that enable mass killings like those at Sandy Hook Elementary School; a movie theater in Aurora, Colorado; Columbine High School; and an office building at 101 California Street in San Francisco, California.
9. To prevent people who are convicted of the theft of a firearm from possessing firearms, and to effectuate the intent of Proposition 47 that the theft of a firearm is felony grand theft, regardless of the value of the firearm, in alignment with Sections 25400 and 1192.7 of the Penal Code.

SEC. 4. Lost or Stolen Firearms.

SEC. 4.1. Division 4.5 (commencing with Section 25250) is added to Title 4 of Part 6 of the Penal Code, to read:

pt. 6 t. 4 d. 4.5 pr. § 25250

DIVISION 4.5. LOST OR STOLEN FIREARMS

<< CA PENAL § 25250 >>

25250. (a) Commencing July 1, 2017, every person shall report the loss or theft of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days of the time he or she knew or reasonably should have known that the firearm had been stolen or lost.

(b) Every person who has reported a firearm lost or stolen under subdivision (a) shall notify the local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days if the firearm is subsequently recovered by the person.

(c) Notwithstanding subdivision (a), a person shall not be required to report the loss or theft of a firearm that is an antique firearm within the meaning of subdivision (c) of Section 16170.

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

<< CA PENAL § 25255 >>

25255. Section 25250 shall not apply to the following:

- (a) Any law enforcement agency or peace officer acting within the course and scope of his or her employment or official duties if he or she reports the loss or theft to his or her employing agency.
- (b) Any United States marshal or member of the Armed Forces of the United States or the National Guard, while engaged in his or her official duties.
- (c) Any person who is licensed, pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and who reports the theft or loss in accordance with Section 923(g)(6) of Title 18 of the United States Code, or the successor provision thereto, and applicable regulations issued thereto.
- (d) Any person whose firearm was lost or stolen prior to July 1, 2017.

<< CA PENAL § 25260 >>

25260. Pursuant to Section 11108, every sheriff or police chief shall submit a description of each firearm that has been reported lost or stolen directly into the Department of Justice Automated Firearms System.

<< CA PENAL § 25265 >>

25265. (a) Every person who violates Section 25250 is, for a first violation, guilty of an infraction, punishable by a fine not to exceed one hundred dollars (\$100).

(b) Every person who violates Section 25250 is, for a second violation, guilty of an infraction, punishable by a fine not to exceed one thousand dollars (\$1,000).

(c) Every person who violates Section 25250 is, for a third or subsequent violation, guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

<< CA PENAL § 25270 >>

25270. Every person reporting a lost or stolen firearm pursuant to Section 25250 shall report the make, model, and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report.

<< CA PENAL § 25275 >>

25275. (a) No person shall report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false. A violation of this section is an infraction, punishable by a fine not exceeding two hundred fifty dollars (\$250) for a first offense, and by a fine not exceeding one thousand dollars (\$1,000) for a second or subsequent offense.

(b) This section shall not preclude prosecution under any other law.

SEC. 4.2. Section 26835 of the Penal Code is amended to read:

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

<< CA PENAL § 26835 >>

26835. A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(a) “IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(b) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING.”

(c) “IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE.”

(d) “IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO ONE THOUSAND DOLLARS (\$1,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE.”

(e) “DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE.”

(f) “FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM.”

(g) “NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD.”

(h) “IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN.”

SEC. 5. Strengthening the National Instant Criminal Background Check System.

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

SEC. 5.1. Section 28220 of the Penal Code is amended to read:

<< CA PENAL § 28220 >>

28220. (a) Upon submission of firearm purchaser information, the Department of Justice shall examine its records, as well as those records that it is authorized to request from the State Department of State Hospitals pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b) ~~***~~The Department of Justice shall participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and ~~***~~shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(c) If the department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or is a person described in subdivision (a) of Section 27535, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(d) If the department determines that the copies of the register submitted to it pursuant to subdivision (d) of Section 28210 contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the handgun or other firearm to be purchased, or if any fee required pursuant to Section 28225 is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to Section 28225, or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(e) If the department determines that the information transmitted to it pursuant to Section 28215 contains inaccurate or incomplete information preventing identification of the purchaser or the handgun or other firearm to be purchased, or if the fee required pursuant to Section 28225 is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to Section 28225, or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(f)(1)(A) The department shall immediately notify the dealer to delay the transfer of the firearm to the purchaser if the records of the department, or the records available to the department in the National Instant Criminal Background Check System, indicate one of the following:

(i) The purchaser has been taken into custody and placed in a facility for mental health treatment or evaluation and may be a person described in Section 8100 or 8103 of the Welfare and Institutions Code and the department is unable to ascertain whether the purchaser is a person who is prohibited from possessing, receiving, owning, or purchasing a firearm, pursuant to Section 8100 or 8103 of the Welfare and Institutions Code, prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(ii) The purchaser has been arrested for, or charged with, a crime that would make him or her, if convicted, a person who is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm, and the department is unable to ascertain whether the purchaser was convicted of that offense prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(iii) The purchaser may be a person described in subdivision (a) of Section 27535, and the department is unable to ascertain

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

whether the purchaser, in fact, is a person described in subdivision (a) of Section 27535, prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(B) The dealer shall provide the purchaser with information about the manner in which he or she may contact the department regarding the delay described in subparagraph (A).

(2) The department shall notify the purchaser by mail regarding the delay and explain the process by which the purchaser may obtain a copy of the criminal or mental health record the department has on file for the purchaser. Upon receipt of that criminal or mental health record, the purchaser shall report any inaccuracies or incompleteness to the department on an approved form.

(3) If the department ascertains the final disposition of the arrest or criminal charge, or the outcome of the mental health treatment or evaluation, or the purchaser's eligibility to purchase a firearm, as described in paragraph (1), after the waiting period described in Sections 26815 and 27540, but within 30 days of the dealer's original submission of the purchaser information to the department pursuant to this section, the department shall do the following:

(A) If the purchaser is not a person described in subdivision (a) of Section 27535, and is not prohibited by state or federal law, including, but not limited to, Section 8100 or 8103 of the Welfare and Institutions Code, from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the dealer of that fact and the dealer may then immediately transfer the firearm to the purchaser, upon the dealer's recording on the register or record of electronic transfer the date that the firearm is transferred, the dealer signing the register or record of electronic transfer indicating delivery of the firearm to that purchaser, and the purchaser signing the register or record of electronic transfer acknowledging the receipt of the firearm on the date that the firearm is delivered to him or her.

(B) If the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law, including, but not limited to, Section 8100 or 8103 of the Welfare and Institutions Code, from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the dealer and the chief of the police department in the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact in compliance with subdivision (c) of Section 28220.

(4) If the department is unable to ascertain the final disposition of the arrest or criminal charge, or the outcome of the mental health treatment or evaluation, or the purchaser's eligibility to purchase a firearm, as described in paragraph (1), within 30 days of the dealer's original submission of purchaser information to the department pursuant to this section, the department shall immediately notify the dealer and the dealer may then immediately transfer the firearm to the purchaser, upon the dealer's recording on the register or record of electronic transfer the date that the firearm is transferred, the dealer signing the register or record of electronic transfer indicating delivery of the firearm to that purchaser, and the purchaser signing the register or record of electronic transfer acknowledging the receipt of the firearm on the date that the firearm is delivered to him or her.

(g) Commencing July 1, 2017, upon receipt of information demonstrating that a person is prohibited from possessing a firearm pursuant to federal or state law, the department shall submit the name, date of birth, and physical description of the person to the National Instant Criminal Background Check System Index, Denied Persons Files. The information provided shall remain privileged and confidential, and shall not be disclosed, except for the purpose of enforcing federal or state firearms laws.

SEC. 6. Possession of Large-Capacity Magazines.

SEC. 6.1. Section 32310 of the Penal Code is amended to read:

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

<< CA PENAL § 32310 >>

32310. (a) Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, ~~***~~any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, buys, or receives any large-capacity magazine is punishable by imprisonment in a county jail not exceeding one year or imprisonment pursuant to subdivision (h) of Section 1170.

(b) For purposes of this section, “manufacturing” includes both fabricating a magazine and assembling a magazine from a combination of parts, including, but not limited to, the body, spring, follower, and floor plate or end plate, to be a fully functioning large-capacity magazine.

(c) Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, commencing July 1, 2017, any person in this state who possesses any large-capacity magazine, regardless of the date the magazine was acquired, is guilty of an infraction punishable by a fine not to exceed one hundred dollars (\$100) per large-capacity magazine, or is guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars (\$100) per large-capacity magazine, by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(d) Any person who may not lawfully possess a large-capacity magazine commencing July 1, 2017 shall, prior to July 1, 2017:

(1) Remove the large-capacity magazine from the state;

(2) Sell the large-capacity magazine to a licensed firearms dealer; or

(3) Surrender the large-capacity magazine to a law enforcement agency for destruction.

SEC. 6.2. Section 32400 of the Penal Code is amended to read:

<< CA PENAL § 32400 >>

32400. Section 32310 does not apply to the sale of, giving of, lending of, **possession of**, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties, whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

SEC. 6.3. Section 32405 of the Penal Code is amended to read:

<< CA PENAL § 32405 >>

32405. Section 32310 does not apply to the sale to, lending to, transfer to, purchase by, receipt of, **possession of**, or importation into this state of, a large-capacity magazine by a sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, **or sworn federal law enforcement officer**, who is authorized to carry a firearm in the course and scope of that officer’s duties.

SEC. 6.4. Section 32406 is added to the Penal Code, to read:

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

<< CA PENAL § 32406 >>

32406. Subdivision (c) of Section 32310 does not apply to an honorably retired sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or honorably retired sworn federal law enforcement officer, who was authorized to carry a firearm in the course and scope of that officer's duties. "Honorably retired" shall have the same meaning as provided in Section 16690.

SEC. 6.5. Section 32410 of the Penal Code is amended to read:

<< CA PENAL § 32410 >>

32410. Section 32310 does not apply to the sale~~***~~, purchase, or possession of any large-capacity magazine to or by a person licensed pursuant to Sections 26700 to 26915, inclusive.

<< Repealed: CA PENAL § 32420 >>

SEC. 6.6. Section 32420 of the Penal Code is repealed.

SEC. 6.7. Section 32425 of the Penal Code is amended to read:

<< CA PENAL § 32425 >>

32425. Section 32310 does not apply to any of the following:

(a) The lending or giving of any large-capacity magazine to a person licensed pursuant to Sections 26700 to 26915, inclusive, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(b) The possession of any large-capacity magazine by a person specified in subdivision (a) for the purposes specified in subdivision (a).

(c) The return to its owner of any large-capacity magazine by a person specified in subdivision (a).

SEC. 6.8. Section 32435 of the Penal Code is amended to read:

<< CA PENAL § 32435 >>

32435. Section 32310 does not apply to any of the following:

(a) The sale of, giving of, lending of, possession of, importation into this state of, or purchase of, any large-capacity magazine, to or by any entity that operates an armored vehicle business pursuant to the laws of this state.

(b) The lending of large-capacity magazines by an entity specified in subdivision (a) to its authorized employees, while in the course and scope of employment for purposes that pertain to the entity's armored vehicle business.

(c) The possession of any large-capacity magazines by the employees of an entity specified in subdivision (a) for

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

purposes that pertain to the entity's armored vehicle business.

(d) The return of those large-capacity magazines to the entity specified in subdivision (a) by those employees specified in subdivision (b).

SEC. 6.9. Section 32450 of the Penal Code is amended to read:

<< CA PENAL § 32450 >>

32450. Section 32310 does not apply to the purchase **or possession** of a large-capacity magazine by the holder of a special weapons permit issued pursuant to Section 31000, 32650, or 33300, or pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of this division, for any of the following purposes:

- (a) For use solely as a prop for a motion picture, television, or video production.
- (b) For export pursuant to federal regulations.
- (c) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations.

SEC. 7. Firearms Dealers.

SEC. 7.1. Section 26885 of the Penal Code is amended to read:

<< CA PENAL § 26885 >>

26885. (a) Except as provided in subdivisions (b) and (c) of Section 26805, all firearms that are in the inventory of a licensee shall be kept within the licensed location.

(b) Within 48 hours of discovery, a licensee shall report the loss or theft of any of the following items to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located:

- (1) Any firearm **or ammunition** that is merchandise of the licensee.
- (2) Any firearm **or ammunition** that the licensee takes possession of pursuant to Chapter 5 (commencing with Section 28050), **or pursuant to Section 30312.**
- (3) Any firearm **or ammunition** kept at the licensee's place of business.

SEC. 7.2. Section 26915 of the Penal Code is amended to read:

<< CA PENAL § 26915 >>

26915. (a) ~~***~~ **Commencing January 1, 2018, a** firearms dealer **shall** require any agent **or employee** who handles, sells, or delivers firearms to obtain and provide to the dealer a certificate of eligibility from the Department of Justice pursuant to Section 26710. On the application for the certificate, the agent or employee shall provide the name and California firearms

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

dealer number of the firearms dealer with whom the person is employed.

(b) The department shall notify the firearms dealer in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing firearms.

(c) If the local jurisdiction requires a background check of the agents or employees of a firearms dealer, the agent or employee shall obtain a certificate of eligibility pursuant to subdivision (a).

(d)(1) Nothing in this section shall be construed to preclude a local jurisdiction from conducting an additional background check pursuant to Section 11105. The local jurisdiction may not charge a fee for the additional criminal history check.

(2) Nothing in this section shall be construed to preclude a local jurisdiction from prohibiting employment based on criminal history that does not appear as part of obtaining a certificate of eligibility.

(e) The licensee shall prohibit any agent who the licensee knows or reasonably should know is within a class of persons prohibited from possessing firearms pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, from coming into contact with any firearm that is not secured and from accessing any key, combination, code, or other means to open any of the locking devices described in subdivision (g).

(f) Nothing in this section shall be construed as preventing a local government from enacting an ordinance imposing additional conditions on licensees with regard to agents **or employees**.

(g) For purposes of this article, “secured” means a firearm that is made inoperable in one or more of the following ways:

(1) The firearm is inoperable because it is secured by a firearm safety device listed on the department’s roster of approved firearm safety devices pursuant to subdivision (d) of Section 23655.

(2) The firearm is stored in a locked gun safe or long-gun safe that meets the standards for department-approved gun safes set forth in Section 23650.

(3) The firearm is stored in a distinct locked room or area in the building that is used to store firearms, which can only be unlocked by a key, a combination, or similar means.

(4) The firearm is secured with a hardened steel rod or cable that is at least one-eighth of an inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

SEC. 8. Sales of Ammunition.

SEC. 8.1. Section 16150 of the Penal Code is amended to read:

<< CA PENAL § 16150 >>

16150. ~~***~~(a) **As used in this part, except in subdivision (a) of Section 30305 and in Section 30306, “ammunition” means one or more loaded cartridges consisting of a primed case, propellant, and with one or more projectiles. “Ammunition” does not include blanks.**

(b) As used in subdivision (a) of Section 30305 and in Section 30306, “ammunition” includes, but is not limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

consequence. “Ammunition” does not include blanks.

SEC. 8.2. Section 16151 is added to the Penal Code, to read:

<< CA PENAL § 16151 >>

16151. (a) As used in this part, commencing January 1, 2018, “ammunition vendor” means any person, firm, corporation, or other business enterprise that holds a current ammunition vendor license issued pursuant to Section 30385.

(b) Commencing January 1, 2018, a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, shall automatically be deemed a licensed ammunition vendor, provided the dealer complies with the requirements of Articles 2 (commencing with Section 30300) and 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4.

<< Repealed: CA PENAL § 16662 >>

SEC. 8.3. Section 16662 of the Penal Code is repealed.

SEC. 8.4. Section 17315 of the Penal Code is amended to read:

<< CA PENAL § 17315 >>

17315. As used in ~~***~~Articles 2 through 5 of Chapter 1 of Division 10 of Title 4, “vendor” means ~~***~~an ammunition vendor.

SEC. 8.5. Section 30306 of the Penal Code is amended to read:

<< CA PENAL § 30306 >>

30306. (a) Any person, corporation, ~~***~~firm, or other business enterprise who supplies, delivers, sells, or gives possession or control of, any ammunition to any person who he or she knows or using reasonable care should know is prohibited from owning, possessing, or having under custody or control, any ammunition or reloaded ammunition pursuant to subdivision (a) or (b) of Section 30305, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) Any person, corporation, firm, or other business enterprise who supplies, delivers, sells, or gives possession or control of, any ammunition to any person whom the person, corporation, firm, or other business enterprise knows or has cause to believe is not the actual purchaser or transferee of the ammunition, with knowledge or cause to believe that the ammunition is to be subsequently sold or transferred to a person who is prohibited from owning, possessing, or having under custody or control any ammunition or reloaded ammunition pursuant to subdivision (a) or (b) of Section 30305, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(c) The provisions of this section are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and another provision of law shall not be punished under more than one provision.

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

SEC. 8.6. Section 30312 of the Penal Code is amended to read:

<< CA PENAL § 30312 >>

30312. ~~***~~(a)(1) Commencing January 1, 2018, the sale of ammunition by any party shall be conducted by or processed through a licensed ammunition vendor.

(2) When neither party to an ammunition sale is a licensed ammunition vendor, the seller shall deliver the ammunition to a vendor to process the transaction. The ammunition vendor shall then promptly and properly deliver the ammunition to the purchaser, if the sale is not prohibited, as if the ammunition were the vendor's own merchandise. If the ammunition vendor cannot legally deliver the ammunition to the purchaser, the vendor shall forthwith return the ammunition to the seller. The ammunition vendor may charge the purchaser an administrative fee to process the transaction, in an amount to be set by the Department of Justice, in addition to any applicable fees that may be charged pursuant to the provisions of this title.

(b) Commencing January 1, 2018, the sale, delivery or transfer of ownership of ~~***~~ammunition by any party may only occur in a face-to-face transaction with the seller, deliverer, or transferor~~***~~, provided, however, that ammunition may be purchased or acquired over the Internet or through other means of remote ordering if a licensed ammunition vendor initially receives the ammunition and processes the transaction in compliance with this section and Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of this part.

~~***~~(c) Subdivisions (a) and (b) shall not apply to ~~***~~the sale, delivery, or transfer of ~~***~~ammunition to any of the following:

(1) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale, delivery, or transfer is for exclusive use by that government agency and, prior to the sale, delivery, or transfer of the ~~***~~ ~~***~~ammunition, written authorization from the head of the agency employing the purchaser or transferee is obtained, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency employing the individual.

(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of ~~***~~ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) A person who is on the centralized list of exempted federal firearms licensees maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.

(5) A person whose licensed premises are outside this state and who is licensed as a dealer or collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(6) A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(7) ~~***~~An ammunition vendor.

(8) A consultant-evaluator.

(9) A person who purchases or receives ammunition at a target facility holding a business or other regulatory license,

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

provided that the ammunition is at all times kept within the facility's premises.

(10) A person who purchases or receives ammunition from a spouse, registered domestic partner, or immediate family member as defined in Section 16720.

(d) A violation of this section is a misdemeanor.

SEC. 8.7. Section 30314 is added to the Penal Code, to read:

<< CA PENAL § 30314 >>

30314. (a) Commencing January 1, 2018, a resident of this state shall not bring or transport into this state any ammunition that he or she purchased or otherwise obtained from outside of this state unless he or she first has that ammunition delivered to a licensed ammunition vendor for delivery to that resident pursuant to the procedures set forth in Section 30312.

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

(1) An ammunition vendor.

(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) A person who is on the centralized list of exempted federal firearms licensees maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6.

(5) A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(6) A person who acquired the ammunition from a spouse, registered domestic partner, or immediate family member as defined in Section 16720.

(c) A violation of this section is an infraction for any first time offense, and either an infraction or a misdemeanor for any subsequent offense.

SEC. 8.8. The heading of Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code is amended to read:

pt. 6 t. 4 d. 10 ch. 1 art. 3 pr. § 30342

Article 3. ~~***~~Ammunition Vendors

SEC. 8.9. Section 30342 is added to the Penal Code, immediately preceding Section 30345, to read:

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

<< CA PENAL § 30342 >>

30342. (a) Commencing January 1, 2018, a valid ammunition vendor license shall be required for any person, firm, corporation, or other business enterprise to sell more than 500 rounds of ammunition in any 30-day period.

(b) A violation of this section is a misdemeanor.

SEC. 8.10. Section 30347 of the Penal Code is amended to read:

<< CA PENAL § 30347 >>

30347. (a) **An ammunition vendor shall require any agent or employee who handles, sells, delivers, or has under his or her custody or control any ammunition, to obtain and provide to the vendor a certificate of eligibility from the Department of Justice issued pursuant to Section 26710. On the application for the certificate, the agent or employee shall provide the name and address of the ammunition vendor with whom the person is employed, or the name and California firearms dealer number of the ammunition vendor if applicable.**

(b) **The department shall notify the ammunition vendor in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing ammunition under subdivision (a) of Section 30305 or federal law.**

*******(c) **An ammunition** vendor shall not permit any **agent or** employee who the vendor knows or reasonably should know is a person described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title or Section 8100 or 8103 of the Welfare and Institutions Code to handle, sell, ~~***~~deliver, **or have under his or her custody or control, any *****ammunition in the course and scope of employment.

SEC. 8.11. Section 30348 is added to the Penal Code, to read:

<< CA PENAL § 30348 >>

30348. (a) Except as provided in subdivision (b), the sale of ammunition by a licensed vendor shall be conducted at the location specified in the license.

(b) A vendor may sell ammunition at a gun show or event if the gun show or event is not conducted from any motorized or towed vehicle.

(c) For purposes of this section, “gun show or event” means a function sponsored by any national, state, or local organization, devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors functions devoted to the collection, competitive use, or other sporting use of firearms in the community.

(d) Sales of ammunition at a gun show or event shall comply with all applicable laws including Sections 30347, 30350, 30352, and 30360.

SEC. 8.12. Section 30350 of the Penal Code is amended to read:

<< CA PENAL § 30350 >>

30350. *********An ammunition** vendor shall not sell or otherwise transfer ownership of, offer for sale or otherwise offer to

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

transfer ownership of, or display for sale or display for transfer of ownership of any ***ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or an employee of the vendor.

SEC. 8.13. Section 30352 of the Penal Code is amended to read:

<< CA PENAL § 30352 >>

30352. (a) Commencing *****July 1, 2019, an ammunition** vendor shall not sell or otherwise transfer ownership of any ***ammunition without, at the time of delivery, legibly recording the following information **on a form to be prescribed by the Department of Justice**:

- (1) The date of the sale or other **transfer**.
- (2) The purchaser's or transferee's driver's license or other identification number and the state in which it was issued.
- (3) The brand, type, and amount of ammunition sold or otherwise transferred.
- (4) The purchaser's or transferee's **full name and** signature.
- (5) The name of the salesperson who processed the sale or other transaction.

- (6) The purchaser's or transferee's full residential address and telephone number.**
- (7) The purchaser's or transferee's date of birth.**

(b) Commencing July 1, 2019, an ammunition vendor shall electronically submit to the department the information required by subdivision (a) for all sales and transfers of ownership of ammunition. The department shall retain this information in a database to be known as the Ammunition Purchase Records File. This information shall remain confidential and may be used by the department and those entities specified in, and pursuant to, subdivision (b) or (c) of Section 11105, through the California Law Enforcement Telecommunications System, only for law enforcement purposes. The ammunition vendor shall not use, sell, disclose, or share such information for any other purpose other than the submission required by this subdivision without the express written consent of the purchaser or transferee.

(c) Commencing on July 1, 2019, only those persons listed in this subdivision, or those persons or entities listed in subdivision (e), shall be authorized to purchase ammunition. Prior to delivering any ammunition, an ammunition vendor shall require bona fide evidence of identity to verify that the person who is receiving delivery of the ammunition is a person or entity listed in subdivision (e) or one of the following:

- (1) A person authorized to purchase ammunition pursuant to Section 30370.**
 - (2) A person who was approved by the department to receive a firearm from the ammunition vendor, pursuant to Section 28220, if that vendor is a licensed firearms dealer, and the ammunition is delivered to the person in the same transaction as the firearm.**
- (d) Commencing July 1, 2019, the ammunition vendor shall verify with the department, in a manner prescribed by the department, that the person is authorized to purchase ammunition by comparing the person's ammunition purchase authorization number to the centralized list of authorized ammunition purchasers. If the person is not listed as an authorized ammunition purchaser, the vendor shall deny the sale or transfer.**

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

~~***~~ **(e) Subdivisions (a) and (d)** shall not apply to ~~***~~ sales or other transfers of ownership of ~~***~~ ammunition by ~~***~~ ammunition vendors to any of the following, if properly identified:

~~***~~

~~***~~ **(1) An** ammunition vendor.

(2) A person who is on the centralized list of exempted federal firearms licensees maintained by the department pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.

~~***~~

(3) A person who purchases or receives ammunition at a target facility holding a business or other regulatory license, provided that the ammunition is at all times kept within the facility's premises.

(4) A gunsmith.

(5) A wholesaler.

(6) A manufacturer or importer of firearms or ammunition licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.

(7) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale or other transfer of ownership is for exclusive use by that government agency, and, prior to the sale, delivery, or transfer of the ~~*~~ ammunition, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser, transferee, or person otherwise acquiring ownership is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that individual is employed.**

(8) A properly identified sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or properly identified sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(f)(1) Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a full-time paid peace officer who is authorized to carry a firearm in the course and scope of the officer's duties.

(2) The certification shall be delivered to the vendor at the time of purchase or transfer and the purchaser or transferee shall provide bona fide evidence of identity to verify that he or she is the person authorized in the certification.

(3) The vendor shall keep the certification with the record of sale and submit the certification to the department.

(g) The department is authorized to adopt regulations to implement the provisions of this section.

SEC. 8.14. Section 30363 is added to the Penal Code, to read:

<< CA PENAL § 30363 >>

30363. Within 48 hours of discovery, an ammunition vendor shall report the loss or theft of any of the following items to the appropriate law enforcement agency in the city, county, or city and county where the vendor's business premises are located:

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

- (1) Any ammunition that is merchandise of the vendor.
- (2) Any ammunition that the vendor takes possession of pursuant to Section 30312.
- (3) Any ammunition kept at the vendor's place of business.

SEC. 8.15. Article 4 (commencing with Section 30370) is added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code, to read:

pt. 6 t. 4 d. 10 ch. 1 art. 4 pr. § 30370

Article 4. Ammunition Purchase Authorizations

<< CA PENAL § 30370 >>

30370. (a)(1) Commencing on January 1, 2019, any person who is 18 years of age or older may apply to the Department of Justice for an ammunition purchase authorization.

(2) The ammunition purchase authorization may be used by the authorized person to purchase or otherwise seek the transfer of ownership of ammunition from an ammunition vendor, as that term is defined in Section 16151, and shall have no other force or effect.

(3) The ammunition purchase authorization shall be valid for four years from July 1, 2019, or the date of issuance, whichever is later, unless it is revoked by the department pursuant to subdivision (b).

(b) The ammunition purchase authorization shall be promptly revoked by the department upon the occurrence of any event which would have disqualified the holder from being issued the ammunition purchase authorization pursuant to this section. If an authorization is revoked, the department shall upon the written request of the holder state the reasons for doing so and provide the holder an appeal process to challenge that revocation.

(c) The department shall create and maintain an internal centralized list of all persons who are authorized to purchase ammunition and shall promptly remove from the list any persons whose authorization was revoked by the department pursuant to this section. The department shall provide access to the list by ammunition vendors for purposes of conducting ammunition sales or other transfers, and shall provide access to the list by law enforcement agencies for law enforcement purposes.

(d) The department shall issue an ammunition purchase authorization to the applicant if all of the following conditions are met:

- (1) The applicant is 18 years of age or older.
- (2) The applicant is not prohibited from acquiring or possessing ammunition under subdivision (a) of Section 30305 or federal law.
- (3) The applicant pays the fees set forth in subdivision (g).

(e)(1) Upon receipt of an initial or renewal application, the department shall examine its records, and the records it is authorized to request from the State Department of State Hospitals, pursuant to Section 8104 of the Welfare and Institutions Code, and if authorized, the National Instant Criminal Background Check System, as described in Section 922(t) of Title 18 of the United States Code, in order to determine if the applicant is prohibited from possessing or acquiring ammunition under

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

subdivision (a) of Section 30305 or federal law.

(2) The applicant shall be approved or denied within 30 days of the date of the submission of the application to the department. If the application is denied, the department shall state the reasons for doing so and provide the applicant an appeal process to challenge that denial.

(3) If the department is unable to ascertain the final disposition of the application within 30 days of the applicant's submission, the department shall grant authorization to the applicant.

(4) The ammunition purchase authorization number shall be the same as the number on the document presented by the person as bona fide evidence of identity.

(f) The department shall renew a person's ammunition purchase authorization before its expiration, provided that the department determines that the person is not prohibited from acquiring or possessing ammunition under subdivision (a) of Section 30305 or federal law, and provided the applicant timely pays the renewal fee set forth in subdivision (g).

(g) The department may charge a reasonable fee not to exceed fifty dollars (\$50) per person for the issuance of an ammunition purchase authorization or the issuance of a renewal authorization, however, the department shall not set these fees any higher than necessary to recover the reasonable, estimated costs to fund the ammunition authorization program provided for in this section and Section 30352, including the enforcement of this program and maintenance of any data systems associated with this program.

(h) The Ammunition Safety and Enforcement Special Fund is hereby created within the State Treasury. All fees received pursuant to this section shall be deposited into the Ammunition Safety and Enforcement Special Fund of the General Fund, and, notwithstanding Section 13340 of the Government Code, are continuously appropriated for purposes of implementing, operating and enforcing the ammunition authorization program provided for in this section and Section 30352, and for repaying the start-up loan provided for in Section 30371.

(i) The department shall annually review and may adjust all fees specified in subdivision (g) for inflation.

(j) The department is authorized to adopt regulations to implement the provisions of this section.

<< CA PENAL § 30371 >>

30371. (a) There is hereby appropriated twenty-five million dollars (\$25,000,000) from the General Fund as a loan for the start-up costs of implementing, operating and enforcing the provisions of the ammunition authorization program provided for in Sections 30352 and 30370.

(b) For purposes of repaying the loan, the Controller shall, after disbursing moneys necessary to implement, operate and enforce the ammunition authorization program provided for in Sections 30352 and 30370, transfer all proceeds from fees received by the Ammunition Safety and Enforcement Special Fund up to the amount of the loan provided by this section, including interest at the pooled money investment account rate, to the General Fund.

SEC. 8.16. Article 5 (commencing with Section 30385) is added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code, to read:

pt. 6 t. 4 d. 10 ch. 1 art. 5 pr. § 30385

Article 5. Ammunition Vendor Licenses

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

<< CA PENAL § 30385 >>

30385. (a) The Department of Justice is authorized to issue ammunition vendor licenses pursuant to this article. The department shall, commencing July 1, 2017, commence accepting applications for ammunition vendor licenses. If an application is denied, the department shall inform the applicant of the reason for denial in writing.

(b) The ammunition vendor license shall be issued in a form prescribed by the department and shall be valid for a period of one year. The department may adopt regulations to administer the application and enforcement provisions of this article. The license shall allow the licensee to sell ammunition at the location specified in the license or at a gun show or event as set forth in Section 30348.

(c)(1) In the case of an entity other than a natural person, the department shall issue the license to the entity, but shall require a responsible person to pass the background check pursuant to Section 30395.

(2) For purposes of this article, “responsible person” means a person having the power to direct the management, policies, and practices of the entity as it pertains to ammunition.

(d) Commencing January 1, 2018, a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, shall automatically be deemed a licensed ammunition vendor, provided the dealer complies with the requirements of Article 2 (commencing with Section 30300) and Article 3 (commencing with Section 30342).

<< CA PENAL § 30390 >>

30390. (a) The Department of Justice may charge ammunition vendor license applicants a reasonable fee sufficient to reimburse the department for the reasonable, estimated costs of administering the license program, including the enforcement of this program and maintenance of the registry of ammunition vendors.

(b) The fees received by the department pursuant to this article shall be deposited in the Ammunition Vendors Special Account, which is hereby created. Notwithstanding Section 13340 of the Government Code, the revenue in the fund is continuously appropriated for use by the department for the purpose of implementing, administering and enforcing the provisions of this article, and for collecting and maintaining information submitted pursuant to Section 30352.

(c) The revenue in the Firearms Safety and Enforcement Special Fund shall also be available upon appropriation to the department for the purpose of implementing and enforcing the provisions of this article.

<< CA PENAL § 30395 >>

30395. (a) The Department of Justice is authorized to issue ammunition vendor licenses to applicants who the department has determined, either as an individual or a responsible person, are not prohibited from possessing, receiving, owning, or purchasing ammunition under subdivision (a) of Section 30305 or federal law, and who provide a copy of any regulatory or business license required by local government, a valid seller’s permit issued by the State Board of Equalization, a federal firearms license if the person is federally licensed, and a certificate of eligibility issued by the department.

(b) The department shall keep a registry of all licensed ammunition vendors. Law enforcement agencies shall be provided access to the registry for law enforcement purposes.

(c) An ammunition vendor license is subject to forfeiture for a breach of any of the prohibitions and requirements of Article 2 (commencing with Section 30300) or Article 3 (commencing with Section 30342).

SEC. 9. Nothing in this Act shall preclude or preempt a local ordinance that imposes additional penalties or requirements in regard to the sale or transfer of ammunition.

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

SEC. 10. Securing Firearms From Prohibited Persons.

SEC. 10.1. Section 1524 of the Penal Code is amended to read:

<< CA PENAL § 1524 >>

1524. (a) A search warrant may be issued upon any of the following grounds:

- (1) When the property was stolen or embezzled.
- (2) When the property or things were used as the means of committing a felony.
- (3) When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing them from being discovered.
- (4) When the property or things to be seized consist of an item or constitute evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.
- (5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of Section 311.11, has occurred or is occurring.
- (6) When there is a warrant to arrest a person.
- (7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery.
- (8) When the property or things to be seized include an item or evidence that tends to show a violation of Section 3700.5 of the Labor Code, or tends to show that a particular person has violated Section 3700.5 of the Labor Code.
- (9) When the property or things to be seized include a firearm or other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in Section 18250. This section does not affect warrantless seizures otherwise authorized by Section 18250.
- (10) When the property or things to be seized include a firearm or other deadly weapon that is owned by, or in the possession of, or in the custody or control of, a person described in subdivision (a) of Section 8102 of the Welfare and Institutions Code.
- (11) When the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 6389 of the Family Code, if a prohibited firearm is possessed, owned, in the custody of, or controlled by a person against whom a protective order has been issued pursuant to Section 6218 of the Family Code, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.
- (12) When the information to be received from the use of a tracking device constitutes evidence that tends to show that either a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code has been committed or is being committed, tends to show that a particular person has committed a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or is committing a felony, a

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or will assist in locating an individual who has committed or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code. A tracking device search warrant issued pursuant to this paragraph shall be executed in a manner meeting the requirements specified in subdivision (b) of Section 1534.

(13) When a sample of the blood of a person constitutes evidence that tends to show a violation of Section 23140, 23152, or 23153 of the Vehicle Code and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 23612 of the Vehicle Code, and the sample will be drawn from the person in a reasonable, medically approved manner. This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(14) Beginning January 1, 2016, the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of a person who is the subject of a gun violence restraining order that has been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2 of Part 6, if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence restraining order has been issued, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(15) Beginning January 1, 2018, the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 29800 or 29805, and the court has made a finding pursuant to paragraph (3) of subdivision (c) of Section 29810 that the person has failed to relinquish the firearm as required by law.

(16) When the property or things to be seized are controlled substances or a device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance pursuant to the authority described in Section 11472 of the Health and Safety Code.

(17) (A) When all of the following apply:

(i) A sample of the blood of a person constitutes evidence that tends to show a violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code.

(ii) The person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 655.1 of the Harbors and Navigation Code.

(iii) The sample will be drawn from the person in a reasonable, medically approved manner.

(B) This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(b) The property, things, person, or persons described in subdivision (a) may be taken on the warrant from any place, or from any person in whose possession the property or things may be.

(c) Notwithstanding subdivision (a) or (b), no search warrant shall issue for any documentary evidence in the possession or under the control of any person who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the Evidence Code, and who is not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which a warrant is requested unless the following procedure has been complied with:

(1) At the time of the issuance of the warrant, the court shall appoint a special master in accordance with subdivision (d) to accompany the person who will serve the warrant. Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested. If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

the items in the areas indicated in the search warrant.

(2)(A) If the party who has been served states that an item or items should not be disclosed, they shall be sealed by the special master and taken to court for a hearing.

(B) At the hearing, the party searched shall be entitled to raise any issues that may be raised pursuant to Section 1538.5 as well as a claim that the item or items are privileged, as provided by law. The hearing shall be held in the superior court. The court shall provide sufficient time for the parties to obtain counsel and make motions or present evidence. The hearing shall be held within three days of the service of the warrant unless the court makes a finding that the expedited hearing is impracticable. In that case, the matter shall be heard at the earliest possible time.

(C) If an item or items are taken to court for a hearing, any limitations of time prescribed in Chapter 2 (commencing with Section 799) of Title 3 of Part 2 shall be tolled from the time of the seizure until the final conclusion of the hearing, including any associated writ or appellate proceedings.

(3) The warrant shall, whenever practicable, be served during normal business hours. In addition, the warrant shall be served upon a party who appears to have possession or control of the items sought. If, after reasonable efforts, the party serving the warrant is unable to locate the person, the special master shall seal and return to the court, for determination by the court, any item that appears to be privileged as provided by law.

(d)(1) As used in this section, a “special master” is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of qualified attorneys that is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. These attorneys shall serve without compensation. A special master shall be considered a public employee, and the governmental entity that caused the search warrant to be issued shall be considered the employer of the special master and the applicable public entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees. In selecting the special master, the court shall make every reasonable effort to ensure that the person selected has no relationship with any of the parties involved in the pending matter. Information obtained by the special master shall be confidential and may not be divulged except in direct response to inquiry by the court.

(2) In any case in which the magistrate determines that, after reasonable efforts have been made to obtain a special master, a special master is not available and would not be available within a reasonable period of time, the magistrate may direct the party seeking the order to conduct the search in the manner described in this section in lieu of the special master.

(e) Any search conducted pursuant to this section by a special master may be conducted in a manner that permits the party serving the warrant or his or her designee to accompany the special master as he or she conducts his or her search. However, that party or his or her designee may not participate in the search nor shall he or she examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served.

(f) As used in this section, “documentary evidence” includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, X-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films, and papers of any type or description.

(g) No warrant shall issue for any item or items described in Section 1070 of the Evidence Code.

(h) Notwithstanding any other law, no claim of attorney work product as described in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall be sustained where there is probable cause to believe that the lawyer is engaging or has engaged in criminal activity related to the documentary evidence for which a warrant is requested unless it is established at the hearing with respect to the documentary evidence seized under the warrant that the services of the lawyer were not sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(i) Nothing in this section is intended to limit an attorney’s ability to request an in-camera hearing pursuant to the holding of the Supreme Court of California in *People v. Superior Court (Laff)* (2001) 25 Cal.4th 703.

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

(j) In addition to any other circumstance permitting a magistrate to issue a warrant for a person or property in another county, when the property or things to be seized consist of any item or constitute evidence that tends to show a violation of Section 530.5, the magistrate may issue a warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in the same county as the issuing court.

(k) This section shall not be construed to create a cause of action against any foreign or California corporation, its officers, employees, agents, or other specified persons for providing location information.

SEC. 10.2. Section 27930 of the Penal Code is amended to read:

<< CA PENAL § 27930 >>

27930. Section 27545 does not apply to deliveries, transfers, or returns of firearms made pursuant to any of the following:

- (a) Sections 18000 and 18005.
- (b) Division 4 (commencing with Section 18250) of Title 2.
- (c) Chapter 2 (commencing with Section 33850) of Division 11.
- (d) Sections 34005 and 34010.

(e) Section 29810.

SEC. 10.3. Section 29810 of the Penal Code is amended to read:

<< CA PENAL § 29810 >>

29810. (a) For any person who is subject to Section 29800 or 29805, the court shall, at the time judgment is imposed, provide on a form supplied by the Department of Justice, a notice to the defendant prohibited by this chapter from owning, purchasing, receiving, possessing, or having under custody or control, any firearm. The notice shall inform the defendant of the prohibition regarding firearms and include a form to facilitate the transfer of firearms. If the prohibition on owning or possessing a firearm will expire on a date specified in the court order, the form shall inform the defendant that he or she may elect to have his or her firearm transferred to a firearms dealer licensed pursuant to Section 29830.

(b) Failure to provide the notice described in subdivision (a) is not a defense to a violation of this chapter.

(c) This section shall be repealed effective January 1, 2018.

SEC. 10.4. Section 29810 is added to the Penal Code, to read:

<< CA PENAL § 29810 >>

29810. (a) (1) Upon conviction of any offense that renders a person subject to Section 29800 or Section 29805, the person shall relinquish all firearms he or she owns, possesses, or has under his or her custody or control in the manner provided in this section.

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

(2) The court shall, upon conviction of a defendant for an offense described in subdivision (a), instruct the defendant that he or she is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and shall order the defendant to relinquish all firearms in the manner provided in this section. The court shall also provide the defendant with a Prohibited Persons Relinquishment Form developed by the Department of Justice.

(3) Using the Prohibited Persons Relinquishment Form, the defendant shall name a designee and grant the designee power of attorney for the purpose of transferring or disposing of any firearms. The designee shall be either a local law enforcement agency or a consenting third party who is not prohibited from possessing firearms under state or federal law. The designee shall, within the time periods specified in subdivisions (d) and (e), surrender the firearms to the control of a local law enforcement agency, sell the firearms to a licensed firearms dealer, or transfer the firearms for storage to a firearms dealer pursuant to Section 29830.

(b) The Prohibited Persons Relinquishment Form shall do all of the following:

(1) Inform the defendant that he or she is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and that he or she shall relinquish all firearms through a designee within the time periods set forth in subdivision (d) or (e) by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830.

(2) Inform the defendant that any cohabitant of the defendant who owns firearms must store those firearms in accordance with Section 25135.

(3) Require the defendant to declare any firearms that he or she owned, possessed, or had under his or her custody or control at the time of his or her conviction, and require the defendant to describe the firearms and provide all reasonably available information about the location of the firearms to enable a designee or law enforcement officials to locate the firearms.

(4) Require the defendant to name a designee, if the defendant declares that he or she owned, possessed, or had under his or her custody or control any firearms at the time of his or her conviction, and grant the designee power of attorney for the purpose of transferring or disposing of all firearms.

(5) Require the designee to indicate his or her consent to the designation and, except a designee that is a law enforcement agency, to declare under penalty of perjury that he or she is not prohibited from possessing any firearms under state or federal law.

(6) Require the designee to state the date each firearm was relinquished and the name of the party to whom it was relinquished, and to attach receipts from the law enforcement officer or licensed firearms dealer who took possession of the relinquished firearms.

(7) Inform the defendant and the designee of the obligation to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within the time periods specified in subdivisions (d) and (e).

(c)(1) When a defendant is convicted of an offense described in subdivision (a), the court shall immediately assign the matter to a probation officer to investigate whether the Automated Firearms System or other credible information, such as a police report, reveals that the defendant owns, possesses, or has under his or her custody or control any firearms. The assigned probation officer shall receive the Prohibited Persons Relinquishment Form from the defendant or the defendant's designee, as applicable, and ensure that the Automated Firearms System has been properly updated to indicate that the defendant has relinquished those firearms.

(2) Prior to final disposition or sentencing in the case, the assigned probation officer shall report to the court whether the defendant has properly complied with the requirements of this section by relinquishing all firearms identified by the probation officer's investigation or declared by the defendant on the Prohibited Persons Relinquishment Form, and by timely submitting a completed Prohibited Persons Relinquishment Form. The probation officer shall also report to the Department

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

of Justice on a form to be developed by the department whether the Automated Firearms System has been updated to indicate which firearms have been relinquished by the defendant.

(3) Prior to final disposition or sentencing in the case, the court shall make findings concerning whether the probation officer's report indicates that the defendant has relinquished all firearms as required, and whether the court has received a completed Prohibited Persons Relinquishment Form, along with the receipts described in paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e). The court shall ensure that these findings are included in the abstract of judgment. If necessary to avoid a delay in sentencing, the court may make and enter these findings within 14 days of sentencing.

(4) If the court finds probable cause that the defendant has failed to relinquish any firearms as required, the court shall order the search for and removal of any firearms at any location where the judge has probable cause to believe the defendant's firearms are located. The court shall state with specificity the reasons for and scope of the search and seizure authorized by the order.

(5) Failure by a defendant to timely file the completed Prohibited Persons Relinquishment Form with the assigned probation officer shall constitute an infraction punishable by a fine not exceeding one hundred dollars (\$100).

(d) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who does not remain in custody at any time within the five-day period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her custody or control within five days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under his or her custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within five days following the conviction, along with the receipts described in paragraph (1) of subdivision (d) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under his or her custody or control any firearms to relinquish, he or she shall, within five days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has no firearms to be relinquished.

(e) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who is in custody at any point within the five-day period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her custody or control within 14 days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under his or her custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, within 14 days following conviction, along with the receipts described in paragraph (1) of subdivision (e) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under his or her custody or control any firearms to relinquish, he or she

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

shall, within 14 days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has no firearms to be relinquished.

(4) If the defendant is released from custody during the 14 days following conviction and a designee has not yet taken temporary possession of each firearm to be relinquished as described above, the defendant shall, within five days following his or her release, relinquish each firearm required to be relinquished pursuant to paragraph (1) of subdivision (d).

(f) For good cause, the court may shorten or enlarge the time periods specified in subdivisions (d) and (e), enlarge the time period specified in paragraph (3) of subdivision (c), or allow an alternative method of relinquishment.

(g) The defendant shall not be subject to prosecution for unlawful possession of any firearms declared on the Prohibited Persons Relinquishment Form if the firearms are relinquished as required.

(h) Any firearms that would otherwise be subject to relinquishment by a defendant under this section, but which are lawfully owned by a cohabitant of the defendant, shall be exempt from relinquishment, provided the defendant is notified that the cohabitant must store the firearm in accordance with Section 25135.

(i) A law enforcement agency shall update the Automated Firearms System to reflect any firearms that were relinquished to the agency pursuant to this section. A law enforcement agency shall retain a firearm that was relinquished to the agency pursuant to this section for 30 days after the date the firearm was relinquished. After the 30-day period has expired, the firearm is subject to destruction, retention, sale or other transfer by the agency, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of the firearm is necessary or proper to the ends of justice, or if the defendant provides written notice of an intent to appeal a conviction for an offense described in subdivision (a), or if the Automated Firearms System indicates that the firearm was reported lost or stolen by the lawful owner. If the firearm was reported lost or stolen, the firearm shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner's identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4. The agency shall notify the Department of Justice of the disposition of relinquished firearms pursuant to Section 34010.

(j) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of a firearm pursuant to Section 33880.

(k) This section shall become operative on January 1, 2018.

SEC. 11. Theft of Firearms.

SEC. 11.1. Section 490.2 of the Penal Code is amended to read:

<< CA PENAL § 490.2 >>

(a) Notwithstanding Section 487 or any other provision of law defining grand theft, obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed nine hundred fifty dollars (\$950) shall be considered petty theft and shall be punished as a misdemeanor, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.

(b) This section shall not be applicable to any theft that may be charged as an infraction pursuant to any other provision of law.

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

(c) This section shall not apply to theft of a firearm.

SEC. 11.2. Section 29805 of the Penal Code is amended to read:

<< CA PENAL § 29805 >>

29805. Except as provided in Section 29855 or subdivision (a) of Section 29800, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, paragraph (1) of subdivision (a) of Section 171c, 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of former Section 12100, as that section read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision (b) or (d) of Section 26100, or Section 27510, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, **Section 490.2 if the property taken was a firearm**, or of the conduct punished in subdivision (c) of Section 27590, and who, within 10 years of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

SEC. 12. Interim Standards.

Notwithstanding the Administrative Procedure Act (APA), and in order to facilitate the prompt implementation of the Safety for All Act of 2016, the California Department of Justice may adopt interim standards without compliance with the procedures set forth in the APA. The interim standards shall remain in effect for no more than two years, and may be earlier superseded by regulations adopted pursuant to the APA. "Interim standards" means temporary standards that perform the same function as "emergency regulations" under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that in order to provide greater opportunity for public comment on permanent regulations, the interim standards may remain in force for two years rather than 180 days.

SEC. 13. Amending the Measure.

This Act shall be broadly construed to accomplish its purposes. The provisions of this measure may be amended by a vote of 55 percent of the members of each house of the Legislature and signed by the Governor so long as such amendments are consistent with and further the intent of this Act.

SEC. 14. Conflicting Measures.

(a) In the event that this measure and another measure on the same subject matter, including but not limited to the regulation of the sale or possession of firearms or ammunition, shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force

SAFETY FOR ALL ACT, 2016 Cal. Legis. Serv. Prop. 63 (PROPOSITION 63) (WEST)

and effect.

SEC. 15. Severability.

If any provision of this measure, or part of this measure, or the application of any provision or part to any person or circumstance, is for any reason held to be invalid or unconstitutional, the remaining provisions, or applications of provisions, shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable.

SEC. 16. Proponent Standing.

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this Act, following its approval by the voters, any other government employer, the proponent, or in their absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this Act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, or on discretionary review by the Supreme Court of California or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the Department of Justice, which shall be satisfied promptly.

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.