

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

**SHERIFF CLAY PARKER, TEHAMA
COUNTY SHERIFF; HERB BAUER
SPORTING GOODS; CALIFORNIA RIFLE
AND PISTOL ASSOCIATION; ABLE'S
SPORTING, INC.; RTG SPORTING
COLLECTIBLES, LLC; AND STEVEN
STONECIPHER,**

Case No. F062490

Plaintiffs and Respondents,

v.

**THE STATE OF CALIFORNIA; KAMALA
D. HARRIS, in her official capacity as
Attorney General for the State of California;
AND THE CALIFORNIA DEPARTMENT
OF JUSTICE,**

Defendants and Appellants.

Fresno County Superior Court, Case No. 10CECG02116
The Honorable Jeff Hamilton, Judge

**JOINT APPENDIX
VOLUME I
Pages JA000001-JA000299**

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of Justice*

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**SUMMONS
(CITACION JUDICIAL)**

SUM-100

NOTICE TO DEFENDANT: THE STATE OF CALIFORNIA; JERRY (AVISO AL DEMANDADO): BROWN, in his official capacity as Attorney General for the State of California; THE CALIFORNIA DEPARTMENT OF JUSTICE; and DOES 1-25.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

JUN 17 2010

FRESNO COUNTY SUPERIOR COURT

By _____

YOU ARE BEING SUED BY PLAINTIFF: SHERIFF CLAY PARKER, (LO ESTÁ DEMANDANDO EL DEMANDANTE): TEHAMA COUNTY SHERIFF; HERB BAUER SPORTING GOODS; CALIFORNIA RIFLE AND PISTOL ASSOCIATION FOUNDATION; ABLE'S SPORTING, INC.; RTG SPORTING COLLECTIBLES, LLC; and STEVEN STONECIPHER

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

FRESNO COUNTY SUPERIOR COURT
CIVIL COURTHOUSE
2317 Tuolumne Street
Fresno, CA 93721-1220

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

C. D. MICHEL S.B.N. 144258

(562) 216-4444 (562) 216-4445

MICHEL & ASSOCIATES, P.C.

180 East Ocean Blvd., Suite 200

Long Beach, CA 90802

DATE:

JUN 17 2010

Clerk, by _____

(Secretario)

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☒ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

4. ☐ by personal delivery on (date):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

SUM-100

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT: THE STATE OF CALIFORNIA; JERRY (AVISO AL DEMANDADO): BROWN, in his official capacity as Attorney General for the State of California; THE CALIFORNIA DEPARTMENT OF JUSTICE; and DOES 1-25.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

JUN 17 2010

FRESNO COUNTY SUPERIOR COURT

By _____

YOU ARE BEING SUED BY PLAINTIFF: SHERIFF CLAY PARKER, (LO ESTÁ DEMANDANDO EL DEMANDANTE): TEHAMA COUNTY SHERIFF; HERB BAUER SPORTING GOODS; CALIFORNIA RIFLE AND PISTOL ASSOCIATION FOUNDATION; ABLE'S SPORTING, INC.; RTG SPORTING COLLECTIBLES, LLC; and STEVEN STONECIPHER

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

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Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

FRESNO COUNTY SUPERIOR COURT
CIVIL COURTHOUSE
2317 Tuolumne Street
Fresno, CA 93721-1220

CASE NUMBER:
(Número del Caso) **10 CE CG 02 1 16**

AMC

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

C. D. MICHEL S.B.N. 144258

(562) 216-4444 (562) 216-4445

MICHEL & ASSOCIATES, P.C.

180 East Ocean Blvd., Suite 200

Long Beach, CA 90802

KENNETH E. COON

DATE:

JUN 17 2010

Clerk, by _____

Deputy

(Fecha)

(Secretario)

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

[SEAL]

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): *The California Department of Justice*

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.60 (minor)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.70 (conservatee)

☐ CCP 416.40 (association or partnership)

☐ CCP 416.90 (authorized person)

☒ other (specify): *CCP 416.50 (public entity)*

4. ☐ by personal delivery on (date):

Page 1 of 1

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: THE STATE OF CALIFORNIA; JERRY
(AVISO AL DEMANDADO): BROWN, in his official capacity
as Attorney General for the State of California; THE
CALIFORNIA DEPARTMENT OF JUSTICE; and DOES 1-25.

FILED

JUN 17 2010

FRESNO COUNTY SUPERIOR COURT

By _____

**YOU ARE BEING SUED BY PLAINTIFF: SHERIFF CLAY PARKER,
(LO ESTÁ DEMANDANDO EL DEMANDANTE): TEHAMA COUNTY
SHERIFF; HERB BAUER SPORTING GOODS; CALIFORNIA RIFLE AND
PISTOL ASSOCIATION FOUNDATION; ABLE'S SPORTING, INC.; RTG
SPORTING COLLECTIBLES, LLC; and STEVEN STONECIPHER**

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

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(El nombre y dirección de la corte es):

FRESNO COUNTY SUPERIOR COURT
CIVIL COURTHOUSE
2317 Tuolumne Street
Fresno, CA 93721-1220

CASE NUMBER:
(Número del Caso) 10 CE CG 02 116

AMC

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
C. D. MICHEL S.B.N. 144258 (562) 216-4444 (562) 216-4445
MICHEL & ASSOCIATES, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802

KENNETH E. COON

DATE:
(Fecha)

JUN 17 2010

Clerk, by _____, Deputy
(Secretario) (Adjunto)

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NOTICE TO THE PERSON SERVED: You are served

(SEAL)

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☒ on behalf of (specify): The State of California

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
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Page 1 of 1

Alternative Dispute Resolution Information Packet

Overview & History

Alternative Dispute Resolution (ADR) is an increasingly popular option that allows people to resolve disputes outside of court in a cooperative manner. ADR can be faster, cheaper, and less stressful than going to court. Most importantly, the use of ADR can provide greater satisfaction with the way disputes are resolved.

ADR has been gradually evolving within the Fresno Superior Court for the past several years. In 1999 the Court recognized a need for greater public access to dispute resolution for cases and established an ADR Department. This department assists parties by providing information regarding ADR processes and services.

Additionally, in 2006 a Case Management Conference (CMC) order was implemented requiring parties in general civil cases to participate in ADR prior to trial. This order and supporting ADR forms can be found on the court's website, www.fresnosuperiorcourt.org under the "forms," section. Also, participation in ADR does not eliminate the need for proper and timely filing of case documents, such as an Answer to Complaint.

Disputes

ADR techniques have been used successfully in a variety of disputes involving individuals, small and large businesses, government, and the general public. Various types of ADR processes are available depending on the nature of the dispute. Many types of conflict often lend themselves to an alternative and informal method of dispute resolution. Some examples of disputes often settled by ADR include but are not limited to:

- Business disputes- contracts, partnerships
- Property / Land use disputes- property transfers, boundaries, easements
- Family disputes – divorce, property, custody, visitation, support issues
- Consumer / Collection disputes- repairs, services, warranties, debts
- Employment disputes- employment contracts, terminations
- Landlord/tenant disputes- evictions, rent, repairs, security deposits
- Neighborhood disputes / Relational disputes or other civil or personal conflicts
- Personal Injury / Insurance disputes- accidents, coverage, liability

Processes:

The most common forms of ADR are Mediation, Arbitration, and Case Evaluation. In most ADR processes, a trained, impartial person decides or helps the parties reach resolution of their dispute together. The persons are neutrals who are normally chosen by the disputing parties or by the court. Neutrals can often help parties resolve disputes without having to go to court or trial. Below is a description of commonly used processes:

Mediation

In mediation, the mediator (a neutral) assists the parties in reaching a mutually acceptable resolution of their dispute. Unlike lawsuits or some other types of ADR, the mediator does not decide how the dispute is to be resolved. The parties do. It is a cooperative process in which the parties work together toward a resolution that tries to meet everyone's interests, instead of working against each other. Mediation often leads to better communication between the parties and lasting resolutions. It is particularly effective when parties have a continuing relationship, such as neighbors or businesses. It also is very effective where personal feelings are getting in the way of a resolution. Mediation normally gives the parties a chance to express their concerns in a voluntary, confidential process while working towards a resolution. The mediation process is commonly used for most civil case types and can provide the greatest level of flexibility for parties.

Arbitration

In arbitration, the arbitrator (a neutral) reviews evidence, hears arguments, and makes a decision (award) to resolve the dispute. This is very different from mediation whereby the mediator helps the parties reach their own resolution. Arbitration normally is more informal, quicker, and less expensive than a lawsuit. In a matter of hours, an arbitrator often can hear a case that otherwise may take a week in court to try. This is because the evidence can be submitted by documents rather than by testimony.

1. **Binding arbitration:** Usually conducted by a private arbitrator, this process takes place outside of the court. "Binding" means that the arbitrator's decision (award) is final and there will not be a trial or an opportunity to appeal the decision.
2. **Non-binding arbitration:** May be ordered through the court (Judicial Arbitration) or conducted privately. In this process, the arbitrator's decision is "not binding." This means that if a party is not satisfied with the decision of the arbitrator, they can file a request for trial with the court within a specified time. However, depending on the process if that party does not receive a more favorable result at trial, they may have to pay a penalty.

Case Evaluation

In case evaluation, the evaluator (a neutral) gives an opinion on the strengths and weaknesses of each party's evidence and arguments. Each party gets a chance to present their case and hear the other side. This may lead to a settlement, or at the least, help the parties prepare to resolve the dispute later. Case evaluation, like mediation, can come early in the dispute and save time and money. The case evaluation process is most effective when parties have an unrealistic view of the dispute, need outside assistance in determining case value, and have technical or scientific questions to be worked out. This process is sometimes used in combination with mediation or arbitration.

ADR Agreements:

Agreements reached through ADR normally are put into writing and can become binding contracts that can be enforced by the court if the parties. Parties may choose to seek the advice of an attorney as to your legal rights and other matters relating to the dispute before finalizing any agreement.

ADR Process Selection & Information:

There are several other types of ADR. Some of these include conciliation, settlement conference, fact finding, mini-trial, Victim Offender conferencing, and summary jury trial. Sometimes parties will try a combination of ADR types. The important thing is to find the type of ADR that is most likely to resolve the dispute. Contact the ADR department staff for assistance for additional information and referral to services appropriate for each specific case.

Advantages & Disadvantages of ADR:

Advantages

- Often quicker than going to trial, a dispute may be resolved in a matter of days or weeks instead of months or years.
- Often less expensive, saving the litigants court costs, attorney's fees and expert fees.
- Permits more participation and empowerment, allowing the parties the opportunity to tell their side of the story and have more control over the outcome.
- Allows for flexibility in choice of ADR processes and resolution of the dispute.
- Fosters cooperation by allowing the parties to work together with the neutral to resolve the dispute and mutually agree to a remedy.
- Often less stressful than litigation. Most people have reported a high degree of satisfaction with ADR.

Because of these advantages, many parties choose ADR to resolve disputes instead of filing a lawsuit. Even after a lawsuit has been filed, the court can refer the dispute to a neutral before the lawsuit becomes costly. ADR has been used to resolve disputes even after trial, when the result is appealed.

Disadvantages of ADR

- ADR may not be suitable for every dispute.
- If the ADR process is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.
- ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.
- The neutral may charge a fee for his or her services. If the dispute is not resolved through ADR, the parties may then have to face the usual and traditional costs, such as attorney's fees and expert fees.
- Lawsuits must be brought within specified periods of time, known as Statutes of Limitations. Parties must be careful not to let a Statute of Limitation run while a dispute is in an ADR process.

Neutral Selection:

The selection of a neutral is an important decision. Please note that currently there is no legal requirement

*A list of trained neutrals is available to assist parties on a fee-for-service basis. These individuals have met the requirements to participate on the Court's panel and provide private dispute resolution services. *Panelists are not Court employees; therefore service, style and expertise will vary by individual provider.*

Cases involving self-represented litigants or those unable to afford a private mediator, the court has three organizations that provide free or low cost mediation services through Dispute Resolution Program Act (DRPA) funding. These organizations include:

- **Better Business Bureau Mediation Center-** This organization provides mediation for small claims, landlord / tenant, business, consumer/ merchant, harassment, and neighborhood disputes. For more information about their services go to www.valleymediation.net.

4201 W. Shaw Ave., Ste. 107
Fresno, CA 93722
559.256.6300 (phone)
800.675.8118, ext. 300 (toll free)
www.bbbccencal.org

- **Fresno Pacific Mediation Services-** This organization is affiliated with Fresno Pacific University, Mediation Associates and Victim Offender Reconciliation Program (VORP). They offer mediation for cases involving contract, property, corporate partnerships, family, employment, organization, and victim/offender disputes. For more information go to www.peace.fresno.edu/mediate/.

1717 S. Chestnut Avenue
Fresno, CA. 93702
(559) 453-3423
mediation.services@fresno.edu

- **San Joaquin College of Law Mediation Center-** This organization provides free mediation to self-represented parties regarding family law property disputes. They also assist with the preparation of marital settlement agreements for divorcing parties. For more information go to www.sjcl.edu and click on mediation.

905 5th Street
Clovis, CA. 93612
(559) 323-2100

For more information, go to www.fresnosuperiorcourt.org/alternative_dispute_resolution or contact :

Mari Henson, Administrator
2317 Tuolumne St., Fresno CA. 93721
TEL (559) 497-4194, FAX (559) 497-4293
mhenson@fresno.courts.ca.gov

John Montejano, Asst. Administrator
2317 Tuolumne St., Fresno CA. 93721
TEL (559) 497-4195, FAX (559) 497-4293
jmontejano@fresno.courts.ca.gov

| | |
|--|--------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): | FOR COURT USE ONLY |
| TELEPHONE NO: FAX NO: | |
| ATTORNEY FOR (Name): | |
| SUPERIOR COURT OF CALIFORNIA • COUNTY OF FRESNO 2317 Tuolumne Street Fresno, California 93721-1220 (559) 497-4195 | |
| PLAINTIFF/PETITIONER: | |
| DEFENDANT/RESPONDENT: | |
| STIPULATION REGARDING ALTERNATIVE DISPUTE RESOLUTION (ADR) | CASE NUMBER: |

The parties stipulate that they will engage in the following Alternative Dispute Resolution (ADR) process:

☐ Mediation ☐ Arbitration ☐ Neutral Case Evaluation ☐ Other _____

The parties further stipulate that _____ has been selected as the mediator/arbitrator/neutral.

Address: _____

City, State, Zip _____

Phone Number: () _____

The parties acknowledge that they shall engage in some form of Alternative Dispute Resolution (ADR). The Alternative Dispute Resolution (ADR) must be completed within 180 days after the Case Management Conference or prior to the Mandatory Settlement Conference, whichever is earlier, unless given prior approval by the court to continue the date.

Parties will be required to file an Alternative Dispute Resolution (ADR) Status Report at least 10 court days prior to the Mandatory Settlement Conference. Failure to do so may result in sanctions at an Order to Show Cause (OSC) hearing set by the court.

| | | |
|-------|--------------------|--|
| _____ | _____ | _____ |
| Date | Type or Print Name | Signature of Party or Attorney for Party |
| _____ | _____ | _____ |
| Date | Type or Print Name | Signature of Party or Attorney for Party |
| _____ | _____ | _____ |
| Date | Type or Print Name | Signature of Party or Attorney for Party |
| _____ | _____ | _____ |
| Date | Type or Print Name | Signature of Party or Attorney for Party |

☐ Additional signatures on Stipulation Regarding Alternative Dispute Resolution (ADR) Attachment

| | | |
|---|---------|--------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): | | FOR COURT USE ONLY |
| TELEPHONE NO: | FAX NO: | |
| ATTORNEY FOR (Name): | | |
| SUPERIOR COURT OF CALIFORNIA • COUNTY OF FRESNO 2317 Tuolumne Street Fresno, California 93721-1220 (559) 497-4195 | | |
| PLAINTIFF/PETITIONER: | | |
| DEFENDANT/RESPONDENT: | | |
| ALTERNATIVE DISPUTE RESOLUTION STATUS REPORT (ADR) | | CASE NUMBER: |

Type of Civil Case:

☐ Personal Injury – Property Damage/Auto ☐ Personal Injury – Property Damage ☐ Contract ☐ Other _____

Date Complaint Filed: _____

Amount in controversy:

☐ \$0 to \$25,000 ☐ \$25,000 to \$50,000 ☐ \$50,000 to \$100,000 ☐ Over \$100,000.00 (specify) _____

Date of Alternative Dispute Resolution (ADR) Conference: _____

Name, address, and telephone number of person who conducted the Alternative Dispute Resolution (ADR) Conference:

Case resolved by Alternative Dispute Resolution:

☐ Yes (proper filing of a Notice of Settlement or Dismissal form is required by clerk's office)

☐ No Reason: _____

Alternative Dispute Resolution process concluded:

☐ Yes

☐ No Reason for delay: _____

Next scheduled hearing date: _____

Type of resolution process used:

☐ Mediation ☐ Arbitration ☐ Neutral Case Evaluation ☐ Other (specify): _____

Case was resolved by:

☐ Direct Result of ADR Process ☐ Indirect Result of ADR Process ☐ Resolution was unrelated to ADR Process

If case went through ADR and resolved, estimate the closest dollar amount that was saved in attorney fees and/or expert witness fees by participating in the process.

☐ \$0 ☐ \$250 ☐ \$500 ☐ \$750 ☐ \$1,000 ☐ More than \$1,000 (specify) _____

If case went through ADR and did not resolve, estimate the closest dollar amount of additional costs incurred due to participation in the ADR process.

☐ \$0 ☐ \$250 ☐ \$500 ☐ \$750 ☐ \$1,000 ☐ More than \$1,000 (specify) _____

| | | | |
|---|--|---|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): C. D. MICHEL S.B.N. 144258 Clinton B. Monfort S.B.N. 255609 MICHEL & ASSOCIATES, P.C. 180 East Ocean Blvd., Suite 200 Long Beach, CA 90802 TELEPHONE NO.: (562) 216-4444 FAX NO.: (562) 216-4445 ATTORNEY FOR (Name): PLAINTIFFS | | FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; letter-spacing: 5px;">FILED</div> JUN 17 2010 FRESNO COUNTY SUPERIOR COURT BY _____ | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO STREET ADDRESS: 2317 Tuolumne Street MAILING ADDRESS: 2317 Tuolumne Street CITY AND ZIP CODE: Fresno, CA 93721-1220 BRANCH NAME: CIVIL COURTHOUSE | | | |
| CASE NAME: PARKER et al., v. STATE OF CALIFORNIA et al., | | | |
| CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) | | Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder. Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) | CASE NUMBER: 06CG02116 JUDGE: _____ DEPT: AMC |

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

| | | |
|--|--|--|
| Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15) | Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input checked="" type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43) |
|--|--|--|

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☐ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): _____
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)
- Date: June 17, 2010
- C. D. MICHEL S.B.N. 144258
- (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PIPD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress

Other PIPD/WD

Non-PIP/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PIP/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief from Late Claim
Other Civil Petition

| | |
|---|--|
| <p align="center">SUPERIOR COURT OF CALIFORNIA • COUNTY OF FRESNO CIVIL DEPARTMENT, CENTRAL DIVISION 2317 Tuolumne Street Fresno, California 93721 (559) 497-4100</p> | <p><i>FOR COURT USE ONLY</i></p> <p>Filed Fresno County</p> |
| <p>TITLE OF CASE:</p> <p>Sherrif Clay Parker vs. State of California</p> | <p>JUNE 17, 2010 By System</p> |
| <p align="center">NOTICE OF CASE MANAGEMENT CONFERENCE AND ASSIGNMENT OF JUDGE FOR ALL PURPOSES</p> | <p>CASE NUMBER: 10CECG02116AMC</p> |

To All Parties and their Attorneys of Record:

This case has been assigned to Judge **Adolfo M. Corona** for all purposes.
 All future hearings will be scheduled before this assigned judge.

You are required to appear at a Case Management Conference on **OCTOBER 18, 2010 at 01:30 PM** in Dept 97E, 2317 Tuolumne located at **2317 Tuolumne Street, Fresno, California**.

You must comply with the requirements set forth in Fresno Superior Court Local Rules Chapter 2.

Failure to appear at the conference may result in imposition of sanctions, waiver of jury trial, or other adverse consequences.

Defendants: Appearance at the Case Management Conference does not excuse you from having to file your response in proper legal form within 30 days after the Summons is served on you. You could lose the case if you do not file your response on time. If you do not know an attorney, and do not have one, you may call an attorney referral service or a legal aide office (*listed in the phone book*).

IMPORTANT: This hearing is not a trial. It is for the court to inquire as to the status of the case and to determine what future hearings, including a trial date, need to be set.

DECLARATION

I declare under penalty of perjury under the laws of the State of California that I gave a copy of the Notice of Case Management Conference and Assignment of Judge for All Purposes to the person who presented this case for filing.

Date: **June 17, 2010**

Clerk, by _____

KENNETH E. COON

K. Coon

, Deputy

1 C. D. Michel - SBN 144258
Clinton B. Monfort - SBN 255609
2 Sean A. Brady - SBN 262007
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6 Attorneys for Plaintiffs/Petitioners

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF FRESNO

10 SHERIFF CLAY PARKER, TEHAMA)
COUNTY SHERIFF; HERB BAUER)
11 SPORTING GOODS; CALIFORNIA RIFLE)
AND PISTOL ASSOCIATION)
12 FOUNDATION; ABLE'S SPORTING,)
INC.; RTG SPORTING COLLECTIBLES,)
13 LLC; AND STEVEN STONECIPHER,)

14 Plaintiffs and Petitioners,

15 vs.

16 THE STATE OF CALIFORNIA; JERRY)
17 BROWN, IN HIS OFFICIAL CAPACITY)
AS ATTORNEY GENERAL FOR THE)
18 STATE OF CALIFORNIA; THE)
CALIFORNIA DEPARTMENT OF)
19 JUSTICE; and DOES 1-25,)

20 Defendants and Respondents.
21

CASE NO.

10 CE CG 02 1 1 6

COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF;
PETITION FOR WRIT OF MANDATE

(TO DETERMINE VALIDITY
OF STATUTES)

This case has been assigned to
Judge Adolfo M. Corona for all purposes

22 Plaintiffs and Petitioners' Sheriff Clay Parker, et. al., (collectively "Plaintiffs") by and
23 through their Counsel, bring this action against Defendants under state and federal law, including
24 42 U.S.C. 1983, to challenge the validity of California Penal Code sections 12060, 12061, and
25 12318 *et seq.* that regulate "handgun ammunition" as it is defined in Penal Code sections
26 12060(b) and 12323(a).

27
28 ¹ In matters combining a complaint for declaratory relief and writ petition, the parties are
uniformly referred to as "plaintiff" and "defendant." (Code Civ. Proc. §§ 308, 1063.)

INTRODUCTION

1. In 2009, Governor Schwarzenegger signed Assembly Bill 962 into law, which added Penal Code sections 12060, 12061 and 12318² to the California Penal Code and implemented a statutory scheme for the transfer and handling of "handgun ammunition."

2. The Challenged Provisions are void for vagueness under the Due Process Clause of the Fourteenth Amendment, both facially and as applied, because their definition of "handgun ammunition" fails to provide notice to "people of ordinary intelligence," including Plaintiffs and law enforcement officers, of which calibers of ammunition these provisions regulate. This failure to provide notice is especially egregious given the heightened standard of certainty required of laws like the Challenge Provisions that impose criminal penalties and impact constitutionally protected conduct. Under the Challenged Provisions, "handgun ammunition" includes all ammunition "*principally for use in pistols, revolvers, and other firearms capable of being concealed upon the person, . . . notwithstanding that the ammunition may also be used in some rifles.*"

3. Despite the fact that virtually all calibers of ammunition can be used safely in both rifles and handguns, the Challenged Provisions fail to provide any standard whereby a person of ordinary intelligence can understand and determine whether a given caliber of ammunition is "principally for use" in a handgun. Ordinary persons, including law abiding individuals, ammunition vendors, and law enforcement officers are required to know, *without any clarifying guidelines from Defendants*, whether ammunition commonly used in both rifles and handguns, including but not limited to .22 LR, .22-250, 270 Winchester, .308, .308 NATO, 9mm, .357 Magnum, .40 Smith & Wesson .44 Magnum, .45 Colt, .45 ACP, and 40-40 Winchester, are "principally for use in handguns."

4. Accordingly, the Challenged Provisions require ordinary persons – as well as those charged with enforcing them – to have superior knowledge that they neither have, nor can

² Penal Code sections 12060, 12061 and 12318 are hereinafter referred to collectively as the "Challenged Provisions."

1 reasonably acquire, prior to engaging in or regulating the exercise of constitutionally protected
2 conduct.

3 5. The confusion surrounding which calibers of ammunition are "principally for use" in
4 handguns prevents persons of ordinary intelligence who wish to comply with the law from having
5 reasonable notice of their obligations under the Challenged Provisions.

6 6. Further, even if the terms "principally for use in" had an objective meaning, whether a
7 given caliber of ammunition is used principally in a handgun as opposed to a rifle is something
8 that will change and fluctuate over time, depending on the changing popularity and usage of
9 different types of firearms that utilize that particular caliber of ammunition.

10 7. Moreover, rifle and handgun ammunition packaging most often *does not have* a label
11 indicating whether it is "handgun" or "rifle" ammunition – let alone labeling indicating what its
12 "*principal use*" might be under the Challenged Provisions.

13 8. Ultimately, no statutory or other means exist that would enable Plaintiffs to first
14 *understand the meaning* of the Challenged Provisions' "principally for use in" standard, and
15 second, determine whether a given caliber of ammunition is *actually "handgun ammunition"*
16 *under that standard*.

17 9. Due to the vagueness of the Challenged Provisions, law enforcement officials have
18 essentially unbridled discretion to interpret and apply the Challenged Provisions, including the
19 arbitrary ability to declare which calibers of ammunition are "handgun ammunition." Plaintiffs,
20 and others wishing to comply with the law, are therefore unjustly subject to criminal penalties if
21 their understanding of the law differs from that of law enforcement.

22 10. For these reasons, Plaintiffs, as taxpayers, citizens, retailers, and law enforcement
23 officials seek injunctive and declaratory relief prohibiting the enforcement of the Challenged
24 Provisions.

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1 PARTIES

2 [Plaintiffs]

3 11. Plaintiff SHERIFF CLAY D. PARKER ("SHERIFF PARKER"), is the duly elected
4 Sheriff for the County of Tehama, California. SHERIFF PARKER has been a law enforcement
5 officer since 1981, and is a graduate of the Federal Bureau of Investigation National Academy.
6 He was originally elected Sheriff of Tehama County in 1998, and has been re-elected to that
7 position two (2) times. SHERIFF PARKER is also the immediate-past President of the California
8 State Sheriffs' Association, and is a former President of the Western States' Sheriffs' Association.
9 In addition to having standing as a citizen and taxpayer, SHERIFF PARKER is responsible
10 for determining the policies of the Tehama County Sheriff's Department, including which calibers
11 of ammunition are "handgun ammunition" under the Challenged Provisions. SHERIFF PARKER
12 is also responsible for upholding the laws of California and of the United States. Without further
13 clarification or guidelines as to what calibers of ammunition are "handgun ammunition,"
14 SHERIFF PARKER cannot, and does not, know how to equitably enforce the Challenged
15 Provisions.

16 12. Plaintiff HERB BAUER'S SPORTING GOODS, INC., is a California corporation
17 that sells a variety of ammunition suitable for use in both rifles and handguns, with its principal
18 place of business in the County of Fresno, CA. Barry Bauer is the President of HERB BAUER'S
19 SPORTING GOODS, INC., and is responsible for determining the policies and operating
20 procedures of HERB BAUER'S SPORTING GOODS, INC., including which calibers of
21 ammunition are "handgun ammunition" under the Challenged Provisions. Plaintiff does not, and
22 cannot, know what its obligations are under the Challenged Provisions because they do not
23 provide notice of which calibers of ammunition are "handgun ammunition" and thus regulated by
24 the Challenged Provisions. The failure to provide Plaintiff with notice of which calibers of
25 ammunition are "handgun ammunition" under the Challenged Provisions unreasonably and
26 unfairly subjects Plaintiff to the threat of prosecution for violations of these laws, because Plaintiff
27 does not, and cannot, know what the Challenged Provisions prohibit.

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1 13. Plaintiff CALIFORNIA RIFLE AND PISTOL ASSOCIATION FOUNDATION
2 ("CRPA FOUNDATION") is a non-profit entity classified under section 501(c)(3) of the Internal
3 Revenue Code and incorporated under California law, with headquarters in Fullerton, California.
4 Contributions to CRPA FOUNDATION are used for the direct benefit of Californians. Funds
5 granted by the Foundation benefit a wide variety of constituencies throughout California,
6 including gun collectors, hunters, target shooters, law enforcement, and those who choose to own
7 a firearm to defend themselves and their families. CRPA FOUNDATION seeks to: raise
8 awareness about unconstitutional laws, defend and expand the legal recognition of the rights
9 protected by the Second Amendment, promote firearms and hunting safety, protect hunting rights,
10 enhance marksmanship skills of those participating in shooting sports, and educate the general
11 public about firearms. CRPA FOUNDATION supports law enforcement and various charitable,
12 educational, scientific, and other firearms-related public interest activities that support and defend
13 the Second Amendment rights of all law-abiding Americans. In this suit, CRPA FOUNDATION
14 represents the interests of the tens of thousands of its supporters who reside in the State of
15 California and who are too numerous to conveniently bring this action individually, and whose
16 interests include their desire to purchase and transfer ammunition and otherwise exercise their
17 constitutional rights to keep and bear arms without being subject to criminal prosecution for
18 violating the unconstitutionally vague Challenged Provisions.

19 14. Plaintiff ABLE'S SPORTING, INC. ("ABLE'S") is a lawful ammunition distributor
20 that ships dozens of different calibers of firearm ammunition, including ammunition suitable for
21 use in both long guns and handguns, directly to California residents. Neither Plaintiff ABLE'S,
22 nor others distributors in its position, know what their obligations are under California Penal Code
23 section 12318³ because the Challenged Provisions do not provide notice as to which calibers of
24 ammunition are "handgun ammunition" and thus regulated by section 12318. As a result, the
25 Challenged Provisions unreasonably and unfairly subject Plaintiff ABLE'S to criminal
26 prosecution for violating section 12318.

27 ³ All further statutory references are to the California Penal Code unless otherwise
28 indicated.

1 15. Plaintiff RTG SPORTING COLLECTIBLES, LLC ("RTG") is a lawful ammunition
2 distributor that ships dozens of different calibers of firearm ammunition, including ammunition
3 suitable for use in both long guns and handguns, directly to residents of California, including
4 Fresno County residents. Most of the ammunition RTG ships into California was manufactured
5 before the year 1960, and in many cases before 1920, and, despite being mostly live ammunition,
6 is sold as "collectible ammunition" not intended for firing. Plaintiff RTG does not and cannot
7 know what its obligations are under section 12318 because the Challenged Provisions not only fail
8 to provide notice of which calibers of ammunition are "handgun ammunition" and thus regulated
9 by section 12318, but also as to whether RTG's collectible ammunition is subject to section 12318
10 at all. As a result, the Challenged Provisions unreasonably and unfairly subject RTG to criminal
11 prosecution for violating section 12318.

16. Plaintiff STEVEN STONECIPHER is an individual resident of Fresno County, California and is *not* engaged in the business of selling ammunition. In addition to having standing as a citizen and taxpayer, Plaintiff STONECIPHER mails ammunition to friends and/or family, and sometimes receives ammunition in the mail from out of state shippers of ammunition. Plaintiff STONECIPHER does not, and cannot, know what his obligations are under section 12318, because the Challenged Provisions do not provide notice of what calibers of ammunition are "handgun ammunition" and thus regulated by section 12318. As a result, the Challenged Provisions unreasonably and unfairly subject Plaintiff STONECIPHER and others similarly situated to criminal prosecution for violating section 12318.

21 17. Plaintiffs initiate this action in their respective personal interests and as taxpayers and
22 citizens seeking to enjoin the undue expenditure of public funds to enforce these void and invalid
23 statutes.

24 [Defendants]

25 18. Defendant STATE OF CALIFORNIA ("STATE") is a sovereign state admitted to the
26 United States under section 3, Article IV of the United States Constitution.

27 19. Defendant JERRY BROWN is the Attorney General of California. He is the chief law
28 enforcement officer of California, and is charged by article V, section 13 of the California

1 Constitution with the duty to inform the general public, and to supervise and instruct local
2 prosecutors and law enforcement agencies, regarding the meaning of the laws of the STATE,
3 including the Challenged Provisions, and to ensure the fair, uniform and consistent enforcement of
4 those laws throughout the state.

5 20. Defendant CALIFORNIA DEPARTMENT OF JUSTICE ("DOJ") is a lawfully
6 constituted executive agency of California responsible, in part, for administering the Challenged
7 Provisions. It is charged by Article V, section 13 of the California Constitution with the duty to
8 inform the general public, and to supervise and instruct local prosecutors and law enforcement
9 agencies, regarding the meaning of the laws of the STATE, including the Challenged Provisions,
10 and ensure the fair, uniform and consistent enforcement of those laws throughout the state.

11 21. Defendants STATE OF CALIFORNIA, BROWN and the DOJ (collectively
12 "DEFENDANTS") are responsible for administering the Challenged Provisions, and are in fact
13 presently enforcing subparagraphs (1) and (2) of section 12061(a) against Plaintiffs, and will
14 enforce subparagraphs (3)-(7) of section 12061(a) and section 12318 against Plaintiffs when those
15 provisions take effect on February 1, 2011.

16 22. The true names or capacities, whether individual, corporate, associate or otherwise of
17 the Defendants named herein as DOE, are presently unknown to Plaintiffs, who therefore sue said
18 Defendants by such fictitious names. Plaintiffs pray for leave to amend this Complaint and
19 Petition to show the true names, capacities, and/or liabilities of DOE Defendants if and when they
20 have been determined.

21 23. Defendants are presently enforcing subparagraphs (1) and (2) of section 12061(a) and
22 will be enforcing subparagraphs (3)-(7) of section 12061(a) and section 12318 against Plaintiffs
23 under color of state law within the meaning of 42 U.S.C. § 1983, in that such enforcement
24 subjects plaintiffs to the deprivation of rights, privileges, and immunities secured by the United
25 States Constitution.

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1 principally for use in pistols, revolvers, and other firearms capable of being concealed upon the
2 person, as defined in subdivision (a) of Section 12001⁶, notwithstanding that the ammunition may
3 also be used in some rifles.”

4 31. As provided in Section 921(a)(16) of Title 18 of the United States Code, the term
5 “antique firearm” means: (A) any firearm (including any firearm with a matchlock, flintlock,
6 percussion cap, or similar type of ignition system) manufactured in or before 1898; or (B) any
7 replica of any firearm described in subparagraph (A) if such replica (i) is not designed or
8 redesigned for using rimfire or conventional centerfire fixed ammunition, or (ii) uses rimfire or
9 conventional centerfire fixed ammunition which is no longer manufactured in the United States
10 and which is not readily available in the ordinary channels of commercial trade; or (C) any muzzle
11 loading rifle, muzzle loading shotgun, or muzzleloading pistol, which is designed to use black
12 powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of
13 this subparagraph, the term “antique firearm” shall not include any weapon which incorporates a
14 firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any
15 muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the
16 barrel, bolt, breechblock, or any combination thereof.”

17 32. Thus, “handgun ammunition,” for purposes of the Challenged Provisions, is defined
18 by Penal Code section 12060(b), as all ammunition “principally for use in [handguns] . . . ,
19 notwithstanding that the ammunition may also be used in some rifles.”⁷

20 33. Section 12061 regulates the activities of anyone deemed a “handgun ammunition
21 vendor” (hereinafter “Vendor”) as defined in section 12060©.

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24
25 ⁶ Section 12001(a) provides: “As used in this title, the terms ‘pistol,’ ‘revolver,’ and ‘firearm
26 capable of being concealed upon the person’ shall apply to and include any device designed to be
27 used as a weapon....” (For convenience, “pistols, revolvers, and other firearms capable of being
28 concealed upon the person” are hereinafter referred to in this Complaint as “handgun(s).”)

⁷ Excluding ammunition “designed and intended” to be used in “antique firearms,” and
blanks. (Cal Pen. Code section 12061(b).)

1 34. Section 12060(c) defines a "handgun ammunition vendor" as: "any person, firm,
2 corporation, dealer, or any other business enterprise that is engaged in the retail sale of any
3 "handgun ammunition," or that holds itself out as engaged in the business of selling any "handgun
4 ammunition."

5 35. Section 12061(a)(1) mandates that: "A vendor shall not permit any employee who the
6 vendor knows or reasonably should know is a person described in Section 12021 or 12021.1 of
7 this code or Section 8100 or 8103 of the Welfare and Institutions Code to handle, sell, or deliver
8 handgun ammunition in the course and scope of his or her employment."

9 36. Section 12061(a)(2) mandates that: "A vendor shall not sell or otherwise transfer
10 ownership of, offer for sale or otherwise offer to transfer ownership of, or display for sale or
11 display for transfer of ownership of any handgun ammunition in a manner that allows that
12 ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or
13 employee thereof."

14 37. Commencing February 11, 2011, subsections (3)-(7) of 12061(a) require Vendors
15 (subject to exceptions for exempted persons), under penalty of misdemeanor prosecution, to
16 accurately record specific information about every transfer of "handgun ammunition" made by the
17 Vendor, store the records on the premises for five years, and make the records available for
18 inspection and/or use by law enforcement.⁸

19 38. Section 12318 requires that, subject to exceptions for exempted persons:
20 "Commencing February 11, 2011, the delivery or transfer of ownership of handgun ammunition
21 may only occur in a face-to-face transaction with the deliverer or transferor being provided bona
22 fide evidence of identity from the purchaser or other transferee. A violation of this section is a
23 misdemeanor."⁹

24
25 ⁸ See section 12061(b) of AB 962 attached hereto as Exhibit "A."

26 ⁹ Deliveries, transfers or sales to certain persons are exempted from these requirements under
27 section 12318(c), including transfers to authorized law enforcement representatives, persons on
28 the centralized list maintained by the Department of Justice pursuant to section 12083, "handgun
ammunition vendors," and others.

[Vagueness Doctrine]

39. The Fourteenth Amendment of the United States Constitution provides that no state shall deprive any person of life, liberty, or property, without due process of law.

40. A statute which either forbids or requires the doing of an act in terms so vague that persons of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential requirement of due process.

41. The "void for vagueness" doctrine under the Due Process Clause generally requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited. It requires laws to give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he or she may act accordingly.

42. The certainty required in legislation is greater where a criminal statute limits a constitutional right.

43. *District of Columbia v. Heller* (2008), 128 S. Ct. 2783, held that the Second Amendment of the United States Constitution protects an individual right to keep and bear arms.

44. The Second Amendment, by way of its incorporation through the Fourteenth Amendment, limits state and local government action from infringing on an individual's right to keep and bear arms.

45. The "void for vagueness" doctrine also requires that penal statutes regulate in a manner that does not encourage arbitrary and discriminatory enforcement of the law. Laws may not impermissibly delegate basic policy matters to policemen, judges, and juries for resolution on an *ad hoc* and subjective basis, with the attendant dangers of arbitrary and discriminatory application.

GENERAL ALLEGATIONS

46. Each of the Challenged Provisions are criminal statutes that limit the constitutional right to keep and bear arms guaranteed by the Second Amendment.

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1 47. The Challenged Provisions are void for vagueness because persons of ordinary
2 intelligence, including Plaintiffs, are unable to ascertain at any given time which calibers of
3 ammunition are considered "principally for use" in a handgun and are thus "handgun ammunition"
4 pursuant to sections 12060(b) and 12323(a).

5 48. All modern centerfire and rimfire ammunition for use in rifles and/or handguns consist
6 of the same components: a metal casing that suspends a metal projectile over a charge of
7 smokeless powder confined within the metal casing and a primer to ignite the charge.

8 49. Virtually all calibers of ammunition can be used safely in both rifles and handguns.

9 50. Many calibers of ammunition are commonly used in both rifles and handguns,
10 including but not limited to .22 LR, .22-250, 270 Winchester, .308, .308 NATO, 9mm, .357
11 Magnum, .40 Smith & Wesson, .44 Magnum, .45 Colt, .45 ACP, and 40-40 Winchester.

12 51. Persons of ordinary intelligence are unable to ascertain from reading the Challenged
13 Provisions what the phrase "principally for use in" means, let alone whether a given caliber of
14 ammunition is "principally for use" in a handgun at any given time.

15 52. The Challenged Provisions fail to provide any standard whereby one can determine
16 whether a given caliber of ammunition is "principally for use" in a handgun.

17 53. The Challenged Provisions do not state what "ammunition 'principally for use' in a
18 handgun" means. If it means ammunition that is used more often in a handgun than in a long gun,
19 the Challenged Provisions still do not specify which calibers of ammunition are in fact used more
20 often in a handgun than in a long-gun, or vice-versa.

21 54. Whether a given caliber of ammunition is used more often in a handgun than in a rifle
22 may change and fluctuate over time, depending on the changing popularity and usage of different
23 types of firearms which utilize that caliber of ammunition, or vice-versa.

24 55. There are no means for individuals of ordinary intelligence to determine which
25 calibers of ammunition, at any given time, are used more often in a handgun than in a long-gun.

26 56. Even if a manufacturer's intended use was the "applicable" standard, there are
27 likewise no means for individuals of ordinary intelligence to determine which calibers of
28 ammunition are intended by manufacturers to be "principally for use" in a handgun or a rifle.

1 57. Packaging for ammunition that is commonly used in both rifles and handguns most
2 often has no label indicating whether it is "handgun" or "rifle" ammunition, let alone indicating
3 whether the ammunition is "*principally for use*" in a handgun under section 12060(b).

4 58. As well, as firearm models and calibers evolve, are developed, and become more or
5 less popular with consumers, whether a specific type of ammunition is intended to be "principally
6 for use" in a handgun can change and fluctuate over time.

7 59. There is no generally accepted technical definition of "handgun ammunition," nor any
8 commonly understood delineation between "handgun ammunition" and other ammunition used in
9 the firearms industry that clearly equates to the "principally for use in [handguns]" language upon
10 which the Challenged Provisions rely.

11 60. For example, ammunition that is commonly referred to as .22 Long Rifle, or .22 LR,
12 is frequently used in handguns, including Olympic target pistols, despite the use of the term "rifle"
13 in its nomenclature.

14 61. Further, under the definition of "antique firearm" in Section 921(a)(16) of Title 18 of
15 the United States Code, a firearm made in or before 1898 is an "antique firearm," but an identical
16 firearm in the same caliber made after 1898 is not an "antique firearm." Numerous calibers of
17 ammunition, including but not limited to .22 Short, .22 Long, 32-20, .38-40, .44-40, .45 Colt, and
18 .32 Colt can be used in identical firearms that were manufactured both in or before 1898 and after
19 1898, and are commonly used in both rifles and handguns. Because many calibers of ammunition
20 can be used in both a modern firearm and an "antique firearm" under that definition, there is no
21 way of knowing whether any of those calibers is "designed and intended" to be used in an
22 "antique firearm" or not, and thus exempt from the Challenged Provisions

23 62. The uncertainty and confusion as to which calibers of ammunition are "principally for
24 use in" handguns prevents people of ordinary intelligence who wish to comply with the law from
25 having notice of what their obligations are under the Challenged Provisions.

26 63. Law enforcement officials likewise cannot know and are unable to clearly determine
27 which calibers of ammunition are "principally for use in" handguns.

28

64. Without legislative guidance as to what calibers of ammunition are "handgun ammunition," such as an enumerated list of regulated ammunition calibers, some law enforcement agencies, and individual officers, will unilaterally or subjectively consider a given caliber to be "handgun ammunition" under the Challenged Provisions, while others will not, thereby encouraging arbitrary and discriminatory application of the Challenged Provisions.

65. Also, a person of ordinary intelligence does not, and cannot, know whether rare ammunition that is sold as a collectible, not intended to be fired but that can be fired, is "handgun ammunition" under the Challenged Provisions. Though it is intended to be used as a collectible, it may still be subjectively considered "principally for use in" handguns by law enforcement, thereby encouraging further arbitrary and discriminatory application of the Challenged Provisions.

[Guideline Failures]

66. On or about December 30, 2009, the DOJ Bureau of Firearms released an official "Information Bulletin" for all California firearms dealers that provided a list of all "New and Amended Firearms Laws" that became effective January 1, 2010. The Information Bulletin lists subparagraphs (1) and (2) of section 12061(a) as laws effective January 1, 2010. The Information Bulletin also lists subparagraphs (3) of section 12061 and section 12318 as taking effect on February 1, 2011.¹⁰

67. The Information Bulletin summarizes each Challenged Provision, but fails to provide any guidelines or clarification for Vendors, individuals or law enforcement to understand and determine what the term "principally for use in" means, let alone whether any given caliber of ammunition is "principally for use" in handguns, and therefore "handgun ammunition" under the Challenged Provisions.

68. None of the Challenged Provisions, nor any other provision of the law, confer authority upon an agency or other entity to promulgate regulations to clarify the Challenged Provisions.

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¹⁰ A copy of the Information Bulletin is attached hereto as Exhibit "C."

69. Defendant DOJ has expressly stated it “[does not] have any other guidelines to distinguish . . . “handgun ammunition” from other ammunition,” and it “would only refer to the language of Penal Code section 12323, subd. (a) . . .”

70. Defendant DOJ has expressly stated it "can't and won't adopt a general policy" about which calibers of ammunition are covered by the Challenged Provisions.

71. Defendant DOJ also stated it “[does not] plan to hold any regulatory meetings” concerning the implementation and clarification of the Challenged Provisions.

72. Defendant DOJ has stated it “[doesn’t] know and . . . can’t say” whether DOJ Field Representatives charged with enforcing these laws will consider a certain caliber of ammunition to be “handgun ammunition” under, and for purposes of enforcing, the Challenged Provisions.

[Irreparable Injury Allegations]

73. Due to the vagueness of the Challenged Provisions as to what calibers of ammunition are "handgun ammunition," the named individual plaintiffs, and the individuals and entities represented in this action, are irreparably injured, and will continue to be injured, by the mere enactment, existence, and ongoing and pending arbitrary enforcement of the Challenged Provisions in the following ways:

74. Licensed business enterprises, including Plaintiff HERB BAUER SPORTING GOODS, INC. and those represented by Plaintiff CRPA FOUNDATION, engaged in the business of selling or transferring ammunition within the state are, and will continue to be, subject to criminal prosecution for allowing an employee to handle a caliber of ammunition that, unbeknownst to the Vendor, law enforcement subjectively deems "handgun ammunition" – despite the fact that neither Vendors nor law enforcement can ascertain which calibers of ammunition are "handgun ammunition" under section 12061(a)(1) and which are not.

75. Licensed business enterprises, including Plaintiff HERB BAUER SPORTING GOODS, INC. and those represented by Plaintiff CRPA FOUNDATION, engaged in the business of selling or transferring ammunition within the state are, and will continue to be, subject to criminal prosecution for displaying a caliber of ammunition in a manner accessible to the transferee that, unbeknownst to the Vendor, law enforcement subjectively considers "handgun

1 ammunition", despite the fact that neither Vendors nor law enforcement can ascertain which
2 calibers of ammunition are "handgun ammunition" under 12061(a)(2) and which are not.

3 76. Licensed business enterprises, including Plaintiff HERB BAUER SPORTING
4 GOODS, INC. and those represented by Plaintiff CRPA FOUNDATION, engaged in the business
5 of selling or transferring ammunition within the State will be forced to risk criminal prosecution
6 for failing to record transfers of a caliber of ammunition that, unbeknownst to the Vendor, law
7 enforcement subjectively considers "handgun ammunition," despite the fact that neither Vendors
8 nor law enforcement can ascertain which calibers of ammunition are "handgun ammunition"
9 under section 12061(a)(3-7).

10 77. Licensed business enterprises, including Plaintiffs ABLE'S, RTG, and those
11 represented by CRPA FOUNDATION, engaged in the business of shipping ammunition to
12 individuals in the State will be subject to criminal prosecution for shipping to a transferee within
13 the State a caliber of ammunition that, unbeknownst to the Vendor, law enforcement subjectively
14 considers "handgun ammunition," despite the fact that neither Vendors nor law enforcement can
15 ascertain which calibers of ammunition are "handgun ammunition" under section 12318 and
16 which are not. Due to enforcement threats under section 12318 and the inability to determine
17 which calibers of ammunition are "handgun ammunition," Plaintiffs ABLE'S and RTG may be
18 forced to cease all shipments of ammunition suitable for use in both handguns and rifles to their
19 customers in California, thereby causing a significant decrease in sales and lost profits.

20 78. In the case of Plaintiff RTG, most of the ammunition it ships into California is sold as
21 collectible ammunition that is not intended for firing. Plaintiff RTG does not, and cannot, know
22 what its obligations are under section 12318 because the Challenged Provisions fail to provide
23 notice of whether collectible ammunition is subject to section 12318.¹¹ It is unclear whether any
24 given caliber of RTG's collectible ammunition is "principally for use in a handgun" when it is
25 sold for use as a collector's item. This failure to provide notice unreasonably and unfairly subjects
26

27 ¹¹ Much of the collectible ammunition RTG ships to California is not "designed and intended
28 to be used in an 'antique firearm' as defined in Section 921(a)(16) of Title 18 of the United
States Code" and is thus not *expressly* exempt from the requirements of section 12318.

1 RTG to criminal prosecution for violating section 12318, because RTG does not and cannot know
2 what conduct the law prohibits.

3 79. Licensed business enterprises, including Plaintiff HERB BAUER SPORTING
4 GOODS, INC., and those represented by Plaintiff CRPA FOUNDATION, engaged in the business
5 of selling or transferring ammunition in the state will be subject to criminal prosecution for failing
6 to request "bona fide evidence of identification" from a transferee, upon transferring within the
7 state, a caliber of ammunition that law enforcement subjectively considers "handgun
8 ammunition," despite the fact that neither Vendors nor law enforcement can ascertain which
9 calibers of ammunition are "handgun ammunition" under section 12318 and which are not.

10 80. Individual residents of the state, including Plaintiff STEVEN STONECIPHER and
11 those represented by Plaintiff CRPA FOUNDATION, who transfer and receive ammunition via
12 mail within the state, will be subject to criminal prosecution for shipping to a transferee (or
13 receiving as a transferee) a caliber of ammunition that law enforcement subjectively considers
14 "handgun ammunition," despite the fact that neither the parties to the transfer, nor law
15 enforcement, can ascertain which calibers of ammunition are "handgun ammunition" under
16 section 12318 and which are not.

17 81. Residents of the state, including Plaintiff STEVEN STONECIPHER and those
18 represented by Plaintiff CRPA FOUNDATION, who transfer ammunition, will be subject to
19 criminal prosecution for failing to request "bona fide evidence of identification" upon transfer of a
20 caliber of ammunition that law enforcement subjectively considers "handgun ammunition,"
21 despite the fact that neither the parties to the transfer, nor law enforcement, can ascertain which
22 calibers of ammunition are "handgun ammunition" under section 12318 and which are not.

23 82. Law enforcement officials, including Plaintiff SHERIFF PARKER, whose sworn duty
24 it is to uphold the law, do not and cannot know what individuals' and Vendors' obligations are
25 under the Challenged Provisions because those officials cannot ascertain which calibers of
26 ammunition are "handgun ammunition" under the Challenged Provisions. The vagueness of the
27 term "handgun ammunition" thereby encourages arbitrary and discriminatory enforcement of the
28 Challenged Provisions.

1 83. All Plaintiffs, and those represented by Plaintiffs, who are taxpayers, are irreparably
2 injured by the waste of tax funds associated with the passage and implementation of the
3 unconstitutionally vague Challenged Provisions, including expenditures of public funds relating to
4 the enforcement of these provisions.

5 84. Plaintiffs ask this Court to declare the Challenged Provisions invalid on their face and
6 as applied to Plaintiffs because the definition of "handgun ammunition" as set forth in these
7 provisions, and in section 12060(b) specifically, is unconstitutionally vague, as it fails to provide
8 notice to persons of ordinary intelligence what the law is or how to comply with it, and thereby
9 violates Plaintiffs' rights under the Due Process Clause of the Fourteenth Amendment. Plaintiffs
10 also ask that a writ issue prohibiting Defendants from enforcing any of the Challenged Provisions.

11 PUBLIC INTEREST INVOLVED

12 85. Plaintiffs, and those represented by Plaintiffs, as citizens and taxpayers, properly
13 bring this Complaint for Injunctive and Declaratory relief and Petition for Writ of Mandate in the
14 nature of a citizen mandamus action to promote the public interest in having the general laws
15 obeyed.

16 86. The Challenged Provisions are void for vagueness under the Due Process Clause of
17 the Fourteenth Amendment because they fail to provide notice to "people of ordinary intelligence"
18 regarding which calibers of ammunition those provisions regulate, and make ordinary citizens
19 responsible for determining the scope of their application. Similarly, because of the failure to
20 clearly specify which calibers of ammunition should be regulated by the Challenged Provisions,
21 law enforcement officials have unbridled discretion to interpret and enforce the Challenged
22 Provisions.

23 87. The public has an interest in preventing the state from enforcing vague laws such as
24 the Challenged Provisions that subject residents to criminal prosecution without notice of how to
25 avoid liability under those provisions, in violation of those residents' constitutional rights.

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27 ///

28 ///

**FIRST CAUSE OF ACTION
FOR DECLARATORY AND INJUNCTIVE RELIEF
DUE PROCESS VAGUENESS - FACIAL
(By All Plaintiffs Against All Defendants)**

88. Plaintiffs re-allege all prior paragraphs and incorporate them herein.

89. An actual controversy has arisen and now exists between Plaintiffs and Defendants relative to their respective rights and duties under the Challenged Provisions, in that Plaintiffs contend these provisions are invalid and unenforceable on their face because they violate the Fourteenth Amendment's Due Process requirement that laws not be vague. Defendants dispute this contention, as they currently enforce subparagraphs (1) and (2) of section 12061(a), and will enforce subparagraphs (3)-(7) of section 12061 and section 12318 when these sections take effect on February 1, 2011.

90. Plaintiffs desire a declaration invalidating the Challenged Provisions on their face. A judicial declaration is necessary and appropriate at this time so that Plaintiffs may ascertain their rights and duties under the Challenged Provisions without first unknowingly violating these provisions and thereby subjecting themselves to criminal liability.

91. To resolve this controversy, Plaintiffs request that, pursuant to California Code of Civil Procedure section 1060, this Court declare the following: Penal Code sections 12060, 12061 and 12318 that regulate "handgun ammunition" as defined in Penal Code sections 12060(b) and 12323(a) are void for vagueness on their face because they fail to provide notice to persons of ordinary intelligence regarding which calibers of ammunition are "handgun ammunition" and thus subject to the Challenged Provisions; this vagueness thereby encourages arbitrary and discriminatory enforcement of the law and violates the Due Process Clause of the Fourteenth Amendment.

92. Additionally, Plaintiffs seek an injunction pursuant to Code of Civil Procedure sections 525 and 526. The state's enforcement of the Challenged Provisions, unless enjoined by order of this Court, will continue to cause great and irreparable injury to Plaintiffs, because they are unable to determine what conduct is required or prohibited under the Challenged Provisions. As a result, Plaintiffs continually risk criminal prosecution and suffer Due Process violations.

93. The state's adoption and enforcement of the Challenged Provisions, and the resultant injuries to Plaintiffs, is and will be of a continuing nature for which Plaintiffs have no adequate remedy at law because monetary damages are impossible to determine.

94. Accordingly, Plaintiffs seek a permanent injunction forbidding Defendants, their agents, employees, representatives, and all those acting in concert with them from enforcing the Challenged Provisions. This Court should render declaratory judgment declaring the Challenged Provisions unconstitutional and unenforceable.

**SECOND CAUSE OF ACTION
FOR DECLARATORY AND INJUNCTIVE RELIEF
DUE PROCESS VAGUENESS - AS APPLIED
(By Plaintiff Herb Bauer Sporting Goods, Inc. Against All Defendants)**

1 and (2) of section 12061(a) without first inadvertently subjecting itself to arbitrary criminal
2 liability by unknowingly violating any of these provisions.

3 100. To resolve this controversy, Plaintiff requests that, pursuant to California Code of
4 Civil Procedure section 1060, this Court declare the following: subparagraphs (1) and (2) of Penal
5 Code section 12061(a) are void for vagueness as applied to Plaintiff because these provisions fail
6 to provide notice to Plaintiff regarding which calibers of ammunition are "handgun ammunition"
7 as defined in Penal Code sections 12060(b) and 12323(a), and because such vagueness encourages
8 arbitrary and discriminatory enforcement of these laws against Plaintiff in violation of the Due
9 Process Clause of the Fourteenth Amendment.

10 101. Additionally, Plaintiff seeks an injunction pursuant to Code of Civil Procedure
11 sections 525 and 526. The State's wrongful conduct, unless enjoined by this Court, will continue
12 to cause great and irreparable injury to Plaintiff because it is unable to determine what conduct is
13 required of it under subparagraphs (1) and (2) of section 12061(a). As a result, Plaintiff
14 continually risks criminal prosecution and suffers Due Process violations.

15 102. The state's adoption and enforcement of subparagraphs (1) and (2) of section
16 12061(a), and the resultant injuries to Plaintiff, is and will be of a continuing nature for which
17 Plaintiff has no adequate remedy at law because monetary damages are impossible to determine.

18 103. Accordingly, Plaintiff seeks a permanent injunction forbidding Defendants, their
19 agents, employees, representatives, and all those acting in concert with them from enforcing the
20 Challenged Provisions. This Court should render declaratory judgment declaring the Challenged
21 Provisions unconstitutional and unenforceable.

22 **THIRD CAUSE OF ACTION**
23 **PETITION FOR WRIT OF MANDATE**
(By All Plaintiffs Against All Defendants)

24 104. Plaintiffs re-allege all prior paragraphs and incorporate them herein.

25 105. Defendants have a clear, present, and ministerial duty *not* to enforce the Challenged
26 Provisions against Plaintiffs, or anyone.

1 106. Plaintiffs are beneficially interested in this matter, as they and their supporters are
2 subject to Defendants' arbitrary enforcement of the unconstitutionally vague Challenged
3 Provisions.

4 107. Defendants' adoption and enforcement of the Challenged Provisions is and will be of
5 a continuing nature for which Plaintiffs have no plain, speedy, adequate remedy at law, and which
6 has and will continue to result in irreparable harm.

7 108. Plaintiffs present important questions of statutory and constitutional interpretation, as
8 well as questions of public interest, which further warrant prompt disposition of this matter.

9 109. Accordingly, Plaintiffs seek a writ of mandate, pursuant to Code of Civil Procedure
10 sections 1085 and 1087 commanding Defendants to stop enforcing the Challenged Provisions.

11 **DECLARATORY AND WRIT RELIEF WARRANTED**

12 110. Declaratory and writ relief is warranted in this case because: (1) an actual
13 controversy has arisen and now exists between Plaintiffs and Defendants over the validity of the
14 Challenged Provisions; and (2) there is no adequate remedy in the ordinary course of law.

15 111. Subsections (1) and (2) of section 12061(a) took effect on January 1, 2010, and are
16 currently being enforced. These provisions are unlawfully vague such that Plaintiffs are unable to
17 understand the Challenged Provisions and ascertain which calibers of ammunition are "handgun
18 ammunition" under these provisions. Due to this vagueness, ammunition vendors have been
19 forced, and will continue to be forced, to risk criminal penalties for failing to comply with the
20 Challenged Provisions, because it allows for an arbitrary and discriminatory application of the
21 Challenged Provisions by law enforcement. Likewise, any person or Vendor who transfers
22 ammunition, subject to limited exceptions for exempted persons, will be forced to risk criminal
23 penalties for failing to comply with the Challenged Provisions. Moreover, Defendants' ongoing
24 and pending enforcement of invalid laws wastes taxpayer funds and unduly burdens Plaintiffs.

25 **PRAYER**

26 1. Wherefore Plaintiffs pray for the following relief: A Declaration that Penal Code
27 sections 12060, 12061, and 12318 are null and void on their face because such provisions are
28 unlawfully vague under the Due Process Clause of the Fourteenth Amendment;

- 1 2. A Declaration that subparagraphs (1) and (2) of Penal Code section 12061(a) are null
2 and void as applied to Plaintiffs because such provisions are unlawfully vague under the Due
3 Process Clause of the Fourteenth Amendment;
- 4 3. Issuance of a Peremptory Writ and/or Permanent Injunction ordering Defendants to stop
5 enforcing Penal Code sections 12060, 12061, and 12318;
- 6 4. Costs and attorneys' fees as provided by section 1021.5 of the California Code of Civil
7 Procedure, 42 U.S.C. § 1988, and any other relevant provision of California or federal law.
- 8 5. Such other relief as this Court may deem just and proper.

9
10 Dated: June 17, 2010

11 Respectfully submitted,
12 MICHEL & ASSOCIATES, P.C.

13 
14 C. D. MICHEL
15 Attorney for Plaintiffs

VERIFICATION

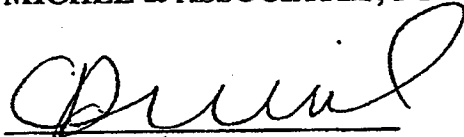
I, C.D. Michel, declare as follows:

I am one of the attorneys for the Plaintiffs herein. I have read the foregoing Complaint for Declaratory and Injunctive Relief / Petition for Writ of Mandate and know its contents. The facts alleged in the petition are within my own knowledge and I know these facts to be true. Because of my familiarity with the relevant facts and because my clients are absent from the county where I have my office, I, rather than Plaintiffs, verify this petition.

I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed on June 17, 2010, at Long Beach, California.

Dated: _____

MICHEL & ASSOCIATES, PC



C. D. Michel
Attorney for Plaintiffs

EXHIBIT A

Assembly Bill No. 962

CHAPTER 628

An act to amend Section 12316 of, to add Sections 12317 and 12318 to, to add Article 3.5 (commencing with Section 12060) to Chapter 1 of, to add a heading for Chapter 2.6 (commencing with Section 12316) to, and to repeal the heading of Chapter 2.6 (commencing with Section 12320) of, Title 2 of Part 4 of, the Penal Code, relating to ammunition.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 962, De Leon. Ammunition.

Existing law generally regulates the sale of ammunition.

The bill would provide that no handgun ammunition vendor, as defined, shall sell, offer for sale, or display for sale, any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser without the assistance of the vendor or employee thereof.

Existing law generally regulates what information is required to be obtained in connection with the transfer of ammunition.

This bill would, subject to exceptions, commencing February 1, 2011, require handgun ammunition vendors to obtain a thumbprint and other information from ammunition purchasers, as specified. A violation of these provisions would be a misdemeanor.

This bill would provide that a person enjoined from engaging in activity associated with a criminal street gang, as specified, would be prohibited from having under his or her possession, custody, or control, any ammunition. Violation of these provisions would be a misdemeanor.

The bill would prohibit supplying or delivering, as specified, handgun ammunition to prohibited persons, as described, by persons or others who know, or by using reasonable care should know, that the recipient is a person prohibited from possessing ammunition or a minor prohibited from possessing ammunition, as specified. Violation of these provisions is a misdemeanor with specified penalties.

The bill would provide, subject to exceptions, that commencing February 1, 2011, the delivery or transfer of ownership of handgun ammunition may only occur in a face-to-face transaction, with the deliverer or transferor being provided bona fide evidence of identity of the purchaser or other transferee. A violation of these provisions would be a misdemeanor.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Anti-Gang Neighborhood Protection Act of 2009.

SEC. 2. Article 3.5 (commencing with Section 12060) is added to Chapter 1 of Title 2 of Part 4 of the Penal Code, to read:

Article 3.5. Handgun Ammunition Vendors

12060. As used in this article, the following terms apply:

(a) "Department" means the Department of Justice.

(b) "Handgun ammunition" means handgun ammunition as defined in subdivision (a) of Section 12323, but excluding ammunition designed and intended to be used in an "antique firearm" as defined in Section 921(a)(16) of Title 18 of the United States Code. Handgun ammunition does not include blanks.

(c) "Handgun ammunition vendor" or "vendor" means any person, firm, corporation, dealer, or any other business enterprise that is engaged in the retail sale of any handgun ammunition, or that holds itself out as engaged in the business of selling any handgun ammunition.

12061. (a) A vendor shall comply with all of the following conditions, requirements and prohibitions:

(1) A vendor shall not permit any employee who the vendor knows or reasonably should know is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code to handle, sell, or deliver handgun ammunition in the course and scope of his or her employment.

(2) A vendor shall not sell or otherwise transfer ownership of, offer for sale or otherwise offer to transfer ownership of, or display for sale or display for transfer of ownership of any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or employee thereof.

(3) Commencing February 1, 2011, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly recording the following information:

(A) The date of the sale or other transaction.

(B) The purchaser's or transferee's driver's license or other identification number and the state in which it was issued.

(C) The brand, type, and amount of ammunition sold or otherwise transferred.

(D) The purchaser's or transferee's signature.

(E) The name of the salesperson who processed the sale or other transaction.

(F) The right thumbprint of the purchaser or transferee on the above form.

(G) The purchaser's or transferee's full residential address and telephone number.

(H) The purchaser's or transferee's date of birth.

(4) Commencing February 1, 2011, the records required by this section shall be maintained on the premises of the vendor for a period of not less than five years from the date of the recorded transfer.

(5) Commencing February 1, 2011, the records referred to in paragraph (3) shall be subject to inspection at any time during normal business hours by any peace officer employed by a sheriff, city police department, or district attorney as provided in subdivision (a) of Section 830.1, or employed by the department as provided in subdivision (b) of Section 830.1, provided the officer is conducting an investigation where access to those records is or may be relevant to that investigation, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4), or any other laws pertaining to firearms or ammunition. The records shall also be subject to inspection at any time during normal business hours by any other employee of the department, provided that employee is conducting an investigation where access to those records is or may be relevant to that investigation, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4), or any other laws pertaining to firearms or ammunition.

(6) Commencing February 1, 2011, the vendor shall not knowingly make a false entry in, fail to make a required entry in, fail to obtain the required thumbprint, or otherwise fail to maintain in the required manner records prepared in accordance with paragraph (2). If the right thumbprint is not available, then the vendor shall have the purchaser or transferee use his or her left thumb, or any available finger, and shall so indicate on the form. If the purchaser or transferee is physically unable to provide a thumbprint or fingerprint, the vendor shall so indicate on the form.

(7) Commencing February 1, 2011, no vendor shall refuse to permit a person authorized under paragraph (5) to examine any record prepared in accordance with this section during any inspection conducted pursuant to this section, or refuse to permit the use of any record or information by those persons.

(b) Paragraph (3) of subdivision (a) shall not apply to or affect sales or other transfers of ownership of handgun ammunition by handgun ammunition vendors to any of the following, if properly identified:

(1) A person licensed pursuant to Section 12071.

(2) A handgun ammunition vendor.

(3) A person who is on the centralized list maintained by the department pursuant to Section 12083.

(4) A target facility which holds a business or regulatory license.

(5) Gunsmiths.

(6) Wholesalers.

(7) Manufacturers or importers of firearms licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.

(8) Sales or other transfers of ownership made to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those government agencies if, prior to the delivery, transfer, or sale of handgun 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 he or she is employed.

(c) (1) A violation of paragraph (3), (4), (6), or (7) of subdivision (a) is a misdemeanor.

(2) The provisions of this subdivision 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 different provisions of law shall not be punished under more than one provision.

SEC. 3. A heading for Chapter 2.6 of Title 2 of Part 4 is added to the Penal Code, immediately preceding Section 12316, to read:

CHAPTER 2.6. AMMUNITION

SEC. 5. Section 12316 of the Penal Code is amended to read:

12316. (a) (1) Any person, corporation, or dealer who does any of the following shall be punished by imprisonment in a county jail for a term not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both the imprisonment and fine:

(A) Sells any ammunition or reloaded ammunition to a person under 18 years of age.

(B) Sells any ammunition or reloaded ammunition designed and intended for use in a handgun to a person under 21 years of age. As used in this subparagraph, "ammunition" means handgun ammunition as defined in subdivision (a) of Section 12323. Where ammunition or reloaded ammunition may be used in both a rifle and a handgun, it may be sold to a person who is at least 18 years of age, but less than 21 years of age, if the vendor reasonably believes that the ammunition is being acquired for use in a rifle and not a handgun.

(C) Supplies, delivers, or gives possession of any ammunition to any minor who he or she knows, or using reasonable care should know, is prohibited from possessing that ammunition at that time pursuant to Section 12101.

(2) Proof that a person, corporation, or dealer, or his or her agent or employee, demanded, was shown, and acted in reasonable reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this subdivision. As used in this subdivision, "bona fide evidence of majority and identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, California state identification card, identification card issued to a member of the Armed Forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(b) (1) No person prohibited from owning or possessing a firearm under Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code shall own, possess, or have under his or her custody or control, any ammunition or reloaded ammunition.

(2) For purposes of this subdivision, "ammunition" shall include, but not be limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence. "Ammunition" does not include blanks.

(3) A violation of paragraph (1) of this subdivision is punishable by imprisonment in a county jail not to exceed one year or in the state prison, by a fine not to exceed one thousand dollars (\$1,000), or by both the fine and imprisonment.

(4) A person who is not prohibited by paragraph (1) from owning, possessing, or having under his or her custody or control, any ammunition or reloaded ammunition, but who is enjoined from engaging in activity pursuant to an injunction issued pursuant to Section 3479 of the Civil Code against that person as a member of a criminal street gang, as defined in Section 186.22, may not own, possess, or have under his or her custody or control, any ammunition or reloaded ammunition.

(5) A violation of paragraph (4) of this subdivision is a misdemeanor.

(c) Unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties or persons exempted under subparagraph (A) of paragraph (1) of subdivision (a) of Section 12027. This subdivision shall not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making an arrest or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, a person holding a

valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code. A violation of this subdivision is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars (\$1,000), or both the imprisonment and fine.

(d) (1) A violation of paragraph (1) or (4) of subdivision (b) is justifiable where all of the following conditions are met:

(A) The person found the ammunition or reloaded ammunition or took the ammunition or reloaded ammunition from a person who was committing a crime against him or her.

(B) The person possessed the ammunition or reloaded ammunition no longer than was necessary to deliver or transport the ammunition or reloaded ammunition to a law enforcement agency for that agency's disposition according to law.

(C) The person is prohibited from possessing any ammunition or reloaded ammunition solely because that person is prohibited from owning or possessing a firearm only by virtue of Section 12021 or ammunition or reloaded ammunition because of paragraph (4) of subdivision (b).

(2) Upon the trial for violating paragraph (1) or (4) of subdivision (b), the trier of fact shall determine whether the defendant is subject to the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she is subject to the exemption provided by this subdivision.

SEC. 6. Section 12317 is added to the Penal Code, to read:

12317. (a) Any person, corporation, or firm 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 his or her custody or control, any ammunition or reloaded ammunition pursuant to paragraph (1) or (4) of subdivision (b) of Section 12316, 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) 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.

(c) For purposes of this section, "ammunition" shall include, but not be limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with deadly consequence. "Ammunition" does not include blanks.

SEC. 7. Section 12318 is added to the Penal Code, to read:

12318. (a) Commencing February 1, 2011, the delivery or transfer of ownership of handgun ammunition may only occur in a face-to-face

transaction with the deliverer or transferor being provided bona fide evidence of identity from the purchaser or other transferee. A violation of this section is a misdemeanor.

(b) For purposes of this section:

(1) "Bona fide evidence of identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, state identification card, identification card issued to a member of the Armed Forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(2) "Handgun ammunition" means handgun ammunition as defined in subdivision (a) of Section 12323, but excluding ammunition designed and intended to be used in an "antique firearm" as defined in Section 921(a)(16) of Title 18 of the United States Code. Handgun ammunition does not include blanks.

(3) "Handgun ammunition vendor" has the same meaning as set forth in Section 12060.

(c) Subdivision (a) shall not apply to or affect the deliveries, transfers, or sales of, handgun ammunition to any of the following:

(1) Authorized law enforcement representatives of cities, counties, cities and counties, or state and federal governments for exclusive use by those government agencies if, prior to the delivery, transfer, or sale of the handgun 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) Sworn peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who are authorized to carry a firearm in the course and scope of their duties.

(3) Importers and manufacturers of handgun ammunition or firearms 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) Persons who are on the centralized list maintained by the Department of Justice pursuant to Section 12083.

(5) Persons whose licensed premises are outside this state who are licensed as dealers or collectors 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) Persons licensed as collectors 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 who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071.

(7) A handgun ammunition vendor.

(8) A consultant-evaluator, as defined in subdivision (s) of Section 12001.

SEC. 8. The heading of Chapter 2.6 (commencing with Section 12320) of Title 2 of Part 4 of the Penal Code is repealed.

SEC. 9. 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, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

EXHIBIT B

DEERING'S CALIFORNIA CODES ANNOTATED
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*** THIS DOCUMENT IS CURRENT THROUGH 2009-2010 EXTRAORDINARY
SESSIONS 1-5, ***
7, AND 8, AND URGENCY LEGISLATION THROUGH CH 25 OF THE 2010 REGULAR
SESSION

PENAL CODE
Part 4. Prevention of Crimes and Apprehension of Criminals
Title 2. Control of Deadly Weapons
Chapter 2.6. Ammunition

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Pen Code § 12323 (2009)

§ 12323. Definitions

As used in this chapter, the following definitions shall apply:

(a) "Handgun ammunition" means ammunition principally for use in pistols, revolvers, and other firearms capable of being concealed upon the person, as defined in subdivision (a) of Section 12001, notwithstanding that the ammunition may also be used in some rifles.

(b) "Handgun ammunition designed primarily to penetrate metal or armor" means any ammunition, except a shotgun shell or ammunition primarily designed for use in rifles, that is designed primarily to penetrate a body vest or body shield, and has either of the following characteristics:


(1) Has projectile or projectile core constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper, or depleted uranium, or any equivalent material of similar density or hardness.

(2) Is primarily manufactured or designed, by virtue of its shape, cross-sectional density, or any coating applied thereto, including, but not limited to, ammunition commonly known as "KTW ammunition," to breach or penetrate a body vest or body shield when fired from a pistol, revolver, or other firearm capable of being concealed upon the person.

(c) "Body vest or shield" means any bullet-resistant material intended to provide ballistic and trauma protection for the wearer or holder.

(d) "Rifle" shall have the same meaning as defined in paragraph (20) of subdivision (c) of Section 12020.

EXHIBIT C

| | | | |
|---|---|---------------------------------|--|
| California Department of Justice DIVISION OF LAW ENFORCEMENT George B. Anderson, Director |  | INFORMATION BULLETIN | |
| Subject: New and Amended Firearms Laws | No: 2009-BOF-05 | Bureau of Firearms | |
| | Date: 12/30/09 | | |

TO: All California Centralized List of Firearms Dealers, Manufacturers, and Exempted Federal Firearms Licensees

This bulletin provides a brief summary of new and amended California firearms laws that take effect on January 1, 2010, unless otherwise noted. You may contact the California State Capitol Legislative Bill Room at (916) 445-2323 to obtain copies of the bills (order by statute year and chapter number), or access the full text of the bills via the Internet at <http://www.leginfo.ca.gov/>.

AB 962 (Stats. 2009, ch. 628)

- Handgun ammunition must be displayed in a manner that makes the ammunition inaccessible to a purchaser or transferee, and requires the assistance of the vendor or an employee of the vendor. (§ 12061.)¹
- An employee of a handgun ammunition vendor, who is prohibited from possessing firearms, cannot handle, sell, or deliver handgun ammunition in the course and scope of his or her employment. (§ 12061.)
- No one shall supply, deliver, or give ammunition to a minor who is prohibited from possessing ammunition pursuant to section 12101. (§ 12316.)
- Any person who is enjoined from engaging in activity associated with a criminal street gang is prohibited from possessing ammunition. A violation is a misdemeanor. (§ 12316.)
- Beginning February 1, 2011, the delivery or transfer of handgun ammunition must occur in a face-to-face transaction, with the recipient providing bona fide evidence of his or her identity and age, subject to specified exceptions. Non-face-to-face transfers, such as internet transactions and mail order deliveries are prohibited. A violation is a misdemeanor. (§ 12318.)
- Beginning February 1, 2011, handgun ammunition vendors must obtain a thumbprint and other information related to handgun ammunition transactions subject to specified exceptions (including transfers to peace officers who are authorized to carry a firearm in the course and scope their duties). The information must be retained by the vendor for five years from the date of the transaction. A violation is a misdemeanor. (§ 12061.)

¹ All further statutory references are to the California Penal Code, unless otherwise specified.

AB 1286 (Stats. 2009, ch. 144)

- An exemption to the limit of one handgun per 30 days has been added, allowing the transfer of multiple handguns within 30 days to community colleges certified by the Commission on Peace Officer Standards and Training for commission-certified law enforcement training. (§ 12072.)

SB 175 (Stats. 2009, ch. 334)

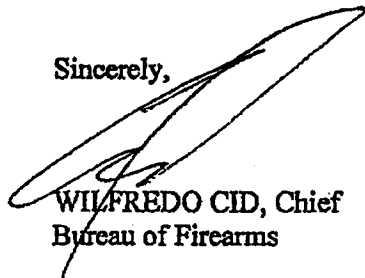
- The firearms dealer licensing requirement provides an exception for the exchange of a firearm to or from a gunsmith for purpose of service or repair. (§ 12072.)
- A California Firearms License Check (CFLC) verification number exemption for dangerous weapons has been removed. (§ 12072.)
- Pawnbrokers are precluded from placement on the Centralized List of Exempted Federal Firearms Licensees (CLEFFL). (§ 12083.)
- Persons who possess a current dangerous weapons permit, are exempt from the fees associated with CLEFFL. (§ 12083.)

SB 449 (Stats. 2009, ch. 335)

- Beginning July 1, 2010, secondhand dealers will report daily to DOJ (rather than the local law enforcement agency) via electronic submission, any firearms purchased, taken in trade, or taken in pawn. Within one working day of receipt of a secondhand dealer report, the DOJ will electronically provide information in the report to a secure mailbox of the local law enforcement agency. (§ 12083; Bus. and Prof. Code §§ 21628 and 21628.2.)

If you have any questions regarding this Information Bulletin, please contact the DOJ Bureau of Firearms at (916) 263-4887.

Sincerely,



WILFREDO CID, Chief
Bureau of Firearms

For EDMUND G. BROWN JR.
Attorney General

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California Department of Justice

FILED
AUG -3 2010

FRESNO COUNTY SUPERIOR COURT
By *[Signature]*
GS. DEPUTY

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF FRESNO
11

12 **SHERIFF CLAY PARKER, TEHAMA**
13 **COUNTY SHERIFF; HERB BAUER**
14 **SPORTING GOODS; CALIFORNIA**
15 **RIFLE AND PISTOL ASSOCIATION;**
ABLE'S SPORTING, INC.; RTG
SPORTING COLLECTIBLES, LLC; AND
STEVEN STONECIPHER,

16 Plaintiffs and Petitioners,

17 v.

18 **THE STATE OF CALIFORNIA; JERRY**
19 **BROWN, in his official capacity as Attorney**
20 **General for the State Of California; THE**
CALIFORNIA DEPARTMENT OF
JUSTICE, AND DOES 1-25,

21 Defendants and Respondents.
22

Case No. 10CECG02116

**ANSWER TO COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF AND PETITION FOR WRIT OF
MANDATE**

Judge: The Honorable Adolfo M.
Corona

Trial Date: None

Action Filed: June 17, 2010

23 Defendants and respondents the State of California, Attorney General Edmund G. Brown
24 Jr., and the California Department of Justice (collectively, "the State") answer the Complaint for
25 Declaratory and Injunctive Relief and Petition for Writ of Mandate ("Complaint") filed by
26 plaintiffs and petitioners Clay Parker, Tehama County Sheriff; Herb Bauer Sporting Goods;
27 California Rifle and Pistol Association; Able's Sporting, Inc.; RTG Sporting Collectibles, LLC;
28 and Steven Stonecipher (collectively, "Plaintiffs") by admitting, denying, and averring as follows:

The State generally denies the truth of each and every allegation in the Complaint unless specifically admitted or otherwise responded to, and admits those matters specifically admitted only to the limited extent specified.

INTRODUCTION

1. Answering paragraph 1, the State alleges that Assembly Bill 962 and sections 12060, 12061, and 12318 of the Penal Code speak for themselves and provide the best evidence of their content. Except as alleged, the State denies the allegations in paragraph 1.

2. Answering paragraph 2, the State denies that sections 12060, 12061, and 12318 of the Penal Code are "void for vagueness" under the Due Process Clause of the Fourteenth

1 sections 12060, 12061, and 12318 of the Penal Code speak for themselves and provide the best
2 evidence of their content. The State further alleges that paragraph 5 asserts conclusions of law to
3 which no response is required. The State lacks knowledge or information sufficient to form a
4 belief as to the truth of the remaining allegations in paragraph 5 and, on that basis, denies those
5 allegations.

6 6. Answering paragraph 6, the State lacks knowledge or information sufficient to form a
7 belief as to the truth of the allegations contained in paragraph 6 and, on that basis, denies those
8 allegations.

9 7. Answering paragraph 7, the State lacks knowledge or information sufficient to form a
10 belief as to the truth of the allegations contained in paragraph 7 and, on that basis, denies those
11 allegations.

12 8. Answering paragraph 8, the State alleges that Assembly Bill 962 and sections 12060,
13 12061, and 12318 of the Penal Code speak for themselves and provide the best evidence of their
14 content. The State further alleges that paragraph 8 asserts conclusions of law to which no
15 response is required. Except as alleged, the State denies the allegations contained in paragraph 8.

16 9. Answering paragraph 9, the State denies that sections 12060, 12061, and 12318 of the
17 Penal Code are vague or confer "unbridled discretion" on law enforcement officers. The State
18 also alleges that sections 12060, 12061, and 12318 of the Penal Code speak for themselves and
19 provide the best evidence of their content. The State further alleges that paragraph 9 asserts
20 conclusions of law to which no response is required. Except as alleged or denied, the State lacks
21 knowledge or information sufficient to form a belief as to the truth of the remaining allegations
22 contained in paragraph 9 and, on that basis, denies those allegations.

23 10. The State lacks sufficient knowledge or information to form a belief as to the truth of
24 the allegations contained in paragraph 10 and, on that basis, denies the allegations.

25 PARTIES

26 [Plaintiffs]

27 11. Answering paragraph 11, the State alleges that paragraph 11 asserts conclusions of
28 law to which no response is required. Except as alleged, the State lacks knowledge or

1 information sufficient to form a belief as to the truth of the allegations contained in paragraph 11
2 and, on that basis, denies the allegations.

3 12. Answering paragraph 12, the State alleges that paragraph 12 asserts conclusions of
4 law to which no response is required. Except as alleged, the State denies the allegations
5 contained in paragraph 12.

6 13. Answering paragraph 13, the State alleges that paragraph 13 asserts conclusions of
7 law to which no response is required. Except as alleged, the State lacks knowledge or
8 information sufficient to form a belief as to the truth of the remaining allegations contained in
9 paragraph 13 and, on that basis, denies the allegations.

10 14. Answering paragraph 14, the State denies that section 12318 of the Penal Code is
11 vague. The State also alleges that section 12318 speaks for itself and provides the best evidence
12 of its content. The State further alleges that paragraph 14 asserts conclusions of law to which no
13 response is required. Except as alleged or denied, the State lacks knowledge or information
14 sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 14
15 and, on that basis, denies those allegations.

16 15. Answering paragraph 15, the State denies that section 12318 of the Penal Code is
17 vague. The State also alleges that section 12318 speaks for itself and provides the best evidence
18 of its content. The State further alleges that paragraph 15 asserts conclusions of law to which no
19 response is required. Except as alleged or denied, the State denies the allegations contained in
20 paragraph 15.

21 16. Answering paragraph 16, the State denies that section 12318 of the Penal Code is
22 vague. The State also alleges that section 12318 speaks for itself and provides the best evidence
23 of its content. The State further alleges that paragraph 16 asserts conclusions of law to which no
24 response is required. Except as alleged or denied, the State denies the allegations contained in
25 paragraph 16.

26 17. Answering paragraph 17, the State denies that sections 12060, 12061, and 12318 of
27 the Penal Code are void or invalid. Except as denied, the State lacks knowledge or information
28

1 sufficient to form a belief as to the truth of the allegations contained in paragraph 17 and, on that
2 basis, denies those allegations.

3 **[Defendants]**

4 18. Answering paragraph 18, the State admits that California is a sovereign state. The
5 State further alleges that paragraph 18 asserts conclusions of law to which no response is
6 required. Except as specifically admitted or alleged, the State denies the allegations contained in
7 paragraph 18.

8 19. Answering paragraph 19, the State admits that defendant Edmund G. Brown Jr.
9 (erroneously sued herein as Jerry Brown) is the Attorney General of the State of California and
10 that, under article 5, section 13 of the California Constitution, he is the chief law officer of the
11 State of California. The State also alleges that article 5, section 13 of the California Constitution,
12 and sections 12060, 12061, and 12318 of the Penal Code speak for themselves and provide the
13 best evidence of their content. The State further alleges that paragraph 19 contains conclusions of
14 law to which no response is required. Except as admitted or alleged, the State denies the
15 allegations contained in paragraph 19.

16 20. Answering paragraph 20, the State admits that the California Department of Justice is
17 a state agency. The State also alleges that article 5, section 13 of the California Constitution, and
18 sections 12060, 12061, and 12318 of the Penal Code speak for themselves and provide the best
19 evidence of their content. The State further alleges that paragraph 20 contains conclusions of law
20 to which no response is required. Except as admitted or alleged, the State denies the allegations
21 contained in paragraph 20.

22 21. Answering paragraph 21, the State denies that it is presently enforcing subparagraphs
23 (1) or (2) of section 12061(a) of the Penal Code against any individual or business. The State also
24 alleges that paragraph 21 contains conclusions of law to which no response is required. Except as
25 alleged or denied, the State lacks knowledge or information sufficient to form a belief as to the
26 truth of the remaining allegations contained in paragraph 21 and, on that basis, denies the
27 allegations.
28

1 22. Answering paragraph 22, the State lacks knowledge or information sufficient to form
2 a belief as to the truth of the allegations contained in paragraph 22 and, on that basis, denies the
3 allegations.

4 23. Answering paragraph 23, the State denies that is presently enforcing subparagraphs
5 (1) or (2) of section 12061(a) of the Penal Code against any person or business. The State also
6 alleges that paragraph 23 contains conclusions of law to which no response is required. Except as
7 alleged or denied, the State lacks knowledge or information sufficient to form a belief as to the
8 truth of the remaining allegations contained in paragraph 23 and, on that basis, denies the
9 allegations.

10 **JURISDICTION AND VENUE**

11 24. Answering paragraph 24, the State denies that the Court has jurisdiction under
12 sections 1085 or 1086 of the Code of Civil Procedure. The State further alleges that paragraph 24
13 contains conclusions of law to which no response is required. Except as alleged or denied, the
14 State lacks knowledge or information sufficient to form a belief as to the truth of the remaining
15 allegations contained in paragraph 24 and, on that basis, denies the allegations.

16 25. Answering paragraph 25, the State alleges that paragraph 25 contains conclusions of
17 law to which no response is required, and that California law speaks for itself and provides the
18 best evidence of its content. Except as alleged, the State lacks knowledge or information
19 sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 25
20 and, on that basis, denies the allegations.

21 **AUTHENTICITY OF EXHIBITS**

22 26. Answering paragraph 26, the State lacks knowledge or information sufficient to form
23 a belief as to the truth of the allegations contained in paragraph 26 and, on that basis, denies the
24 allegations.

25 ///

26 ///

27 ///

28 ///

REGULATORY SCHEME

[Assembly Bill 962]

27. Answering paragraph 27, the State alleges that Assembly Bill 962 and sections 12060, 12061, and 12318 of the Penal Code speak for themselves and provide the best evidence of their content. Except as alleged, the State denies the allegations contained in paragraph 27.

28. Answering paragraph 28, the State alleges that Assembly Bill 962 and sections 12060, 12061, and 12318 of the Penal Code speak for themselves and provide the best evidence of their content. Except as alleged, the State denies the allegations contained in paragraph 28.

29. Answering paragraph 29, the State alleges that section 12060(b) of the Penal Code speaks for itself and provides the best evidence of its content. Except as alleged, the State denies the allegations contained in paragraph 29.

30. Answering paragraph 30, the State alleges that section 12323(a) of the Penal Code speaks for itself and provides the best evidence of its content. Except as alleged, the State denies the allegations contained in paragraph 30.

31. Answering paragraph 31, the State alleges that section 921(a)(16) of Title 18 of the United States Code speaks for itself and provides the best evidence of its content. Except as alleged, the State denies the allegations contained in paragraph 31.

32. Answering paragraph 32, the State alleges that section 12060(b) of the Penal Code speaks for itself and provides the best evidence of its content. Except as alleged, the State denies the allegations contained in paragraph 32.

33. Answering paragraph 33, the State alleges that California law speaks for itself and provides the best evidence of its content. Except as alleged, the State denies the allegations contained in paragraph 33.

34. Answering paragraph 34, the State alleges that California law speaks for itself and provides the best evidence of its content. Except as alleged, the State denies the allegations contained in paragraph 34.

35. Answering paragraph 35, the State alleges that California law speaks for itself and provides the best evidence of its content. Except as alleged, the State denies the allegations contained in paragraph 35.

36. Answering paragraph 36, the State alleges that California law speaks for itself and provides the best evidence of its content. Except as alleged, the State denies the allegations contained in paragraph 36.

37. Answering paragraph 37, the State alleges that California law speaks for itself and provides the best evidence of its content. Except as alleged, the State denies the allegations contained in paragraph 37.

38. Answering paragraph 38, the State alleges that California law speaks for itself and provides the best evidence of its content. Except as alleged, the State denies the allegations contained in paragraph 38.

[Vagueness Doctrine]

39. Answering paragraph 39, the State alleges that the United States Constitution speaks for itself and provides the best evidence of its content. Except as specifically admitted, the State denies the allegations contained in paragraph 39.

40. Answering paragraph 40, the State alleges that paragraph 40 contains conclusions of law to which no response is required, and that California and federal law speak for themselves and provide the best evidence of their content. Except as alleged, the State denies the allegations contained in paragraph 40.

41. Answering paragraph 41, the State alleges that paragraph 41 contains conclusions of law to which no response is required, and that California and federal law speak for themselves and provide the best evidence of their content. Except as alleged, the State denies the allegations contained in paragraph 41.

42. Answering paragraph 42, the State alleges that paragraph 42 contains conclusions of law to which no response is required, and that California and federal law speak for themselves and provide the best evidence of their content. Except as alleged, the State denies the allegations contained in paragraph 42.

43. Answering paragraph 43, the State alleges that paragraph 43 contains conclusions of law to which no response is required, and that the case of *District of Columbia v. Heller* (2008) 128 S.Ct. 2783 speaks for itself and provides the best evidence of its content. Except as alleged, the State denies the allegations contained in paragraph 43.

44. Answering paragraph 44, the State alleges that paragraph 44 contains conclusions of law to which no response is required, and that California and federal law speak for themselves and provide the best evidence of their content. Except as alleged, the State denies the allegations contained in paragraph 44.

45. Answering paragraph 45, the State alleges that paragraph 45 contains conclusions of law to which no response is required, and that California and federal law speak for themselves and provide the best evidence of their content. Except as alleged, the State denies the allegations contained in paragraph 45.

GENERAL ALLEGATIONS

46. Answering paragraph 46, the State alleges that paragraph 46 contains conclusions of law to which no response is required, and that California and federal law speak for themselves and provide the best evidence of their content. Except as alleged, the State denies the allegations contained in paragraph 46.

47. Answering paragraph 47, the State denies that sections 12060, 12061, and 12318 of the Penal Code are “void for vagueness” under the Due Process Clause of the Fourteenth Amendment, either facially or as applied. The State also alleges that Assembly Bill 962 and sections 12060, 12061, and 12318 of the Penal Code speak for themselves and provide the best evidence of their content. The State further alleges that paragraph 47 asserts conclusions of law to which no response is required. Except as alleged or denied, the State lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 47 and, on that basis, denies those allegations.

48. Answering paragraph 48, the State lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 and, on that basis, denies the allegations.

1 49. Answering paragraph 49, the State lacks knowledge or information sufficient to form
2 a belief as to the truth of the allegations contained in paragraph 49 and, on that basis, denies the
3 allegations.

4 50. Answering paragraph 50, the State admits that certain calibers of ammunition may be
5 used in both rifles and pistols. Except as expressly admitted, the State lacks knowledge or
6 information sufficient to form a belief as to the truth of the allegations contained in paragraph 50
7 and, on that basis, denies the allegations.

8 51. Answering paragraph 51, the State alleges that paragraph 51 asserts conclusions of
9 law to which no response is required. Except as alleged, the State denies the allegations
10 contained in paragraph 51.

11 52. Answering paragraph 52, the State alleges that Assembly Bill 962 and sections
12 12060, 12061, and 12318 of the Penal Code speak for themselves and provide the best evidence
13 of their content. The State further alleges that paragraph 52 asserts conclusions of law to which
14 no response is required. Except as alleged, the State denies the allegations contained in paragraph
15 52.

16 53. Answering paragraph 53, the State alleges that Assembly Bill 962 and sections
17 12060, 12061, and 12318 of the Penal Code speak for themselves and provide the best evidence
18 of their content. The State further alleges that paragraph 53 asserts conclusions of law to which
19 no response is required. Except as alleged, the State lacks knowledge or information sufficient to
20 form a belief as to the truth of the remaining allegations contained in paragraph 53 and, on that
21 basis, denies those allegations.

22 54. Answering paragraph 54, the State lacks knowledge or information sufficient to form
23 a belief as to the truth of the allegations contained in paragraph 54 and, on that basis, denies the
24 allegations.

25 55. Answering paragraph 55, the State alleges that paragraph 55 asserts conclusions of
26 law to which no response is required. Except as alleged, the State denies the allegations
27 contained in paragraph 55.

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1 56. Answering paragraph 56, the State alleges that paragraph 56 asserts conclusions of
2 law to which no response is required. Except as alleged, the State denies the allegations
3 contained in paragraph 56.

4 57. Answering paragraph 57, the State alleges that paragraph 57 asserts conclusions of
5 law to which no response is required, and that California law speaks for itself and provides the
6 best evidence of its content. The State lacks knowledge or information sufficient to form a belief
7 as to the truth of the remaining allegations contained in paragraph 57 and, on that basis, denies
8 those allegations.

9 58. Answering paragraph 58, the State lacks knowledge or information sufficient to form
10 a belief as to the truth of the allegations contained in paragraph 58 and, on that basis, denies those
11 allegations.

12 59. Answering paragraph 59, the State alleges that paragraph 59 asserts conclusions of
13 law to which no response is required, and that California law speaks for itself and provides the
14 best evidence of its content. The State lacks knowledge or information sufficient to form a belief
15 as to the truth of the remaining allegations contained in paragraph 59 and, on that basis, denies
16 those allegations.

17 60. Answering paragraph 60, the State lacks knowledge or information sufficient to form
18 a belief as to the truth of the allegations contained in paragraph 60 and, on that basis, denies those
19 allegations.

20 61. Answering paragraph 61, the State alleges that paragraph 61 asserts conclusions of
21 law to which no response is required, and that section 921(a)(16) of Title 18 of the United States
22 Code speaks for itself and provides the best evidence of its content. The State lacks knowledge or
23 information sufficient to form a belief as to the truth of the allegations contained in paragraph 61
24 and, on that basis, denies those allegations.

25 62. Answering paragraph 62, the State alleges that paragraph 62 asserts conclusions of
26 law to which no response is required, and that California law speaks for itself and provides the
27 best evidence of its content. Except as alleged, the State denies the allegations contained in
28 paragraph 62.

63. Answering paragraph 63, the State denies the allegations contained in paragraph 63.

2 64. Answering paragraph 64, the State denies that legislative guidance is required as to
3 any matters alleged in the Complaint. The State also alleges that paragraph 64 asserts
4 conclusions of law to which no response is required, and that California law speaks for itself and
5 provides the best evidence of its content. Except as alleged or denied, the State denies the
6 allegations contained in paragraph 64.

7 65. Answering paragraph 65, the State alleges that paragraph 65 asserts conclusions of
8 law to which no response is required, and that California law speaks for itself and provides the
9 best evidence of its content. Except as alleged, the State denies the allegations contained in
10 paragraph 65.

11 [Guideline Failures]

12 66. Answering paragraph 66, the State admits that, on or about December 30, 2009, the
13 California Department of Justice, Division of Law Enforcement, Bureau of Firearms issued an
14 "Information Bulletin" with the subject "New and Amended Firearms Laws." The State also
15 admits that a copy of the Information Bulletin is attached as Exhibit "C" to the Complaint. The
16 State alleges that the Information Bulletin speaks for itself and provides the best evidence of its
17 content. Except as specifically admitted or alleged, the State denies the allegations contained in
18 paragraph 66.

19 67. Answering paragraph 67, the State alleges that the Information Bulletin speaks for
20 itself and provides the best evidence of its content. Except as specifically alleged, the State
21 denies the allegations contained in paragraph 67.

22 68. Answering paragraph 68, the State alleges that paragraph 68 asserts conclusions of
23 law to which no response is required, and that California law and the Information Bulletin speak
24 for themselves and provide the best evidence of their content. Except as specifically alleged, the
25 State denies the allegations contained in paragraph 68.

69. Answering paragraph 69, the State lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69 and, on that basis, denies those allegations.

1 70. Answering paragraph 70, the State lacks knowledge or information sufficient to form
2 a belief as to the truth of the allegations contained in paragraph 70 and, on that basis, denies those
3 allegations.

4 71. Answering paragraph 71, the State lacks knowledge or information sufficient to form
5 a belief as to the truth of the allegations contained in paragraph 71 and, on that basis, denies those
6 allegations.

7 72. Answering paragraph 72, the State lacks knowledge or information sufficient to form
8 a belief as to the truth of the allegations contained in paragraph 72 and, on that basis, denies those
9 allegations.

10 **[Irreparable Injury Allegations]**

11 73. Answering paragraph 73, the State denies that Assembly Bill 962 or sections 12060,
12 12061, and 12318 of the Penal Code are unconstitutionally vague. The State also denies that
13 Plaintiffs have suffered any injury, and denies that they will suffer any injury in the future. The
14 State further alleges that paragraph 73 asserts conclusions of law to which no response is
15 required. Except as expressly denied or alleged, the State denies the allegations contained in
16 paragraph 73.

17 74. Answering paragraph 74, the State alleges that paragraph 74 asserts conclusions of
18 law to which no response is required, and that section 12061 of the Penal Code speaks for itself
19 and provides the best evidence of its content. Except as alleged, the State denies the allegations
20 contained in paragraph 74.

21 75. Answering paragraph 75, the State alleges that paragraph 75 asserts conclusions of
22 law to which no response is required, and that section 12061 of the Penal Code speaks for itself
23 and provides the best evidence of its content. Except as alleged, the State denies the allegations
24 contained in paragraph 75.

25 76. Answering paragraph 76, the State alleges that paragraph 76 asserts conclusions of
26 law to which no response is required, and that section 12061 of the Penal Code speaks for itself
27 and provides the best evidence of its content. Except as alleged, the State denies the allegations
28 contained in paragraph 76.

1 77. Answering paragraph 77, the State denies that section 12318 of the Penal Code is
2 vague. The State also alleges that section 12318 speaks for itself and provides the best evidence
3 of its content. The State further alleges that paragraph 77 asserts conclusions of law to which no
4 response is required. Except as alleged or denied, the State denies the allegations contained in
5 paragraph 77.

6 78. Answering paragraph 78, the State denies that sections 12060, 12061, or 12318 of the
7 Penal Code are unconstitutionally vague or unfairly or unreasonably subject plaintiff RTG to
8 criminal prosecution. The State also alleges that these laws speak for themselves and provide the
9 best evidence of their content. The State further alleges that paragraph 78 asserts conclusions of
10 law to which no response is required. Except as alleged or denied, the State denies the allegations
11 contained in paragraph 78.

12 79. Answering paragraph 79, the State denies that sections 12060, 12061, or 12318 of the
13 Penal Code are vague. The State also alleges that these laws speak for themselves and provide
14 the best evidence of their content. The State further alleges that paragraph 79 asserts conclusions
15 of law to which no response is required. Except as alleged or denied, the State denies the
16 allegations contained in paragraph 79.

17 80. Answering paragraph 80, the State denies that section 12318 of the Penal Code is
18 vague, and alleges that the statute speaks for itself and provides the best evidence of its content.
19 The State further alleges that paragraph 80 asserts conclusions of law to which no response is
20 required. Except as alleged or denied, the State denies the allegations contained in paragraph 80.

21 81. Answering paragraph 81, the State denies that section 12318 of the Penal Code is
22 vague, and alleges that the statute speaks for itself and provides the best evidence of its content.
23 The State further alleges that paragraph 81 asserts conclusions of law to which no response is
24 required. Except as alleged or denied, the State denies the allegations contained in paragraph 81.

25 82. Answering paragraph 82, the State denies that sections 12060, 12061, or 12318 of the
26 Penal Code are unconstitutionally vague. The State also alleges that these laws speak for
27 themselves and provide the best evidence of their content. The State further alleges that
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1 paragraph 82 asserts conclusions of law to which no response is required. Except as alleged or
2 denied, the State denies the allegations contained in paragraph 82.

3 83. Answering paragraph 83, the State denies that Assembly Bill 962 or sections 12060,
4 12061, and 12318 of the Penal Code, are unconstitutionally vague. The State also denies that
5 Plaintiffs have suffered any injury, and denies that they will suffer any injury in the future. The
6 State further alleges that paragraph 83 asserts conclusions of law to which no response is
7 required. Except as expressly denied or alleged, the State denies the allegations contained in
8 paragraph 83.

9 84. Answering paragraph 84, the State denies that Assembly Bill 962 or sections 12060,
10 12061, and 12318 of the Penal Code, are unconstitutionally vague. The State also denies that
11 Plaintiffs have suffered any injury, and denies that they will suffer any injury in the future. The
12 State further alleges that paragraph 84 asserts conclusions of law to which no response is
13 required. Except as expressly denied or alleged, the State denies the allegations contained in
14 paragraph 84.

15 PUBLIC INTEREST INVOLVED

16 85. Answering paragraph 85, the State denies that mandamus, injunctive, or declaratory
17 relief are necessary or proper in this case and alleges that paragraph 85 asserts conclusions of law
18 to which no response is required. Except as alleged or denied, the State lacks knowledge or
19 information sufficient to form a belief as to the truth of the remaining allegations contained in
20 paragraph 85 and, on that basis, denies those allegations.

21 86. Answering paragraph 86, the State denies that sections 12060, 12061, and 12318 of
22 the Penal Code are "void for vagueness" under the Due Process Clause of the Fourteenth
23 Amendment, either facially or as applied, or that they confer "unbridled discretion" on law
24 enforcement officers. The State also alleges that Assembly Bill 962 and sections 12060, 12061,
25 and 12318 of the Penal Code speak for themselves and provide the best evidence of their content.
26 The State further alleges that paragraph 86 asserts conclusions of law to which no response is
27 required. Except as alleged or denied, the State denies the allegations contained in paragraph 86.
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87. Answering paragraph 87, the State denies that Assembly Bill 962 or sections 12060, 12061, and 12318 of the Penal Code are unconstitutionally vague. The State also alleges that paragraph 87 asserts conclusions of law to which no response is required. Except as alleged or denied, the State lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 87 and, on that basis, denies those allegations.

**FIRST CAUSE OF ACTION
FOR DECLARATORY AND INJUNCTIVE RELIEF
DUE PROCESS VAGUENESS – FACIAL
(By All Plaintiffs Against All Defendants)**

88. Answering paragraph 88, the State repleads and incorporates by reference its responses to paragraphs 1 through 87, inclusive, of the Complaint.

89. Answering paragraph 89, the State denies that an actual controversy exists between Plaintiffs and the State. The State also denies that it is presently enforcing subparagraphs (1) or (2) of section 12061(a) of the Penal Code against any individual or business. The State further denies that Assembly Bill 962 or sections 12060, 12061, and 12318 of the Penal Code are unconstitutionally vague on their face. The State further alleges that paragraph 89 asserts conclusions of law to which no response is required. Except as alleged or denied, the State lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 89 and, on that basis, denies those allegations.

90. Answering paragraph 90, the State denies that an actual controversy exists between Plaintiffs and the State. The State also alleges that paragraph 90 asserts conclusions of law to which no response is required. Except as alleged or denied, the State lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 90 and, on that basis, denies those allegations.

91. Answering paragraph 91, the State denies that declaratory relief is necessary or proper in this case. The State also denies that sections 12060, 12061, and 12318 of the Penal Code are “void for vagueness” under the Due Process Clause of the Fourteenth Amendment, on their face, or that they “encourage[] arbitrary and discriminatory enforcement of the law.” The

1 State also alleges that California law speaks for itself provides the best evidence of its content.

2 The State further alleges that paragraph 91 asserts conclusions of law to which no response is
3 required. Except as alleged or denied, the State denies the allegations contained in paragraph 91.

4 92. Answering paragraph 92, the State denies that Plaintiffs have suffered any injury, and
5 also denies that they will suffer any injury in the future. The State further alleges that paragraph
6 92 asserts conclusions of law to which no response is required. Except as expressly denied or
7 alleged, the State denies the allegations contained in paragraph 92.

8 93. Answering paragraph 93, the State denies that Plaintiffs have suffered any injury, and
9 also denies that they will suffer any injuries in the future. The State also denies that it is presently
10 enforcing subparagraphs (1) or (2) of section 12061(a) of the Penal Code against any individual
11 or business. The State further alleges that paragraph 93 asserts conclusions of law to which no
12 response is required. Except as expressly denied or alleged, the State denies the allegations
13 contained in paragraph 93.

14 94. Answering paragraph 94, the State denies that injunctive relief is necessary or proper
15 insofar as Plaintiffs have suffered no injury, and will suffer no injury in the future. The State
16 further alleges that paragraph 94 asserts conclusions of law to which no response is required.
17 Except as alleged or denied, the State denies the allegations contained in paragraph 94.

18 **SECOND CAUSE OF ACTION**
19 **FOR DECLARATORY AND INJUNCTIVE RELIEF**
20 **DUE PROCESS VAGUENESS – AS APPLIED**
21 **(By Plaintiff Herb Bauer Sporting Goods, Inc. Against All Defendants)**

22 95. Answering paragraph 95, the State repleads and incorporates by reference its
23 responses to paragraphs 1 through 94, inclusive, of the Complaint.

24 96. Answering paragraph 96, the State denies that an actual controversy exists between
25 plaintiff Herb Bauer Sporting Goods, Inc. and the State. The State also denies that Assembly Bill
26 962 or sections 12060, 12061, and 12318 of the Penal Code are unconstitutionally vague as
27 applied to plaintiff Herb Bauer Sporting Goods, Inc. The State further alleges that paragraph 96
28 asserts conclusions of law to which no response is required. Except as alleged or denied, the

1 State lacks knowledge or information sufficient to form a belief as to the truth of the remaining
2 allegations contained in paragraph 96 and, on that basis, denies those allegations.

3 97. Answering paragraph 97, the State denies that subparagraph (a)(1) of section 12061
4 of the Penal Code, is unconstitutionally vague. The State further alleges that paragraph 97 asserts
5 conclusions of law to which no response is required. Except as alleged or denied, the State denies
6 the allegations contained in paragraph 97.

7 98. Answering paragraph 98, the State denies that subparagraph (a)(2) of section 12061
8 of the Penal Code, is unconstitutionally vague. The State further alleges that paragraph 98 asserts
9 conclusions of law to which no response is required. Except as alleged or denied, the State denies
10 the allegations contained in paragraph 98.

11 99. Answering paragraph 99, the State denies that declaratory relief is necessary or
12 proper in this case. The State also denies that section 12061(a)(1) or 12061(a)(2) are
13 unconstitutionally vague as applied to plaintiff Herb Bauer Sporting Goods, Inc. The State
14 further alleges that paragraph 99 asserts conclusions of law to which no response is required.
15 Except as alleged or denied, the State lacks knowledge or information sufficient to form a belief
16 as to the truth of the remaining allegations contained in paragraph 99 and, on that basis, denies
17 those allegations.

18 100. Answering paragraph 100, the State denies that declaratory relief is necessary or
19 proper in this case. The State also denies that section 12061(a)(1) or 12061(a)(2) are "void for
20 vagueness" as applied to plaintiff Herb Bauer Sporting Goods, Inc. The State further alleges that
21 paragraph 100 asserts conclusions of law to which no response is required. Except as alleged or
22 denied, the State denies the allegations contained in paragraph 100.

23 101. Answering paragraph 101, the State denies that injunctive relief is necessary or
24 proper insofar as the State has engaged in no "wrongful conduct," and plaintiff Herb Bauer
25 Sporting Goods, Inc. has suffered no injury, and will suffer no injury in the future. The State
26 further alleges that paragraph 101 asserts conclusions of law to which no response is required.
27 Except as alleged or denied, the State denies the allegations contained in paragraph 101.

28

102. Answering paragraph 102, the State denies that plaintiff Herb Bauer Sporting Goods, Inc. has suffered any injury, and also denies that it will suffer any injuries in the future. The State further alleges that paragraph 102 asserts conclusions of law to which no response is required. Except as expressly denied or alleged, the State denies the allegations contained in paragraph 102.

103. Answering paragraph 103, the State denies that injunctive relief is necessary or proper insofar as plaintiff Herb Bauer Sporting Goods, Inc. has suffered no injury, and will suffer no injury in the future. The State further alleges that paragraph 103 asserts conclusions of law to which no response is required. Except as alleged or denied, the State denies the allegations contained in paragraph 103.

**THIRD CAUSE OF ACTION
PETITION FOR WRIT OF MANDATE
(By All Plaintiffs Against All Defendants)**

104. Answering paragraph 104, the State repleads and incorporates by reference its responses to paragraphs 1 through 103, inclusive, of the Complaint.

105. Answering paragraph 105, the State denies the existence of a purported negative ministerial duty "not to enforce" sections 12060, 12061, and 12318 of the Penal Code. The State also alleges that paragraph 105 asserts conclusions of law to which no response is required. Except as expressly alleged or denied, the State denies the allegations contained in paragraph 105.

106. Answering paragraph 106, the State denies that sections 12060, 12061, and 12318 of the Penal Code are unconstitutionally vague or subject to arbitrary enforcement. The State also alleges that California law speaks for itself provides the best evidence of its content. The State further alleges that paragraph 106 asserts conclusions of law to which no response is required. Except as alleged or denied, the State lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 106 and, on that basis, denies those allegations.

107. Answering paragraph 107, the State denies that Plaintiffs have suffered any harm, and denies that they will suffer any harm in the future. Defendants Edmund G Brown Jr. and the

1 California Department of Justice also deny that they adopted sections 12060, 12061, and 12318 of
2 the Penal Code. The State further denies that it is presently enforcing subparagraphs (1) or (2) of
3 section 12061(a) of the Penal Code against any individual or business. The State also alleges that
4 paragraph 107 asserts conclusions of law to which no response is required. Except as expressly
5 denied or alleged, the State denies the allegations contained in paragraph 107.

6 108. Answering paragraph 108, the State denies the allegations contained therein.

7 109. Answering paragraph 109, the State denies that mandamus relief is necessary or
8 proper in this case. The State also alleges that paragraph 109 asserts conclusions of law to which
9 no response is required. Except as alleged or denied, the State denies the allegations contained in
10 paragraph 109.

11 **DECLARATORY AND WRIT RELIEF WARRANTED**

12 110. Answering paragraph 110, the State denies the allegations contained therein.

13 111. Answering paragraph 111, the State denies that is presently enforcing subparagraphs
14 (1) and (2) of section 12061(a) of the Penal Code against any person or business. The State also
15 denies that section 12060, 12061, or 12318 of the Penal Code are unconstitutionally vague. The
16 State further alleges that paragraph 111 asserts conclusions of law to which no response is
17 required. Except as expressly denied or alleged, the State lacks knowledge or information
18 sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 111
19 and, on that basis, denies the allegations.

20 **DEFENSES**

21 **FIRST DEFENSE**

22 (Failure to State a Cause of Action)

23 112. The Complaint, and each cause of action alleged therein, fails to state facts sufficient
24 to constitute a cause of action against the State.

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1 SECOND DEFENSE

2 (Lack of Ministerial Duty)

3 113. As a separate affirmative defense to the third purported cause of action, the State
4 alleges that there has been no failure to perform a ministerial duty by the State that would support
5 a petition for writ of mandate under sections 1085 or 1087 of the Code of Civil Procedure.

6 THIRD DEFENSE

7 (Lack of Standing)

8 114. As a separate affirmative defense to all causes of action, the State alleges that some or
9 all of the Plaintiffs lack standing to bring this action.

10 FOURTH DEFENSE

11 (Estoppel)

12 115. As a separate affirmative defense to all causes of action, the State alleges that, by
13 Plaintiffs' conduct, representations, and omissions, Plaintiffs are estopped from asserting any of
14 their claimed causes of action against the State.

15 FIFTH DEFENSE

16 (Unclean Hands)

17 116. As a separate affirmative defense to all causes of action, the State alleges that as a
18 result of acts and omissions in matters relevant to Plaintiffs' Complaint, Plaintiffs have unclean
19 hands and are therefore barred from asserting any of their causes of action against the State.

20 SIXTH DEFENSE

21 (Lack of Jurisdiction)

22 117. As a separate affirmative defense to all causes of action, the State alleges that, to the
23 extent the Complaint asks the Court to rewrite various statutes, this Court lacks jurisdiction.

24 SEVENTH DEFENSE

25 (Lack of Authority)

26 118. As a separate affirmative defense to the first and third purported causes of action, the
27 State alleges that Plaintiff Clay Parker has no authority to bring this action on behalf of the
28 Tehama County Sheriff's Office.

1 EIGHTH DEFENSE

2 (Immunity)

3 119. As a separate affirmative defense to all causes of action, the State alleges that it is
4 protected by immunity and/or qualified immunity in this action, because its officers and
5 employees were acting within the scope of their discretionary duties and/or in their official
6 capacities. Such immunities may include, but are not necessarily limited to, the immunities set
7 forth in section 815 et seq. of the California Government Code.

8 NINTH DEFENSE

9 (Legitimate Exercise of Discretion)

10 120. The Complaint, and each cause of action, is barred because at all relevant times, the
11 State's actions with respect to Plaintiffs, if any, were done in compliance with applicable law. To
12 the extent that any discretion was available, the State acted in the legitimate exercise of that
13 discretion. Defendants acted at all times in good faith and with due care, pursuant to applicable
14 policies, procedures, regulations, and laws.

15 TENTH DEFENSE

16 (Political Question)

17 121. As a separate affirmative defense to all causes of action, the State alleges that the
18 Complaint seeks resolution of political questions over which this Court has no jurisdiction.

19 ELEVENTH DEFENSE

20 (Ripeness)

21 122. As a separate affirmative defense to all causes of action, the State alleges that the
22 Complaint, and each cause of action, is barred because the action is premature and is not ripe, and
23 no actual controversy exists.

24 TWELFTH DEFENSE

25 (No Entitlement to Attorneys' Fees)

26 123. Plaintiffs are not entitled to recover attorneys' fees.

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THIRTEENTH DEFENSE

(Lack of Duty)

124. As a separate affirmative defense to all causes of action, the State alleges that it does not owe duties to Plaintiffs of the kind alleged in the Complaint.

PRAYER FOR RELIEF

WHEREFORE, the State prays for Judgment as follows:

1. That the Court enter judgment in favor of the State;
2. That Plaintiffs take nothing by their Complaint;
3. That the Court award the State its costs and attorneys' fees incurred in connection with this action; and
4. For such other and further relief as the Court deems just and proper.

Dated: August 2, 2010

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
ZACKERY P. MORAZZINI
Supervising Deputy Attorney General



PETER A. KRAUSE
Deputy Attorney General
*Attorneys for Defendants and Respondents
State of California, Edmund G. Brown, Jr.,
and the California Department of Justice*

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Sheriff Clay Parker, et al. v. The State of California**
No.: **10CECG02116**

I declare:

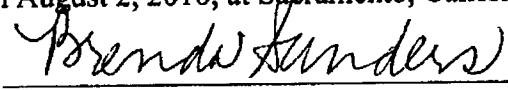
I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 2, 2010, I served the attached ANSWER TO COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION FOR WRIT OF MANDATE by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

C.D. Michel
Michel & Associates, P.C.
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 2, 2010, at Sacramento, California.

Brenda Sanders
Declarant


Signature

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10598400.doc

JA000075

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6 Attorneys for Plaintiffs/Petitioners

7

8

SUPERIOR COURT OF THE STATE OF CALIFORNIA

9

FOR THE COUNTY OF FRESNO

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| | | |
|-------------------------------------|---|--|
| 11 SHERIFF CLAY PARKER, TEHAMA |) | CASE NO. 10CECG02116 |
| COUNTY SHERIFF; HERB BAUER |) | |
| 12 SPORTING GOODS; CALIFORNIA RIFLE |) | NOTICE OF MOTION AND MOTION FOR |
| AND PISTOL ASSOCIATION |) | PRELIMINARY INJUNCTION |
| 13 FOUNDATION; ABLE'S SPORTING, |) | |
| INC.; RTG SPORTING COLLECTIBLES, |) | Date: September 29, 2010 |
| 14 LLC; AND STEVEN STONECIPHER, |) | Time: 3:30 p.m. |
| |) | Location: Dept. 97A |
| |) | Judge: Hon. Jeffrey Y. Hamilton |
| 15 Plaintiffs and Petitioners, |) | Action Filed: June 17, 2010 |
| 16 |) | |
| vs. |) | |
| 17 |) | |
| THE STATE OF CALIFORNIA; JERRY |) | |
| 18 BROWN, IN HIS OFFICIAL CAPACITY |) | |
| AS ATTORNEY GENERAL FOR THE |) | |
| 19 STATE OF CALIFORNIA; THE |) | |
| CALIFORNIA DEPARTMENT OF |) | |
| 20 JUSTICE; and DOES 1-25, |) | |
| |) | |
| 21 |) | |
| Defendants and Respondents. |) | |
| 22 |) | |

23

TO EACH PARTY AND TO THE COUNSEL OF RECORD FOR EACH PARTY:

24

YOU ARE HEREBY NOTIFIED THAT on September 29, 2010 at 3:30 p.m., or as soon

25

as thereafter this matter may be heard, in Department 97A of this Court located at 2317 Tuolumne

26

St., Fresno, CA 93721, Plaintiffs Sheriff Clay Parker, *et al.*, ("Plaintiffs") will move the Court for

27

an order enjoining and restraining Defendants, their employees, agents, and persons acting with

28

them or on their behalf, from enforcing California Penal Code sections 12060, 12061, and 12318

1 pending final adjudication of this case at trial. This motion is made pursuant to California Code
2 of Civil Procedure section 527 on the ground that Plaintiffs are reasonably likely to prevail at a
3 trial on the merits, and on the further ground that Defendants' ongoing and pending enforcement
4 of these likely unconstitutional criminal statutes, unless enjoined by order of this Court, will cause
5 great and irreparable injury in the form of the threat of unjust criminal prosecution, coupled with
6 untold monetary damages.

7 This motion is based upon this Notice of Motion, the Memorandum of Points and
8 Authorities filed in support thereof, the supporting Declarations and Exhibits, the accompanying
9 Proposed Order, the record in this matter to date, and any further evidence or argument that the
10 Court may properly receive at or before the hearing.

11 Dated: September 7, 2010

MICHEL & ASSOCIATES, PC

12
13 
14 C. D. Michel
15 Attorney for Plaintiffs
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28

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF FRESNO

4 I, Valerie Pomella, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
business address is 180 East Ocean Blvd., Suite 200, Long Beach, California 90802.

6 On September 7, 2010, I served the foregoing document(s) described as

7 **NOTICE OF MOTION AND MOTION FOR PRELIMINARY INJUNCTION**

8 on the interested parties in this action by placing

9 ☐ the original

☒ a true and correct copy

10 thereof enclosed in sealed envelope(s) addressed as follows:

11 Edmund G. Brown, Jr.
12 Attorney General of California
13 Zackery P. Morazzini
14 Supervising Deputy Attorney General
15 Peter A. Krause
16 Deputy Attorney General (185098)
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

17 (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
18 processing correspondence for mailing. Under the practice it would be deposited with the
19 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,
California, in the ordinary course of business. I am aware that on motion of the party
served, service is presumed invalid if postal cancellation date is more than one day after
date of deposit for mailing an affidavit.
Executed on September 7, 2010, at Long Beach, California.

20 X (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
21 addressee.
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22 (VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used complies
23 with California Rules of Court, Rule 2003, and no error was reported by the machine.
24 Pursuant to Rules of Court, Rule 2006(d), I caused the machine to print a transmission
record of the transmission, copies of which is attached to this declaration.
Executed on September 7, 2010, California.

25 X (STATE) I declare under penalty of perjury under the laws of the State of California that
26 the foregoing is true and correct.

27 
28 VALERIE POMELLA

1 C. D. Michel - SBN 144258
Clinton B. Monfort - SBN 255609
2 Sean A. Brady - SBN 262007
MICHEL & ASSOCIATES, P.C.
3 180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
4 Telephone: (562) 216-4444
Fax: (562) 216-4445
5 cmichel@michellawyers.com

6 Attorneys for Plaintiffs/Petitioners

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF FRESNO
10

| | |
|---------------------------------------|----------------------------------|
| 11 SHERIFF CLAY PARKER, TEHAMA) | CASE NO. 10CECG02116 |
| 12 COUNTY SHERIFF; HERB BAUER) | |
| 13 SPORTING GOODS; CALIFORNIA RIFLE) | DECLARATION OF BARRY BAUER IN |
| 14 AND PISTOL ASSOCIATION) | SUPPORT OF MOTION FOR |
| 15 FOUNDATION; ABLE'S SPORTING,) | PRELIMINARY INJUNCTION |
| 16 INC.; RTG SPORTING COLLECTIBLES,) | |
| 17 LLC; AND STEVEN STONECIPHER,) | Date: September 29, 2010 |
| 18) | Time: 3:30 p.m. |
| 19) | Location: Dept. 97E |
| 20) | Judge: Hon. Jeff Hamilton |
| 21) | Date Action Filed: June 17, 2010 |
| 22) | Trial Date: |
| 23) | |
| 24) | |
| 25) | |
| 26) | |
| 27) | |
| 28) | |

Plaintiffs and Petitioners,

vs.

THE STATE OF CALIFORNIA; JERRY
BROWN, IN HIS OFFICIAL CAPACITY
AS ATTORNEY GENERAL FOR THE
STATE OF CALIFORNIA; THE
CALIFORNIA DEPARTMENT OF
JUSTICE; and DOES 1-25,

Defendants and Respondents.

DECLARATION OF BARRY BAUER

I, Barry Bauer, declare as follows:

1. I am the President of Plaintiff Herb Bauer's Sporting Goods, Inc., a California corporation located in Fresno County that sells a variety of ammunition suitable for use in both handguns and rifles.

2. As President, I am responsible for determining the policies and operating procedures of Herb Bauer's Sporting Goods, Inc. In doing so, I am responsible for ensuring Herb Bauer's Sporting Goods, Inc. complies with all applicable federal, state, and local laws, including determining how to comply with California Penal Code sections 12060, 12061, and 12318.

3. I do not know what my obligations are under California Penal Code sections 12060, 12061, and 12318 because I do not know types of ammunition are principally for use in a handgun.

4. I am unaware of any generally accepted definition of "handgun ammunition" nor any commonly understood delineation between "handgun ammunition" and other ammunition used in the firearms industry that equates to the principally for use in a handgun language upon which California Penal Code sections 12060, 12061, and 12318 rely. Accordingly, I do not know which types of ammunition are "handgun ammunition" under these penal code sections.

5. I do not know whether the "principally for use in a" handgun standard means that a particular ammunition caliber will be considered "handgun ammunition" under California Penal Code sections 12060, 12061, and 12318 if that type of ammunition is used more often in a handgun than in a rifle.

6. I do not know, and I am unable to determine, which types of ammunition are used more often in a handgun than in a long-gun.

///


///

///

1 7. Because I do not know what my obligations are under California Penal
2 Code sections 12060, 12061, and 12318, I fear that I will be prosecuted for
3 unknowingly violating them. For example, I fear that I may be prosecuted if I
4 display, in a manner accessible to a transferee, any ammunition that law
5 enforcement deems "handgun ammunition" even though I do not know what types
6 of ammunition are "handgun ammunition" or which types of ammunition law
7 enforcement will consider "handgun ammunition."

8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed within the United States this 31 day of August, 2010

10
11 
12 _____
13 Barry Bauer
14 President, Herb Bauer's Sporting
15 Goods, Inc.
16
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28

5
DECLARATION OF BARRY BAUER

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF FRESNO

4 I, Valerie Pomella, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
business address is 180 East Ocean Blvd., Suite 200, Long Beach, California 90802.

6 On September 7, 2010, I served the foregoing document(s) described as

7 **DECLARATION OF BARRY BAUER IN SUPPORT OF MOTION FOR**
8 **PRELIMINARY INJUNCTION**

9 on the interested parties in this action by placing

10 ☐ the original

☒ a true and correct copy

thereof enclosed in sealed envelope(s) addressed as follows:

11 Edmund G. Brown, Jr.
12 Attorney General of California
13 Zackery P. Morazzini
14 Supervising Deputy Attorney General
15 Peter A. Krause
Deputy Attorney General (185098)
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

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served, service is presumed invalid if postal cancellation date is more than one day after
date of deposit for mailing an affidavit.

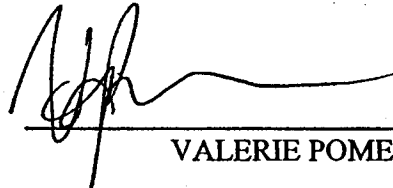
19 Executed on September 7, 2010, at Long Beach, California.

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26 the foregoing is true and correct.

27 

28 VALERIE POMELLA

1 C. D. Michel - S.B.N. 144258
Clinton B. Monfort - SBN 255609
2 Sean A. Brady - SBN 262007
MICHEL & ASSOCIATES, PC
3 180 E. Ocean Boulevard, Suite 200
Long Beach, CA 90802
4 Telephone: 562-216-4444
Facsimile: 562-216-4445
5 Email: cmichel@michellawyers.com

6 Attorneys for Plaintiffs/Petitioners

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF FRESNO

10 SHERIFF CLAY PARKER, TEHAMA
COUNTY SHERIFF; HERB BAUER
11 SPORTING GOODS; CALIFORNIA
RIFLE AND PISTOL ASSOCIATION
12 FOUNDATION; ABLE'S SPORTING,
INC.; RTG SPORTING COLLECTIBLES,
13 LLC; AND STEVEN STONECIPHER,

14 Plaintiffs and Petitioners,

15 vs.

16 THE STATE OF CALIFORNIA; JERRY
17 BROWN, IN HIS OFFICIAL CAPACITY
AS ATTORNEY GENERAL FOR THE
18 STATE OF CALIFORNIA; THE
CALIFORNIA DEPARTMENT OF
19 JUSTICE; and DOES 1-25,

20 Defendants and Respondents.
21

) CASE NO. 10CECG02116

)
) DECLARATION OF CLINTON B.
) MONFORT IN SUPPORT OF MOTION FOR
) PRELIMINARY INJUNCTION

) Date: September 29, 2010
) Time: 3:30 p.m.
) Location: Dept. 97A
) Judge: Hon. Jeffrey Y. Hamilton
) Action Filed: June 17, 2010

1 6. On or about December 16, 2009, our office sent Defendant DOJ a request pursuant to
2 the California Public Records Act, seeking any and all writings and communications relating to
3 the enforcement of AB 962. A true and correct copy of "Public Records Act Request 12.16.09 –
4 'DOJ Bureau of Firearms - AB 962'" is filed concurrently herewith as Exhibit "6."

5 7. On or about December 30, 2009, DOJ Bureau of Firearms released an "Information
6 Bulletin," entitled "New and Amended Firearms Laws" that provided a brief summary of new
7 and amended California firearms laws. The Bulletin's section on AB 962 set forth the new
8 regulations impacting the transfer of "handgun ammunition," but failed to clarify which types of
9 ammunition would be affected by California Penal Code sections 12060, 12061, and 12318. A
10 true and correct copy of Defendant DOJ's "Information Bulletin," entitled "New and Amended
11 Firearms Laws" is filed concurrently herewith as Exhibit "8."

12 8. On or about January 25, 2010, Defendant DOJ responded to our office's Public Records
13 Act Request for writings and communications relating to the enforcement of AB 962. Enclosed
14 with that response was the series of e-mail communications between Counsel for the DOJ Bureau
15 of Firearms and our office. A true and correct copy of "Defendant DOJ's Public Records Act
16 Response and Relevant E-mail Enclosures" is filed concurrently herewith as Exhibit "7."

17 9. As a result of our clients continued inquiries about which types of ammunition would be
18 regulated by AB 962 and Defendant DOJ's inability to provide any guidance on this issue, our
19 office was unable to advise our clients as to how to comply with the new laws. Our office
20 subsequently received requests from our clients to commence litigation seeking injunctive and
21 declaratory relief to protect them from prosecution for inadvertently violating the new laws.

22 10. On or about June 17, 2010, Plaintiffs filed their Complaint for Declaratory and
23 Injunctive Relief against Defendants the State of California, Jerry Brown, in his official capacity
24 as Attorney General for the State of California, and the California DOJ ("Defendants"),
25 challenging the validity of Penal Code sections 12060, 12061, and 12318.

26 11. Out of professional courtesy, Plaintiff's subsequently granted Defendants' request for
27 an extension to file a responsive pleading until August 2, 2010.

28 ///

1 12. On or about August 2, 2010, Defendants filed their Answer to [Plaintiffs'] Complaint
2 for Declaratory and Injunctive Relief and Petition for Writ of Mandate.

3 13. On or about August 5, 2010, our office contacted counsel for Defendants via e-mail,
4 inquiring as to whether Defendants would stipulate to a shortened briefing schedule to resolve this
5 case on the merits via summary judgment before Penal Code sections 12061(a)(3-7) and 12318
6 take effect on February 1, 2011, as Plaintiffs' business decisions greatly rely on whether this law
7 will be enforced, and as plaintiffs will be subject to the threat of prosecution for inadvertent
8 violations of these laws should this case not be resolved when those sections take effect as set
9 forth fully in Plaintiffs' declarations filed concurrently herewith. Further, Plaintiffs seek speedy
10 resolution of this matter to prevent further risk of prosecution for inadvertent violations of Penal
11 Code section 12061(a)(1-2) which have already taken effect. The parties were unable to agree to
12 a shortened briefing schedule for Plaintiff's Motion for Summary Judgment. Accordingly,
13 Plaintiffs' informed Defendants of their intention to proceed with a Motion for Preliminary
14 Injunction continued preparation of the instant motion.

15 14. Meanwhile, according to the sponsor of Assembly Bill 2358 (2010), Assemblyman
16 Kevin De Leon, Defendant DOJ worked with Assemblyman De Leon to remove the reference to
17 Penal Code section 12323(a) and replace it with a "list of ammunition calibers" that would be
18 considered "handgun ammunition" under AB 962. On or about August 19, 2010, AB 2358 was
19 amended to clarify AB 962 by including a list of ammunition calibers that would be considered
20 handgun ammunition, but the bill ultimately failed to pass the Senate. The bill's failure to pass
21 the legislature was presumably due to the many flaws posed not only by Defendants' list of
22 ammunition calibers, but also due to the flaws which led numerous organizations, including the
23 California Rifle and Pistol Association, to oppose the bill prior to the recent "list amendment."
24 (Hearing on A.B. 2358 Before the S. Pub. Safety Comm., 2010 Leg., 2009-2010 Reg. Sess. (Cal.
25 2010) (statement of Assem. Kevin DeLeon, Sponsor).) True and correct copies of "Assembly Bill
26 2358 (2010), Amended August 19th 2010," "Assembly Bill 2358 (2010), Amended August 30th,
27 2010," and "Assembly Bill 2358 (2010) History" are filed concurrently herewith as Exhibits 2, 3,
28 and 4, respectively.

1 15. Plaintiffs believe that the amendment to AB 2358 to include a list of ammunition
2 calibers was the result of Defendant DOJ's communications with Assemblyman De Leon's office
3 regarding the merits of this suit and the vagueness of the challenged provisions. Plaintiffs are
4 unable to confirm this, however, as a previous public records request for communications
5 regarding AB 962 and AB 2358 were denied on privilege grounds, and Plaintiffs' expect that a
6 subsequent request for information about DOJ's communications with Assemblyman DeLeon's
7 office will be denied on similar grounds. True and correct copies of "Public Records Act Request
8 7.16.10-'DOJ Bureau of Firearms" and "Defendant DOJ's Public Records Act Response" are
9 filed concurrently herewith as Exhibits "9" and "10," respectively.

10 I declare under penalty of perjury under the laws of the United States of America that the
11 foregoing is true and correct.

12 Dated this 7th day of September, 2010 at Long Beach, California.

13
14 
15 Clinton B. Monfort

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF FRESNO

4 I, Valerie Pomella, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
business address is 180 East Ocean Blvd., Suite 200, Long Beach, California 90802.

6 On September 7, 2010, I served the foregoing document(s) described as

7 **DECLARATION OF CLINTON B. MONFORT IN SUPPORT OF MOTION FOR**
8 **PRELIMINARY INJUNCTION**

9 on the interested parties in this action by placing

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☒ a true and correct copy

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12 Attorney General of California
13 Zackery P. Morazzini
14 Supervising Deputy Attorney General
15 Peter A. Krause
16 Deputy Attorney General (185098)
1300 I Street, Suite 125
P.O. Box 944255
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27 
28 VALERIE POMELLA

1 C. D. Michel - SBN 144258
Clinton B. Monfort - SBN 255609
2 Sean A. Brady - SBN 262007
MICHEL & ASSOCIATES, P.C.
3 180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
4 Telephone: (562) 216-4444
Fax: (562) 216-4445
5 cmichel@michellawyers.com

6 Attorneys for Plaintiffs/Petitioners

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF FRESNO

10 SHERIFF CLAY PARKER, TEHAMA) CASE NO. 10CECG02116
11 COUNTY SHERIFF; HERB BAUER)
SPORTING GOODS; CALIFORNIA RIFLE) DECLARATION OF RAY T. GILES IN
12 AND PISTOL ASSOCIATION) SUPPORT OF MOTION FOR
FOUNDATION; ABLE'S SPORTING,) PRELIMINARY INJUNCTION
13 INC.; RTG SPORTING COLLECTIBLES,)
LLC; AND STEVEN STONECIPHER,)
14) Date: September 29, 2010
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Location: Dept. 97E
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Date Action Filed: June 17, 2010
16 vs.) Trial Date:
17 THE STATE OF CALIFORNIA; JERRY)
BROWN, IN HIS OFFICIAL CAPACITY)
18 AS ATTORNEY GENERAL FOR THE)
STATE OF CALIFORNIA; THE)
19 CALIFORNIA DEPARTMENT OF)
JUSTICE; and DOES 1-25,)
20)
21 Defendants and Respondents.)

DECLARATION OF RAY T. GILES

I, Ray T. Giles, declare as follows:

1. I am the owner of Plaintiff RTG Sporting Collectibles, LLC, a Texas limited liability company that sells and ships directly to California residents a variety of ammunition calibers suitable for use in both handguns and rifles, but which are primarily sold as collectibles not intended to be fired.

2. As the owner, I am responsible for determining the policies and operating procedures of RTG Sporting Collectibles, LLC. In doing so, I am responsible for ensuring RTG Sporting Collectibles, LLC complies with all applicable federal, state, and local laws, California Penal Code sections 12060, 12061, and 12318.

3. I do not know what my obligations are under California Penal Code sections 12060, 12061, and 12318 because I do not know which ammunition calibers are principally for use in a handgun. I also do not know which calibers are exempt from these laws as ammunition that is "designed and intended to be used in 'antique firearms'" manufactured before 1898, because many ammunition calibers used in firearms manufactured before 1898 are also used in firearms manufactured after 1898.

4. I am unaware of any generally accepted technical definition of "handgun ammunition" nor any commonly understood delineation between "handgun ammunition" and other ammunition used in the firearms industry that equates to the "principally for use in a" handgun language upon which California Penal Code sections 12060, 12061, and 12318 rely.

5. I do not know whether the "principally for use in a" handgun standard means that a particular ammunition caliber will be considered "handgun ammunition" under California Penal Code sections 12060, 12061, and 12318 if that caliber is used more often in a handgun than in a rifle.

6. I do not know, and I am unable to determine, which ammunition calibers are used more often in a handgun than in a long-gun.

7. Because I do not know what my obligations are under California Penal

1 Code sections 12060, 12061, and 12318, I fear that I may be prosecuted for
2 unknowingly violating them. For example, I fear that I am subject to prosecution if
3 I ship to a non-exempt California resident any caliber of ammunition that law
4 enforcement deems "handgun ammunition" even though I do not know what
5 calibers of ammunition are "handgun ammunition" or which calibers of
6 ammunition law enforcement will consider "handgun ammunition."

7 8. I will cease shipment of all calibers of ammunition that are suitable for
8 use in both handguns and long guns to non-exempt California customers after
9 January of 2011 to avoid risking criminal prosecution under California Penal Code
10 section 12318. In the case this litigation is not resolved prior to February of 2011,
11 RTG Sporting Collectibles, LLC will lose significant profits because it relies on the
12 California market for much of the sales of its unique product - collectible
13 ammunition. With the loss of the California market, RTG Sporting Collectibles,
14 LLC cannot just simply find other buyers elsewhere; rather, the amount of product
15 it sells will necessarily decrease.

16 I declare under penalty of perjury that the foregoing is true and correct.

17 Executed within the United States
18 this 28 day of August, 2010


19 Ray T. Giles
20 Owner, RTG Sporting Collectibles, LLC
21
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26
27
28

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF FRESNO

4 I, Valerie Pomella, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
business address is 180 East Ocean Blvd., Suite 200, Long Beach, California 90802.

6 On September 7, 2010, I served the foregoing document(s) described as

7 **DECLARATION OF RAYMOND T. GILES IN SUPPORT OF MOTION FOR**
8 **PRELIMINARY INJUNCTION**

9 on the interested parties in this action by placing

10 ☐ the original

☒ a true and correct copy

thereof enclosed in sealed envelope(s) addressed as follows:

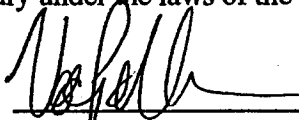
11 Edmund G. Brown, Jr.
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13 Zackery P. Morazzini
14 Supervising Deputy Attorney General
15 Peter A. Krause
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28 VALERIE POMELLA

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Clinton B. Monfort - SBN 255609
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6 Attorneys for Plaintiffs/Petitioners

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF FRESNO

| | | |
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| 11 SPORTING GOODS; CALIFORNIA RIFLE |) | DECLARATION OF MIKE HAAS IN |
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| 12 FOUNDATION; ABLE'S SPORTING, |) | PRELIMINARY INJUNCTION |
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| 15 vs. |) | Date Action Filed: June 17, 2010 |
| |) | Trial Date: |
| 16 THE STATE OF CALIFORNIA; JERRY |) | |
| 17 BROWN, IN HIS OFFICIAL CAPACITY |) | |
| AS ATTORNEY GENERAL FOR THE |) | |
| 18 STATE OF CALIFORNIA; THE |) | |
| CALIFORNIA DEPARTMENT OF |) | |
| 19 JUSTICE; and DOES 1-25, |) | |
| |) | |
| 20 |) | |
| Defendants and Respondents. |) | |
| 21 |) | |

1 DECLARATION OF MIKE HAAS

2 I, Mike Haas, declare as follows:

3 1. I make this declaration of my own personal knowledge and, if called as a witness, I
4 could and would testify competently to the truth of the matters set forth herein.

5 Firearms and Ammunition Expert Qualifications

6 2. I am the creator and author of the "Haas' Guide to Small Arms Ammunition"; a free
7 computer utility that provided technical information on over 100 cartridges and their ballistics

8 3. In 2004, I converted this resource into a commercial company called "AmmoGuide"
9 Today AmmoGuide.com serves thousands of paid subscribers. Based on number of load recipes,
10 AmmoGuide is the leading community reloading website. Users of my website include hunters,
11 shooters, firearms professionals, law enforcement and the military. A true and correct copy of
12 <http://ammoguide.com> - "About AmmoGuide.com" is filed concurrently herewith as Exhibit "46."

13 4. AmmoGuide.com provides in-depth technical information on over 750 cartridges,
14 including histories, case dimensions and over 20,000 loading recipes. AmmoGuide.com provides
15 a wealth of exclusive and sophisticated ammunition-related services such as Visual and Ballistic
16 Comparison, Trajectory Calculation and much more. AmmoGuide.com's forum provides valuable
17 community and social interaction for visitors interested in firearms and ammunition.

18 5. As AmmoGuide.com is a community website, I have many experts with subscriptions
19 and who are regular forum posters who own their own business, including gunsmiths and
20 manufacturers. Two of of my most famous subscribers are Ken Oehler
21 (<http://oehler-research.com>) and Mike Bellm (<http://www.bellmtcs.com/store/index.php?cid=1>),
22 both of whom post on my forums. For years, I have also featured a "Learn About Ammo" tool
23 that other websites can and do use on their own homepages
24 (<http://ammoguide.com/?article=importag0510>.)

25 6. As a result of my expertise in ammunition cartridges due in part to creating and
26 maintaining AmmoGuide.com, I have been interviewed by media whenever a major news story
27 involving ammunition has gripped the nation; most recently being when the Washington DC
28 Sniper story brought 5.56mm NATO cartridges to the national spotlight.

1 7. I was contacted as a consultant by noted firearms author Michael Bussard during his
2 preparation of "Ammo Encyclopedia." I am acknowledged for my efforts along with
3 AmmoGuide.com on page 8 of that publication. A true and correct copy of Bussard, Ammo
4 Encyclopedia (2008) at p. 8 is filed concurrently herewith as Exhibit "47."

5 8. Technical resources that I am intimately familiar with that are most valuable in my
6 work include:

- 7 - Cartridges of the World, Frank Barnes, Kraus Publications
- 8 - Small Arms of the World, Edward Clinton Ezell, Stackpole Books
- 9 - The Handloader's Manual of Cartridge Conversions, John J. Donnelly, Stoeger
10 Publishing Co.
- 11 - The Gunsmith's Book of Chamber Prints, Dave Kiff, Pacific Tool & Gauge
- 12 - Ammo Encyclopedia, Michael Bussard, Blue Book Publications

13 Cannot Determine whether Cartridges are Principally for Use in Handguns vs. Rifles

14 9. Most ammunition cartridges can be used safely in both rifles and handguns. Modern
15 commercially produced ammunition can be used in either a rifle or a handgun.

16 10. All modern centerfire and rimfire ammunition for use in rifles and/or handguns consist
17 of the same components: a metal casing that suspends a metal projectile over a charge of powder
18 confined within the metal casing and a primer to ignite the charge ("self-contained metallic
19 ammunition"). A true and correct copy of rkba.org - Principles of Firearms – Definitions
20 "Ammunition Components" is filed concurrently herewith as Exhibit "11."

21 11. Self-contained metallic ammunition has been available for almost 160 years. Whether
22 a particular type of ammunition is used in a handgun (pistol or revolver) or a rifle (or a shorter
23 carbine version) is determined by the needs and desires of the end user. Very large cartridges are
24 generally not used in handguns because of recoil or the weapon's bulk, not because of design or
25 strength limitations. Smaller and relatively less powerful cartridges have been widely used in both
26 rifles and handguns. This is generally referred to as "cartridge interchangeability."

27 12. Numerous ammunition cartridges, including but not limited to .22 Short, .22 Long,
28 32-20, .38-40, .44-40, and .45 Long Colt can be used in identical firearms that were manufactured

1 both in or before 1898 and after 1898, and are commonly used in both rifles and handguns. True
2 and correct copies of Flayderman's Guide to Antique American Firearms (1998 7th ed.) p. 265-66
3 (hereafter Flayderman's), www.chuckhawks.com - A Brief History of .22 Rimfire Ammunition,
4 and Flayderman's (1998 7th ed.) p. 85 are filed concurrently herewith as Exhibits "12," "17,"
5 and "19," respectively.

6 13. Commercial cartridges are sometimes labeled as being for "rifles" or "pistols." For
7 instance, Eley .22 Long Rifle 40gr Match Pistol ammunition can be safely and effectively used in
8 a rifle. In this example even the name of the cartridge (.22 Long Rifle) adds to the confusion.
9 Conversely, Remington .30-30 Express Core-Lokt Rifle cartridges can be used in a Thompson
10 Contender handgun that is chambered for that cartridge.

11 14. That "dual-use" of ammunition is anticipated by the manufacturer (box markings
12 aside) can be seen by the disclaimer on a box of Remington .223 ammunition. It reads " Notice:
13 These Remington cartridges are adapted to and intended for use only in arms in good condition
14 originally chambered and designed for the cartridge." The markings on ammunition boxes are
15 interesting, but are not controlling as to how it can ultimately be used, or as to whether that
16 particular ammunition was intended to be used, or will actually be used, more often in a handgun
17 than in a rifle. Such a determination cannot be made from looking at the packaging nor from
18 consulting any other resource.

19 15. Although descriptions of some cartridges referring to them as "handgun" or "rifle"
20 cartridges can sometimes be found in works that describe ammunition in general - reloading
21 manuals, technical references, etc., these references are not exhaustive in terms of each cartridge
22 of ammunition; nor do these references identify whether a particular cartridge is used or intended
23 to be used more often in a handgun than in a long gun. These occasional references to some
24 ammunition cartridges as rifle or handgun are not commonly understood by the general public,
25 and would by no means be sufficient to identify these, let alone all, of the thousands of types of
26 ammunition cartridges as being used principally in a handgun rather than a long gun.

27 16. I am not aware of any generally accepted definition of "handgun ammunition," nor any
28 commonly understood delineation between "handgun ammunition" and other ammunition used in

1 the firearms industry that indicates whether ammunition cartridges are fired or intended to be fired
2 more often in handguns than in rifles.

3 17. AmmoGuide.com, which is one of leading online ammunition resources, features no
4 distinction in its list of ammunition cartridges as to whether rounds of ammunition are principally
5 for use in a a rifle versus a pistol. Nothing on AmmoGuide classifies cartridges as handgun or
6 rifle cartridges, nor any information suggesting whether a given ammunition cartridge is used
7 more often in a handgun than in a rifle.

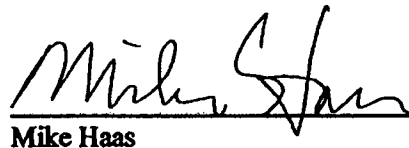
8 18. Whether a given cartridge of ammunition is used more often in a handgun than in a
9 rifle may change and fluctuate over time, depending on the changing popularity and usage of
10 different types of firearms which utilize that caliber of ammunition, or vice-versa.

11 19. I do not know what ammunition cartridges are "principally for use" in a handgun.
12 Neither the academic and professional works comprising my library nor my experiences
13 qualifying me as an expert in firearms and ammunition provide me with knowledge as to what
14 cartridges are "principally for use in a handgun."

15 20. Furthermore, I do not know, and I am unable to determine, which cartridges are used
16 more often in a handgun than in a long gun.

17 I declare under penalty of perjury that the foregoing is true and correct.

18 Executed within the United States this 7th day of September, 2010

19
20 
21 Mike Haas

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF FRESNO

I, Valerie Pomella, am employed in the City of Long Beach, Los Angeles County, California. I am over the age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean Blvd., Suite 200, Long Beach, California 90802.

On September 7, 2010, I served the foregoing document(s) described as
**DECLARATION OF MIKE HAAS IN SUPPORT OF
MOTION FOR PRELIMINARY INJUNCTION**

on the interested parties in this action by placing

☐ the original

☒ a true and correct copy

thereof enclosed in sealed envelope(s) addressed as follows:

Edmund G. Brown, Jr.
Attorney General of California
Zackery P. Morazzini
Supervising Deputy Attorney General
Peter A. Krause
Deputy Attorney General (185098)
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

(BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date is more than one day after date of deposit for mailing an affidavit.

Executed on February ____, 2009, at Long Beach, California.

X (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the addressee.

Executed on February ____, 2009, at Long Beach, California.

(VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used complies with California Rules of Court, Rule 2003, and no error was reported by the machine. Pursuant to Rules of Court, Rule 2006(d), I caused the machine to print a transmission record of the transmission, copies of which is attached to this declaration. Executed on February ____, 2009, California.

X (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


VALERIE POMELLA

1 C. D. Michel - SBN 144258
Clinton B. Monfort - SBN 255609
2 Sean A. Brady - SBN 262007
MICHEL & ASSOCIATES, P.C.
3 180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
4 Telephone: (562) 216-4444
Fax: (562) 216-4445
5 cmichel@michellawyers.com

6 Attorneys for Plaintiffs/Petitioners

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF FRESNO

| | | |
|-------------------------------------|---|----------------------------------|
| 10 SHERIFF CLAY PARKER, TEHAMA |) | CASE NO. 10CECG02116 |
| COUNTY SHERIFF; HERB BAUER |) | |
| 11 SPORTING GOODS; CALIFORNIA RIFLE |) | DECLARATION OF STEPHEN HELSLEY |
| AND PISTOL ASSOCIATION |) | IN SUPPORT OF MOTION FOR |
| 12 FOUNDATION; ABLE'S SPORTING, |) | PRELIMINARY INJUNCTION |
| INC.; RTG SPORTING COLLECTIBLES, |) | |
| 13 LLC; AND STEVEN STONECIPHER, |) | |
| |) | Date: September 29, 2010 |
| |) | Time: 3:30 p.m. |
| 14 Plaintiffs and Petitioners, |) | Location: Dept. 97E |
| |) | Judge: Hon. Jeff Hamilton |
| 15 vs. |) | Date Action Filed: June 17, 2010 |
| |) | Trial Date: |
| 16 THE STATE OF CALIFORNIA; JERRY |) | |
| 17 BROWN, IN HIS OFFICIAL CAPACITY |) | |
| AS ATTORNEY GENERAL FOR THE |) | |
| 18 STATE OF CALIFORNIA; THE |) | |
| CALIFORNIA DEPARTMENT OF |) | |
| 19 JUSTICE; and DOES 1-25, |) | |
| |) | |
| 20 |) | |
| Defendants and Respondents. |) | |
| 21 |) | |

1 *Lefauchaux* by Chris Curtis and *Paradox* by Roger Lake and David Baker. I have also acted as a
2 researcher for other authors. One example is an article by Silvio Calabi that ran in the
3 November/December 2006 issue of *Shooting Sportsman* magazine. The article "Less is More" is
4 the definitive work on the origin and development of the 28-g shotshell. Additionally, I recently
5 co-authored a book, *Hemingway's Guns*, which will be published by Shooting Sportsman Books
6 later this month.

7 6. During the 1970s, while employed as a DOJ Field Supervisor in San Diego, I was first
8 qualified in court as a "firearms expert". In 1973, I took the required training to become an NRA
9 Certified Police Firearms Instructor and a California Commission on Peace Officers Standards and
10 Training certified firearms instructor.

11 7. In 1975, I attended the FBI National Academy in Quantico, VA. Included in the
12 required course work was one of firearms. In later years I took other firearms training that ranged
13 from use of the Heckler & Koch 9mm MP5 submachine gun to concealed weapons training for a
14 Nevada "carry permit." In addition to being certified as a firearms expert, I am a member of the
15 American Academy of Forensic Sciences and a Technical Adviser to the Association of Firearm
16 and Tool Mark Examiners.

17 8. When I became DOJ Chief of the Bureau of Narcotic Enforcement, I had the overall
18 responsibility of reviewing agent-involved shootings, as well as purchasing their ammunition and
19 firearms, which included handguns and rifles.

20 9. In 1985, I became Chief of the DOJ Bureau of Forensic Services (BFS). As BFS Chief, I
21 was involved in setting standards for the casework of those doing firearm and tool mark
22 examinations. On a larger scale, I was instrumental in establishing the California Criminalistics
23 Institute ("CCI") – which at that time was one of only two formal forensic training/research
24 institutes in the United States. CCI established a number of firearms courses that are still being
25 offered.

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1 10. In 1989, I was promoted to Assistant Director of the DOJ's Investigation and
2 Enforcement Branch, a position I held until I retired. As Assistant Director, I was deeply involved
3 in firearm issues, including the drafting of assault weapon related legislation. During this period, I
4 was able to participate in ammunition testing at the U.S. Army Wound Ballistic Laboratory at
5 Letterman Institute in San Francisco.

6 11. From 1993 until 2000, I was the State Liaison for the National Rifle Association
7 ("NRA") in Sacramento. In that position I responded to requests from legislators and staff
8 regarding ammunition and firearms-related matters. After leaving the NRA, my expertise in
9 firearms and ammunition continued to expand as I logged countless hours hunting and shooting
10 competitively, as well as reloading ammunition. New competitive disciplines that I engaged in
11 included Long Range Tactical Rifle, Black Powder Rifle Cartridge Silhouette, and Military Rifle
12 Silhouette. I also became involved in shotgun and double rifle competition. I hunted Bison in
13 North Dakota with a Sharps rifle made in 1863 and grouse in Maine with a French pinfire shotgun
14 c.1860. For all of these activities, I reloaded my own cartridges. In 2003, I visited the Yuma
15 Proving Grounds with a group of forensic scientists. I was there to have my ammunition tested
16 using Doppler radar and high-speed photography.

17 12. At various times in the past I have conducted seminars on sniper rifles and in 2007 and
18 2008, I co-taught a workshop on dangerous game rifles and the ammunition for them.

19 13. In 2003, I toured the principal gun making firms in Brescia and Gardone, Italy. In 2008,
20 I did the same in Suhl, Germany. In 2005, I toured the Federal Cartridge Company in Anoka,
21 Minnesota to learn how they made ammunition. For the past seven years, I have consulted with
22 California-based gun makers B. Searcy & Co. and John Rigby & Co. Between 2004 and 2007, I
23 consulted with GaugeMate, Inc. on the design of sub-gauge adapters for shotguns.

24 14. My consulting efforts also involve civil and criminal matters. Most recently, I have
25 been reconstructing the discharge of a pistol in a Central California training school that seriously
26 injured one of the students. During the last decade I have done fine gun photography and acted as
27 a judge in the Gold Medal Concours d'Elegance of Fine Guns. My photographs of firearms and
28 cartridges have been used for magazine ads and to support articles. Additionally, I inventory

1 firearms collections and provide valuations if requested. The most recent was a 77-gun collection
2 in Montana that I did in June. I am leaving for Moscow, Russia on September 10, 2010. While
3 there, I am scheduled to hunt birds with Russian shotguns and ammunition, tour arms
4 manufacturers and museums and meet with Colonel Boez of the Moscow Police Department to
5 discuss firearm and ammunition control. I am currently working on an article that examines
6 shotguns and rifles made on the Needham patent of 1852. These firearms use "needle-fire"
7 cartridges – a design that was used by both armies in the Franco-Prussian War of 1870.

8 15. I currently load 60 different types of ammunition. They range from the common --.30-
9 06, .357 S&W Magnum and .30 Carbine to the obscure 6.5x53.5mm Daudeteau, the .44 Evans
10 and the 10.15x63mmR Serbian. I have the required tools for at least 40 more should I choose to
11 load for them. I have cast my own lead bullets since 1966 and also have experience with bullet
12 swaging. Learning how to load ammunition properly (particularly for the obscure cartridges)
13 requires extensive research. To that end my book collection contains many volumes on cartridge
14 history, fabrication and reloading.

15 16. Knowledge acquired during the course of my studies and personal and professional
16 experiences described herein form the basis for my testimony in this matter.

17 **Ammunition/Cartridge History, Distinctions, and Nomenclature**

18 17. All modern centerfire and rimfire ammunition for use in rifles and/or handguns consist
19 of the same components: a metal casing that suspends a metal projectile over a charge of powder
20 confined within the metal casing and a primer (or priming charge) to ignite the powder -
21 ("self-contained metallic ammunition"). A true and correct copy of rkba.org - Principles of
22 Firearms – Definitions "Ammunition Components" is filed concurrently herewith as Exhibit "11."

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1 18. Self-contained metallic ammunition has been available for almost 160 years. Whether
2 a particular type of ammunition is used in a handgun (pistol or revolver) or a rifle (or a shorter
3 carbine version) is determined by the needs and desires of the end user. Very large cartridges are
4 generally not used in handguns because of recoil or the weapon's bulk, not because of design or
5 strength limitations. Smaller and relatively less powerful cartridges have been, and continue to be,
6 widely used in both rifles and handguns. This is generally referred to as "cartridge inter-
7 changeability." Thus, a single box of cartridges may be consumed by use in a rifle and a pistol.

8 19. Numerous ammunition cartridges, including but not limited to .22 Short, .22 Long
9 Rifle, 32-20, .38-40, .44-40, and .45 Long Colt, can be used in identical firearms that were
10 manufactured both in or before 1898 and after 1898, and are commonly used in both rifles and
11 handguns. True and correct copies of Flayderman's Guide to Antique American Firearms (1998
12 7th ed.) p. 265-66 (hereafter Flayderman's), www.chuckhawks.com - A Brief History of .22
13 Rimfire Ammunition, and Flayderman's (1998 7th ed.) p. 85 are filed concurrently herewith as
14 Exhibits "12," "17," and "19," respectively.

15 20. After ammunition is manufactured, if stored correctly, it is likely to still work properly
16 after a century has passed. Accordingly, when ammunition is manufactured, there is no way to
17 know if it will be fired from a rifle or handgun - or will remain unused. For instance, military
18 .30 M1 Carbine ammunition made during World War II or the Korean War may yet be used in a
19 cowboy style revolver in 2015. True and correct copies of Gibson, A Pocket History of the M1
20 Carbine, and www.Ruger.com "The Ruger New Model Blackhawk Single-Action Revolver" are
21 filed concurrently herewith as Exhibits "30" and "31," respectively.

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21. The historical record is quite clear that “cartridge interchange-ability” began almost immediately after “perfection” of the Lefauchaux pinfire metallic cartridge in the early 1850s. The following paragraphs provide a chronology that details when certain cartridges were introduced, for what type of firearm they were originally used in, and how their inherent interchangeability was applied in other types of firearms. Paragraphs 22 through 46 provide examples of cartridge interchangeability, though such examples are by no means exhaustive. As this phenomenon has not been confined to the United States, examples from Europe are also included. The chronology is divided into “Obsolete Cartridges”, “Rimfire and Centerfire Cartridges” and “Single-Shot Pistols for all Sizes of Cartridges.”

Obsolete Cartridges

22. 12mm pinfire: In 1854, Eugene Lefauchaux patented and began producing a six-shot, 12mm pinfire revolver in Paris, France. In 1857, his revolver was adopted by the French military and production was instituted at the French Imperial Arms Factory at St. Etienne. Concurrently, Lefauchaux was producing revolver-carbines and single-shot rifles that used the 12mm cartridge for public sale. Lefauchaux-designed firearms (rifles and handguns) would later be made in both Belgium and Spain. True and correct copies of Firearms History, Technology & Development: Cartridges: Pinfire Cartridge, Gun & Game Forums - Collection of 12mm Pinfire Guns, and an Image of a Lefauchaux Model 1854 are filed concurrently herewith as Exhibits "13," "14," and "15," respectively.

23. .41 Volcanic: In 1855, the Volcanic Repeating Arms Company (later renamed The New Haven Arms Company and then the Winchester Repeating Arms Company) produced a caseless .41 caliber cartridge that was utilized in both a handgun and carbine rifle. A true and correct copy of an Image & Description of Volcanic Lever Action Pistols and Carbines is filed concurrently herewith as Exhibit "16."

Rimfire and Centerfire Cartridges

24. .22 Short: In 1857, Smith & Wesson introduced their Model No. 1 revolver that was chambered for the .22 rimfire Short cartridge. The .22 Short has been in continuous production since its introduction. It has been used in a range of firearms from gallery rifles to Olympic pistols

1 and in every action-type (pump, single-shot, semiautomatic, lever action, etc.). The .22 Short can
2 also be safely fired in any firearm (handgun or rifle) that is chambered for the .22 Long or .22
3 Long Rifle. A true and correct copy of www.chuckhawks.com - A Brief History of .22 Rimfire
4 Ammunition is filed concurrently herewith as Exhibit "17."

5 25. .577 Snider: In 1867, the British government adopted their first centerfire cartridge -
6 the .577 Snider. It was used in converted Pattern 1853 muzzle loading percussion rifles.
7 Commercial manufacturers produced "double-barreled" Howdah pistols for dangerous game
8 hunters that utilized this same cartridge. A true and correct copy of Orr, Tiger Tamer: A 12-Bore
9 Howda Double is filed concurrently herewith as Exhibit "18."

10 26. 44-40 Winchester: This was the original cartridge for the Winchester Model 1873
11 lever-action rifle. By 1878, Colt was using it in their Single Action Army Revolver. A true and
12 correct copy of Flayderman's (1998 7th ed.) p. 85 is filed concurrently herewith as Exhibit "19."
13 Both the Winchester and the Colt would later be chambered for the .38-40 Winchester and the
14 .32-20 Winchester cartridges. Later, the Winchester Model 1892 rifle, the Colt Lightning Slide
15 Action rifle and the Marlin Model 1894 rifle and numerous Smith & Wesson revolvers would also
16 be chambered for the same three cartridges. In the 1990s, what is generally described as "cowboy
17 action shooting" became very popular (and has remained so) and resulted in replica firearms
18 (rifles and revolvers) of the weapons previously described in this paragraph (and others) being
19 imported primarily from Italy. A true and correct copy of www.sassnet.com - What is SASS is
20 filed concurrently herewith as Exhibit "20." In addition to .32-20, .38-40 and .44-40, the imports
21 are chambered for .38 Special, .357 Magnum and .45 Long Colt. A true and correct copy
22 www.uberti.com - Uberti 1873 Rifle & 1873 Carbine is filed concurrently herewith as Exhibit
23 "21." The .38 Special was introduced in 1902 by Smith & Wesson for use in their Military and
24 Police Model revolver. The .357 Magnum was introduced in 1935 and the .45 Long Colt c. 1872.

25 27. .45-70 Government: The .45-70 was the US military's primary service cartridge for
26 rifles from 1873 until the Spanish American War. It has been used in bolt-action, single-shot,
27 lever-action and pump-action rifles. Although a large cartridge, the .45-70 has also been used in a
28 number of revolvers. Most recently, .45-70 revolvers have been made by Magnum Research and

1 Super Six Ltd. A true and correct copy of www.galleryofguns.com - Magnum Research BFR
2 Revolver is filed concurrently herewith as Exhibit "22."

3 28. .22 Long Rifle: This cartridge was likely introduced in 1887 by the Stevens Arms &
4 Tool Co. for use in their single shot rifles. It is quite likely the most popular firearm cartridge in
5 the world. It is estimated that millions of Ruger 10-22 rifles alone have been made for it since
6 1964. A pistol version of the 10-22 called "The Charger" was also made. The number and variety
7 of firearms that use the .22 Long Rifle cartridge are likely incalculable. True and correct copies of
8 www.chuckhawks.com - A Brief History of .22 Rimfire Ammunition, www.ruger.com - Ruger
9 10/22 Rifles, and www.survival-gear-guide.com - Ruger Charger, are filed concurrently herewith
10 as Exhibits "17," "23," and "24," respectively.

11 29. 9mm Luger (9x19mm Parabellum): In 1902, the 9x18mm cartridge was developed for
12 use in the American Eagle Luger pistol and other models. Luger also produced a carbine using the
13 same cartridge. The 9x19mm has been used extensively in submachine guns. Various models of
14 submachine guns have used and use the 9x19mm. It is also used in the Ruger 9mm PC carbine,
15 the Marlin 9mm Camp Carbine and Colt AR-15 style rifles with a conducive upper-receiver. True
16 and correct copies of www.best9mm.com - 9mm Carbines & Grease Guns," Marlin Model 9
17 Camp Carbine Owner's Manual, and an Image & Description of a Luger Carbine, are filed
18 concurrently herewith as Exhibits "25," "26," and "27," respectively.

19 30. 9x23mm Largo: The cartridge was developed in Belgium in 1903. It was
20 subsequently used in handguns made in Belgium (Bergman-Bayard) and Spain (Astra, Llama, Star
21 and Jo-Lo-Ar). In addition to submachine gun use, three bolt-action rifle models were made in
22 Spain (Onena, Destroyer and Ignacio Zubillaga). A true and correct copy of <http://9mmLargo.com>
23 - 9mm Largo Firearms is filed concurrently herewith as Exhibit "28."

24 31. .45 ACP: Developed for use in the Colt Model 1910 pistol and was later adopted by
25 the US military with the Model 1911 Colt pistol. It is perhaps best known for its relationship to
26 the Thompson Sub Machine Gun (Tommy Gun) and the M3A1 (Grease Gun). Harrington &
27 Richardson produced M60 and M65 semi-automatic .45 ACP Reising Guns. The British military
28 used the .45 ACP cartridge in modified No.1 Mark III Short Magazine Lee Enfield rifles to create

1 the DeLisle carbine rifle. Later, Marlin produced the .45 Camp Carbine rifle which utilized this
2 same cartridge. A true and correct copy of www.notpurfect.com – Camp Gun is filed concurrently
3 herewith as Exhibit “29.”

4 32. 30 M1 Carbine: The cartridge and rifle were adopted in 1941. By the end of the war,
5 6.2 million carbines had been made. In 1963, the Director of Civilian Marksmanship began
6 releasing the carbines for sale to members of the National Rifle Association. Increased consumer
7 interest ultimately saw new manufacturers make carbine rifles that utilized this same cartridge.
8 They included Plainfield, Universal, Iver Johnson and Marlin (M62 Levermatic). Among the
9 handguns using the .30 carbine round was the Ruger Blackhawk revolver that has been produced
10 for approximately 40 years. True and correct copies of Gibson, A Pocket History of the M1
11 Carbine, and www.Ruger.com - The Ruger New Model Blackhawk Single-Action Revolver are
12 filed concurrently herewith as Exhibits “30” and “31,” respectively.

13 33. .44 Remington Magnum: In 1955, Smith & Wesson introduced the .44 Remington
14 Magnum cartridge for use in their Model 29 revolver. In 1961, Ruger introduced the Deerstalker
15 .44 Magnum carbine -- about 250,000 of which were produced over the next 25-years. Ruger then
16 introduced the Model 96/44M lever-action rifle c. 1996. Their most current model is the Model
17 77/44 bolt-action rifle. Lever action carbines have also been made by Rossi (Model 65 SRC),
18 Browning B-92, Marlin (Model 1894) and E. M. F. (Model 1892). One pump-action carbine, the
19 Universal Vulcan 440, was also produced. A true and correct copy of www.shootingwithjim.com -
20 Ruger 44 Magnum Carbine is filed concurrently herewith as Exhibit “32.”

21 34. 22 Winchester Magnum Rimfire - Introduced in 1960, it quickly became wildly
22 popular and is now a standard chambering in both rifles and handguns. A true and correct copy of
23 www.chuckhawks.com - A Brief History of .22 Rimfire Ammunition is filed concurrently
24 herewith as Exhibit “17.”

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1 35. .256 Winchester Magnum - When introduced in 1960, no firearm was chambered for
2 it. In 1963, Marlin offered their Model 62 Levermatic (a rifle) in .256 Winchester Magnum and in
3 1966, Ruger introduced a single shot pistol called the Hawkeye, also chambered in .256
4 Winchester Magnum. A true and correct copy of www.chuckhawks.com - The .256 Winchester
5 Magnum is filed concurrently herewith as Exhibit "33."

6 36. .221 Remington Fireball: Federal law prohibits conversion of a rifle into a handgun.
7 Thus, existing bolt-action rifle actions couldn't be used to build handguns. To fill this need, in
8 1963, Remington introduced the XP-100 single-shot, bolt-action pistol that was chambered for the
9 .221 Fireball cartridge. Later they added a magazine fed version that was chambered for .223
10 Remington, .22-250, 7mm-08 Remington, .250 Savage, .308 Winchester, .350 Remington
11 Magnum and .35 Remington. A true and correct copy of <http://glenncustom.com> - PRICING -
12 Remington XP-100 is filed concurrently herewith as Exhibit "34." In 2002, Remington began
13 offering their Model 700 bolt-action rifle in the same .221 Fireball chambering. A true and correct
14 copy of www.budsgunshop.com - Remington 700 LV Light Varmint .221 Fireball is filed
15 concurrently herewith as Exhibit "35."

16 37. .41 Remington Magnum: Smith & Wesson introduced the .41 Remington Magnum
17 cartridge with their Model 57 revolver in 1964. Ruger, and others, make .41 magnum revolvers
18 and Marlin offers the cartridge in their Model 1894 lever-action carbine. A true and correct copy
19 of <http://nighthawkcustom.com> - Marlin 41 Magnum Model 1894FG 20" is filed concurrently
20 herewith as Exhibit "36."

21 38. .40 Smith & Wesson: This cartridge was the result of work by Winchester and Smith
22 & Wesson c.1989. It is used in a variety of handguns, as well as carbines, including the Beretta
23 Cx4 Storm, the Hi Point 4095, the Kel-Tec SUB-2000, the Olympic Arms K40, (a true and correct
24 copy of www.gun-tests.com - .40 S&W Carbines: We Shoot Hi-Point, Beretta, Olympic Arms is
25 filed concurrently herewith as Exhibit "37") as well as others such as the Ruger PC4 carbine.
26 (Shideler, The Gun Digest Book of Modern Gun Values (15th ed. 2009) p. 433 (hereafter Gun
27 Digest.) And, AR-15 lowers are commonly chambered in .40 S&W, which is evidenced by the
28 Federal Bureau of Investigation's sought as its officially issued carbine. A true and correct copy of

1 www.fbo.gov - Colt Pattern .40 S&W Caliber Carbines is filed concurrently herewith as
2 Exhibit "38."

3 39. 5.7x28mm: This cartridge was developed in the 1990s for dual use (handgun and
4 carbine). It can be used in only two firearm models currently available to civilians: the PS90
5 semi-automatic carbine rifle and the FN Five-Seven semi-automatic pistol. A true and correct
6 copy of FNH 5.7x28 Bulk Ammo Advertisement is filed concurrently herewith as Exhibit "39."

7 40. .17 HMR and .17 Mach 2: These two rimfire cartridges were introduced in 2002 and
8 2004 respectively. They use the .22 Magnum and .22 Long Rifle cases and smaller diameter
9 bullets. They can (and are) being used in all manner of handguns and rifles, just like .22 rimfire
10 cartridges. True and correct copies of www.chuckhawks.com - The .17 Hornady Magnum Rimfire
11 and www.excelarms.com - New Products-New Models X-22P and X-22R are filed concurrently
12 herewith as Exhibits "40" and "41," respectively.

13 **Single Shot Pistols that Utilize All Ammunition Cartridges**

14 41. Thompson/Center: In 1967, Thompson/Center introduced their Contender pistol. It is
15 a single-shot, break-action design that utilizes interchangeable barrels to accommodate all
16 cartridge sizes that can be used in rifles. T/Cs have been chambered for cartridges from the
17 diminutive .17 Mach 2 rimfire to those suitable for hunting elephants. The current model of the
18 Contender is the G-2. Their website lists 102 available chamberings. Other barrel makers offer a
19 greater selection. True and correct copies of www.tcarms.com - About Thompson Center Arms,
20 www.tcarms.com - Caliber Selection, www.matchgrenademachine.com - Chamberings Available,
21 and Taffin, *The Custom Pistols of Gary Reeder* (Mar. 2001) Guns Magazine are filed concurrently
22 herewith as Exhibits "42," "43," and "44" respectively.

23 42. BF Single Shot: The range of calibers for use in this pistol is .17 rimfire to .45-70, all
24 of which calibers can be and are used in various rifles. (Shideler. Gun Digest, *supra*, at p. 107.)

25 43. Kimber Predator Hunter: The range of calibers for use in this pistol is .221 Fireball to
26 7mm TCU, all of which calibers can be and are used in various rifles. (Shideler. Gun Digest,
27 *supra*, at p. 176.)

28 ///

1 44. Magnum Research Lone Eagle: The range of calibers for use in this pistol is .22
2 Hornet to .444 Marlin, all of which calibers can be and are used in various rifles. (Shideler. Gun
3 Digest, *supra*, at p. 185.)

4 45. Pachmayr Dominator: The range of calibers for use in this pistol is .22 Hornet to .35
5 Remington, all of which calibers can be and are used in various rifles. (Shideler. Gun Digest,
6 *supra*, at p. 196.)

7 46. Savage Striker: The range of calibers for use in this pistol is .22-250, .243 Winchester
8 and .308 Winchester, all of which calibers can be and are used in various rifles. (Shideler. Gun
9 Digest, *supra*, at p. 207.)

10 **Cannot Determine whether Cartridges Are Principally for Use in Handguns vs. Rifles**

11 47. Most ammunition cartridges can be used safely in both rifles and handguns. Modern
12 commercially produced ammunition can be used in either a rifle or a handgun.

13 48. There is no generally accepted definition of "handgun ammunition," nor any
14 commonly understood delineation between "handgun ammunition" and other ammunition used in
15 the firearms industry that allows one to determine whether ammunition cartridges are "principally
16 for use" in handguns.

17 49. Whether a given type or caliber of ammunition is used more often in a handgun than
18 in a rifle may change and fluctuate over time, depending on the changing popularity and
19 usage of different types of firearms which utilize that ammunition, or vice-versa.

20 50. Commercial cartridges are sometimes labeled as being for "rifles" or "pistols." For
21 instance, Eley makes .22 Long Rifle 40gr Match Pistol ammunition. Despite the "pistol"
22 designation, it can be safely and effectively used in a rifle. In fact, the name of the cartridge (.22
23 Long Rifle) adds to the confusion. Conversely, Remington .30-30 Express Core-Lokt Rifle
24 cartridges can be used in a Thompson Contender handgun that is chambered for that cartridge.

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1 51. That "dual-use" of ammunition is anticipated by the manufacturer (box markings
2 aside) can be seen by the disclaimer on a box of Remington .223 ammunition. It reads "Notice:
3 These Remington cartridges are adapted to and intended for use only in arms in good condition
4 originally chambered and designed for the cartridge." The markings on ammunition boxes are
5 interesting, but are not controlling as to how it can ultimately be used, or as to whether that
6 particular ammunition was intended to be used, or will actually be used, more often in a handgun
7 than in a rifle. Such a determination cannot be made from looking at the packaging nor from
8 consulting any other resource.

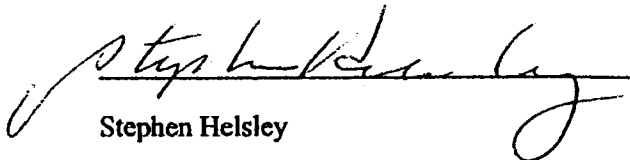
9 52. While firearms and ammunition literature sometimes make reference to "handgun
10 ammunition" and "rifle ammunition," when referencing some cartridges, I assume the authors
11 never anticipated making the technical distinctions necessitated by CA Penal Code section 12060.

12 53. Neither the academic and professional works comprising my library nor my
13 experiences qualifying me as an expert in firearms and ammunition provide me with knowledge as
14 to what cartridges are "principally for use in a handgun."

15 54. Furthermore, I do not know, and I am unable to determine, which cartridges are used
16 more often in a handgun than in a long gun.

17 I declare under penalty of perjury that the foregoing is true and correct.

18 Executed within the United States this 7th day of September, 2010

19
20
21 
22 Stephen Helsley

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF FRESNO

4 I, Valerie Pomella, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
business address is 180 East Ocean Blvd., Suite 200, Long Beach, California 90802.

6 On September 7, 2010, I served the foregoing document(s) described as

7 **DECLARATION OF STEPHEN HELSLEY IN SUPPORT OF**
8 **PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION**

9 on the interested parties in this action by placing

10 ☐ the original

☒ a true and correct copy

thereof enclosed in sealed envelope(s) addressed as follows:

11 Edmund G. Brown, Jr.
12 Attorney General of California
13 Zackery P. Morazzini
14 Supervising Deputy Attorney General
15 Peter A. Krause
Deputy Attorney General (185098)
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

16 X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
17 processing correspondence for mailing. Under the practice it would be deposited with the
18 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,
California, in the ordinary course of business. I am aware that on motion of the party
served, service is presumed invalid if postal cancellation date is more than one day after
date of deposit for mailing an affidavit.

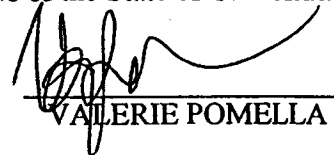
19 Executed on February ____, 2009, at Long Beach, California.

20 — (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
addressee.

21 Executed on February ____, 2009, at Long Beach, California.

22 — (VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used
23 complies with California Rules of Court, Rule 2003, and no error was reported by the
machine. Pursuant to Rules of Court, Rule 2006(d), I caused the machine to print a
transmission record of the transmission, copies of which is attached to this declaration.
24 Executed on February ____, 2009, California.

25 X (STATE) I declare under penalty of perjury under the laws of the State of California that
26 the foregoing is true and correct.

27 
VALERIE POMELLA

1 C. D. Michel - SBN 144258
Clinton B. Monfort - SBN 255609
2 Sean A. Brady - SBN 262007
MICHEL & ASSOCIATES, P.C.
3 180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
4 Telephone: (562) 216-4444
Fax: (562) 216-4445
5 cmichel@michellawyers.com

6 Attorneys for Plaintiffs/Petitioners

7

8

SUPERIOR COURT OF THE STATE OF CALIFORNIA

9

FOR THE COUNTY OF FRESNO

10

11 SHERIFF CLAY PARKER, TEHAMA) CASE NO. 10CECG02116
COUNTY SHERIFF; HERB BAUER)
12 SPORTING GOODS; CALIFORNIA RIFLE) DECLARATION OF CLAY PARKER,
AND PISTOL ASSOCIATION) TEHAMA COUNTY SHERIFF, IN SUPPORT
13 FOUNDATION; ABLE'S SPORTING,) OF MOTION FOR PRELIMINARY
INC.; RTG SPORTING COLLECTIBLES,) INJUNCTION
14 LLC; AND STEVEN STONECIPHER,)

15

Plaintiffs and Petitioners,

16

vs.

17

18 THE STATE OF CALIFORNIA; JERRY
BROWN, IN HIS OFFICIAL CAPACITY
19 AS ATTORNEY GENERAL FOR THE
STATE OF CALIFORNIA; THE
CALIFORNIA DEPARTMENT OF
20 JUSTICE; and DOES 1-25,

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Defendants and Respondents.

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DECLARATION OF CLAY PARKER

I, Clay Parker, declare as follows:

1. I am the duly elected Sheriff for the County of Tehama, California. I have been a law enforcement officer since 1981, and am a graduate of the Federal Bureau of Investigation National Academy. I was originally elected Sheriff of Tehama County in 1998 and have been reelected to that position three times. I am the immediate-past President of the California State Sheriffs' Association, and am a former President of the Western States' Sheriffs' Association.

2. I am responsible for enforcing federal, state, and local laws within the County of Tehama, including Penal Code sections 12060, 12061, and 12318.

3. I am responsible for determining the policies of the Tehama County Sheriff's office, including a determination of what ammunition is regulated as "handgun ammunition" under California Penal Code sections 12060, 12061, and 12318.

4. I do not know what types of ammunition are principally for use in a handgun.

5. Without any further guidelines as to what types of ammunition are "handgun ammunition" under Penal Code sections 12060, 12061, and 12318, I am unable to enforce these laws because I do not know what types of ammunition are "handgun ammunition."

6. I do not know whether the principally for use in a handgun standard means that a particular type of ammunition will be considered "handgun ammunition" under California Penal Code sections 12060, 12061, and 12318 if that caliber is used more often in a handgun than in a rifle.

7. I do not know, and I am unable to determine, which types of ammunition are used more often in a handgun than in a long-gun.

I declare under penalty of perjury that the foregoing is true and correct.

Executed within the United States this 2 day of September, 2010

Clay Parker
Sheriff, Tehama County

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF FRESNO

4 I, Valerie Pomella, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
business address is 180 East Ocean Blvd., Suite 200, Long Beach, California 90802.

6 On September 7, 2010, I served the foregoing document(s) described as

7 **DECLARATION OF CLAY PARKER, TEHAMA COUNTY SHERIFF, IN SUPPORT OF**
8 **MOTION FOR PRELIMINARY INJUNCTION**

on the interested parties in this action by placing

9 ☐ the original

☒ a true and correct copy

10 thereof enclosed in sealed envelope(s) addressed as follows:

11 Edmund G. Brown, Jr.
12 Attorney General of California
13 Zackery P. Morazzini
14 Supervising Deputy Attorney General
15 Peter A. Krause
Deputy Attorney General (185098)
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

16 (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
17 processing correspondence for mailing. Under the practice it would be deposited with the
18 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,
19 California, in the ordinary course of business. I am aware that on motion of the party
served, service is presumed invalid if postal cancellation date is more than one day after
date of deposit for mailing an affidavit.
Executed on September 7, 2010, at Long Beach, California.

20 X (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
21 addressee.
Executed on September 7, 2010, at Long Beach, California.

22 (VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used
23 complies with California Rules of Court, Rule 2003, and no error was reported by the
24 machine. Pursuant to Rules of Court, Rule 2006(d), I caused the machine to print a
transmission record of the transmission, copies of which is attached to this declaration.
Executed on September 7, 2010, California.

25 X (STATE) I declare under penalty of perjury under the laws of the State of California that
26 the foregoing is true and correct.

27 
28 VALERIE POMELLA

1 C. D. Michel - SBN 144258
Clinton B. Monfort - SBN 255609
2 Sean A. Brady - SBN 262007
MICHEL & ASSOCIATES, P.C.
3 180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
4 Telephone: (562) 216-4444
Fax: (562) 216-4445
5 cmichel@michellawyers.com

6 Attorneys for Plaintiffs/Petitioners

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF FRESNO
10

| | | |
|-------------------------------------|---|-----------------------------------|
| 11 SHERIFF CLAY PARKER, TEHAMA |) | CASE NO. 10CECG02116 |
| 12 COUNTY SHERIFF; HERB BAUER |) | |
| 13 SPORTING GOODS; CALIFORNIA RIFLE |) | DECLARATION OF STEVEN |
| 14 AND PISTOL ASSOCIATION |) | STONECIPHER, IN SUPPORT OF MOTION |
| 15 FOUNDATION; ABLE'S SPORTING, |) | FOR PRELIMINARY INJUNCTION |
| 16 INC.; RTG SPORTING COLLECTIBLES, |) | |
| 17 LLC; AND STEVEN STONECIPHER, |) | Date: September 29, 2010 |
| |) | Time: 3:30 p.m. |
| 18 Plaintiffs and Petitioners, |) | Location: Dept. 97E |
| |) | |
| 19 vs. |) | Judge: Hon. Jeff Hamilton |
| |) | Date Action Filed: June 17, 2010 |
| 20 THE STATE OF CALIFORNIA; JERRY |) | Trial Date: |
| 21 BROWN, IN HIS OFFICIAL CAPACITY |) | |
| 22 AS ATTORNEY GENERAL FOR THE |) | |
| 23 STATE OF CALIFORNIA; THE |) | |
| 24 CALIFORNIA DEPARTMENT OF |) | |
| 25 JUSTICE; and DOES 1-25, |) | |
| 26 |) | |
| 27 Defendants and Respondents. |) | |
| 28 |) | |

DECLARATION OF STEVEN STONECIPHER

I, Steven Stonecipher, declare as follows:

1. I am a resident of Fresno County and a United States Citizen over 21 years of age. I am not prohibited under federal or California law from purchasing or possessing firearms or ammunition.

2. I have in the past, and continue to presently, transfer and receive ammunition that can be used interchangeably between handguns and rifles via mail within California.

3. I do not know what my obligations are under California Penal Code sections 12060, 12061, and 12318 because I do not know which ammunition calibers are "principally for use in a" handgun. I also do not know which calibers of ammunition are exempt from these laws as ammunition "designed and intended to be used in 'antique firearms'" manufactured before 1898, because many ammunition calibers used in firearms manufactured before 1898 are also used in firearms manufactured after 1898.

4. I am unaware of any generally accepted definition of "handgun ammunition" nor any commonly understood delineation between "handgun ammunition" and other ammunition used in the firearms industry that equates to the "principally for use in a" handgun language upon which California Penal Code sections 12060, 12061, and 12318 rely. Accordingly, I do not know which types of ammunition are "handgun ammunition" under these penal code sections.

5. I do not know whether the "principally for use in a" handgun standard means that a particular type of ammunition will be considered "handgun ammunition" under California Penal Code sections 12060, 12061, and 12318 if that caliber is used more often in a handgun than in a rifle.

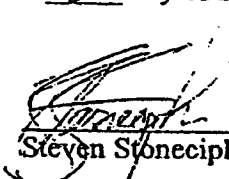
6. I do not know, and I am unable to determine, which types of ammunition are used more often in a handgun than in a long-gun.

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1 5. Because I do not know what my obligations are under Penal Code
2 sections 12060, 12061, and 12318, I fear that I may be prosecuted for unknowingly
3 violating them. For example, I fear that I am subject to prosecution if I ship to a
4 non-exempt California resident or receive any ammunition that law enforcement
5 deems "handgun ammunition" even though do not know what types of ammunition
6 are "handgun ammunition" nor what ammunition law enforcement will consider
7 "handgun ammunition" under these laws.

8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed within the United States this 2 day of September, 2010

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11 
12 Steven Stonecipher
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1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF FRESNO

4 I, Valerie Pomella, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
business address is 180 East Ocean Blvd., Suite 200, Long Beach, California 90802.

6 On September 7, 2010, I served the foregoing document(s) described as

7 **DECLARATION OF STEVEN STONECIPHER, IN SUPPORT OF MOTION FOR**
8 **PRELIMINARY INJUNCTION**

9 on the interested parties in this action by placing

10 ☐ the original

☒ a true and correct copy

thereof enclosed in sealed envelope(s) addressed as follows:

11 Edmund G. Brown, Jr.
12 Attorney General of California
13 Zackery P. Morazzini
14 Supervising Deputy Attorney General
15 Peter A. Krause
16 Deputy Attorney General (185098)
17 1300 I Street, Suite 125
18 P.O. Box 944255
19 Sacramento, CA 94244-2550

20 — (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
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22 U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,
23 California, in the ordinary course of business. I am aware that on motion of the party
24 served, service is presumed invalid if postal cancellation date is more than one day after
25 date of deposit for mailing an affidavit.
26 Executed on September 7, 2010, at Long Beach, California.

27 X (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
28 addressee.
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Pursuant to Rules of Court, Rule 2006(d), I caused the machine to print a transmission
record of the transmission, copies of which is attached to this declaration.
Executed on September 7, 2010, California.

X (STATE) I declare under penalty of perjury under the laws of the State of California that
the foregoing is true and correct.


VALERIE POMELLA

1 C. D. Michel - SBN 144258
Clinton B. Monfort - SBN 255609
2 Sean A. Brady - SBN 262007
MICHEL & ASSOCIATES, P.C.
3 180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
4 Telephone: (562) 216-4444
Fax: (562) 216-4445
5 cmichel@michellawyers.com

6 Attorneys for Plaintiffs/Petitioners

7

8

SUPERIOR COURT OF THE STATE OF CALIFORNIA

9

FOR THE COUNTY OF FRESNO

10

11 SHERIFF CLAY PARKER, TEHAMA) CASE NO. 10CECG02116
COUNTY SHERIFF; HERB BAUER)
12 SPORTING GOODS; CALIFORNIA RIFLE) DECLARATION OF RANDY WRIGHT IN
AND PISTOL ASSOCIATION) SUPPORT OF MOTION FOR
13 FOUNDATION; ABLE'S SPORTING,) PRELIMINARY INJUNCTION
INC.; RTG SPORTING COLLECTIBLES,)
14 LLC; AND STEVEN STONECIPHER,)

15

Plaintiffs and Petitioners,

16

vs.

17

18 THE STATE OF CALIFORNIA; JERRY
BROWN, IN HIS OFFICIAL CAPACITY
19 AS ATTORNEY GENERAL FOR THE
STATE OF CALIFORNIA; THE
CALIFORNIA DEPARTMENT OF
20 JUSTICE; and DOES 1-25,

21

Defendants and Respondents.

22

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) Date: September 29, 2010
) Time: 3:30 p.m.
) Location: Dept. 97E
) Judge: Hon. Jeff Hamilton
) Date Action Filed: June 17, 2010
) Trial Date:

1 **DECLARATION OF RANDY WRIGHT**

2
3 I, Randy Wright, declare as follows:

4 1. I am the President of Plaintiff Able's Sporting, Inc., a Texas corporation
5 that sells and ships a variety of ammunition suitable for use in both handguns and
6 rifles directly to California residents.

7 2. As President, I am responsible for determining the policies and operating
8 procedures of Able's Sporting, Inc. In doing so, I am responsible for ensuring
9 compliance with all applicable laws in the locations from which, and to which,
10 Able's Sporting, Inc. ships ammunition, including California Penal Code sections
11 12060, 12061, and 12318.

12 3. I do not know what my obligations are under California Penal Code
13 sections 12060, 12061 and 12318 because I do not know what types of
14 ammunition are "principally for use in a" handgun.

15 4. I am unaware of any generally accepted definition of "handgun
16 ammunition" nor any commonly understood delineation between "handgun
17 ammunition" and other ammunition used in the firearms industry that equates to the
18 "principally for use in a" handgun language upon which California Penal Code
19 sections 12060, 12061, and 12318 rely. Accordingly, I do not know which types of
20 ammunition are "handgun ammunition" under these penal code sections.

21 6. I do not know whether the "principally for use in a" handgun standard
22 means that a particular ammunition caliber will be considered "handgun
23 ammunition" under California Penal Code sections 12060, 12061, and 12318 if that
24 caliber is used more often in a handgun than in a rifle.

25 7. I do not know, and I am unable to determine, which types of ammunition
26 are used more often in a handgun than in a long-gun.

27 8. Because I do not know what my obligations are under California Penal
28 Code sections 12060, 12061, and 12318, I fear that I may be prosecuted for

1 unknowingly violating them. For example, I fear that I am subject to the threat of
2 prosecution if I ship to a non-exempt California resident any type of ammunition
3 that law enforcement deems "handgun ammunition" even though I do not know
4 what calibers law enforcement will consider "handgun ammunition."

5 9. I will cease shipment of all types of ammunition that are suitable for use
6 in both handguns and long guns to non-exempt California customers after January
7 of 2011 to avoid risking criminal prosecution under California Penal Code sections
8 12318.

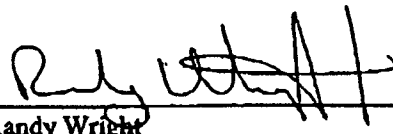
9 10. In order to avoid overstocking and prepare for Penal Code section 12318
10 to take effect, I will reduce the amount of all ammunition suitable for use in both
11 handguns and Rifles that Able's Sporting, Inc. keeps in stock in the near future.
12 This will cause a significant decrease in profits and result in higher costs for Able's
13 Sporting, Inc. because the loss of California customers means Able's Sporting, Inc.
14 will buy less bulk from manufacturers. This, in turn, will likely mean that Able's
15 Sporting, Inc. will pay higher rates per unit of ammunition, and manufacturers may
16 take their business elsewhere, which business Able's Sporting, Inc.'s may not be
17 able to recoup following resolution of this action.

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1 11. In addition, in the event this litigation is not resolved prior to February
2 1, 2011 when section 12318 takes effect, Able's Sporting, Inc. will suffer a massive
3 loss in profits due to the loss of ammunition sales to its California customers.
4 Able's Sporting, Inc. will suffer these losses not only for the sales that it cannot
5 process while this litigation is pending, but will likely lose the future business of
6 California customers who currently purchase ammunition from Able's Sporting,
7 Inc. but who are forced to choose alternative sources for ammunition during the
8 period Able's Sporting, Inc. cannot ship most types of ammunition to California.

9 I declare under penalty of perjury that the foregoing is true and correct.

10 Executed within the United States this 31 day of August, 2010

11
12 
13 Randy Wright
14 President, Able's Sporting, Inc.
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28

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF FRESNO

4 I, Valerie Pomella, am employed in the City of Long Beach, Los Angeles County,
5 California. I am over the age eighteen (18) years and am not a party to the within action. My
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6 On September 7, 2010, I served the foregoing document(s) described as

7 **DECLARATION OF RANDY WRIGHT IN SUPPORT OF MOTION FOR**
8 **PRELIMINARY INJUNCTION**

on the interested parties in this action by placing

9 ☐ the original

☒ a true and correct copy

10 thereof enclosed in sealed envelope(s) addressed as follows:

11 Edmund G. Brown, Jr.
12 Attorney General of California
13 Zackery P. Morazzini
14 Supervising Deputy Attorney General
15 Peter A. Krause
Deputy Attorney General (185098)
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550

16 — (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
17 processing correspondence for mailing. Under the practice it would be deposited with the
U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach,
18 California, in the ordinary course of business. I am aware that on motion of the party
served, service is presumed invalid if postal cancellation date is more than one day after
date of deposit for mailing an affidavit.

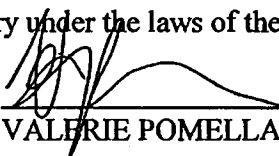
19 Executed on September 7, 2010, at Long Beach, California.

20 X (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
addressee.

21 Executed on September 7, 2010, at Long Beach, California.

22 — (VIA FACSIMILE TRANSMISSION) As follows: The facsimile machine I used complies
with California Rules of Court, Rule 2003, and no error was reported by the machine.
23 Pursuant to Rules of Court, Rule 2006(d), I caused the machine to print a transmission
record of the transmission, copies of which is attached to this declaration.
24 Executed on September 7, 2010, California.

25 X (STATE) I declare under penalty of perjury under the laws of the State of California that
the foregoing is true and correct.

26 
27 VALERIE POMELLA
28

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6 Attorneys for Plaintiffs/Petitioners

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF FRESNO

| | | |
|-------------------------------------|---|---------------------------------|
| 10 SHERIFF CLAY PARKER, TEHAMA |) | CASE NO. 10CECG02116 |
| COUNTY SHERIFF; HERB BAUER |) | |
| 11 SPORTING GOODS; CALIFORNIA RIFLE |) | EXHIBITS "1 - 47" IN SUPPORT OF |
| AND PISTOL ASSOCIATION |) | MOTION FOR PRELIMINARY |
| 12 FOUNDATION; ABLE'S SPORTING, |) | INJUNCTION |
| INC.; RTG SPORTING COLLECTIBLES, |) | |
| 13 LLC; AND STEVEN STONECIPHER, |) | Date: September 29, 2010 |
| |) | Time: 3:30 p.m. |
| 14 |) | Location: Dept. 97A |
| Plaintiffs and Petitioners, |) | Judge: Hon. Jeffrey Y. Hamilton |
| 15 |) | Action Filed: June 17, 2010 |
| vs. |) | |
| 16 |) | |
| THE STATE OF CALIFORNIA; JERRY |) | |
| 17 BROWN, IN HIS OFFICIAL CAPACITY |) | |
| AS ATTORNEY GENERAL FOR THE |) | |
| 18 STATE OF CALIFORNIA; THE |) | |
| CALIFORNIA DEPARTMENT OF |) | |
| 19 JUSTICE; and DOES 1-25, |) | |
| 20 |) | |
| Defendants and Respondents. |) | |
| 21 |) | |

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EXHIBIT

1

Assembly Bill No. 962

CHAPTER 628

An act to amend Section 12316 of, to add Sections 12317 and 12318 to, to add Article 3.5 (commencing with Section 12060) to Chapter 1 of, to add a heading for Chapter 2.6 (commencing with Section 12316) to, and to repeal the heading of Chapter 2.6 (commencing with Section 12320) of, Title 2 of Part 4 of, the Penal Code, relating to ammunition.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 962, De Leon. Ammunition.

Existing law generally regulates the sale of ammunition.

The bill would provide that no handgun ammunition vendor, as defined, shall sell, offer for sale, or display for sale, any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser without the assistance of the vendor or employee thereof.

Existing law generally regulates what information is required to be obtained in connection with the transfer of ammunition.

This bill would, subject to exceptions, commencing February 1, 2011, require handgun ammunition vendors to obtain a thumbprint and other information from ammunition purchasers, as specified. A violation of these provisions would be a misdemeanor.

This bill would provide that a person enjoined from engaging in activity associated with a criminal street gang, as specified, would be prohibited from having under his or her possession, custody, or control, any ammunition. Violation of these provisions would be a misdemeanor.

The bill would prohibit supplying or delivering, as specified, handgun ammunition to prohibited persons, as described, by persons or others who know, or by using reasonable care should know, that the recipient is a person prohibited from possessing ammunition or a minor prohibited from possessing ammunition, as specified. Violation of these provisions is a misdemeanor with specified penalties.

The bill would provide, subject to exceptions, that commencing February 1, 2011, the delivery or transfer of ownership of handgun ammunition may only occur in a face-to-face transaction, with the deliverer or transferor being provided bona fide evidence of identity of the purchaser or other transferee. A violation of these provisions would be a misdemeanor.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Anti-Gang Neighborhood Protection Act of 2009.

SEC. 2. Article 3.5 (commencing with Section 12060) is added to Chapter 1 of Title 2 of Part 4 of the Penal Code, to read:

Article 3.5. Handgun Ammunition Vendors

12060. As used in this article, the following terms apply:

(a) "Department" means the Department of Justice.

(b) "Handgun ammunition" means handgun ammunition as defined in subdivision (a) of Section 12323, but excluding ammunition designed and intended to be used in an "antique firearm" as defined in Section 921(a)(16) of Title 18 of the United States Code. Handgun ammunition does not include blanks.

(c) "Handgun ammunition vendor" or "vendor" means any person, firm, corporation, dealer, or any other business enterprise that is engaged in the retail sale of any handgun ammunition, or that holds itself out as engaged in the business of selling any handgun ammunition.

12061. (a) A vendor shall comply with all of the following conditions, requirements and prohibitions:

(1) A vendor shall not permit any employee who the vendor knows or reasonably should know is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code to handle, sell, or deliver handgun ammunition in the course and scope of his or her employment.

(2) A vendor shall not sell or otherwise transfer ownership of, offer for sale or otherwise offer to transfer ownership of, or display for sale or display for transfer of ownership of any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or employee thereof.

(3) Commencing February 1, 2011, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of

- (D) The purchaser's or transferee's signature.
 - (E) The name of the salesperson who processed the sale or other transaction.
 - (F) The right thumbprint of the purchaser or transferee on the above form.
 - (G) The purchaser's or transferee's full residential address and telephone number.
 - (H) The purchaser's or transferee's date of birth.
- (4) Commencing February 1, 2011, the records required by this section shall be maintained on the premises of the vendor for a period of not less than five years from the date of the recorded transfer.
- (5) Commencing February 1, 2011, the records referred to in paragraph (3) shall be subject to inspection at any time during normal business hours by any peace officer employed by a sheriff, city police department, or district attorney as provided in subdivision (a) of Section 830.1, or employed by the department as provided in subdivision (b) of Section 830.1, provided the officer is conducting an investigation where access to those records is or may be relevant to that investigation, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4), or any other laws pertaining to firearms or ammunition. The records shall also be subject to inspection at any time during normal business hours by any other employee of the department, provided that employee is conducting an investigation where access to those records is or may be relevant to that investigation, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4), or any other laws pertaining to firearms or ammunition.
- (6) Commencing February 1, 2011, the vendor shall not knowingly make a false entry in, fail to make a required entry in, fail to obtain the required thumbprint, or otherwise fail to maintain in the required manner records prepared in accordance with paragraph (2). If the right thumbprint is not available, then the vendor shall have the purchaser or transferee use his or her left thumb, or any available finger, and shall so indicate on the form. If the purchaser or transferee is physically unable to provide a thumbprint or fingerprint, the vendor shall so indicate on the form.
- (7) Commencing February 1, 2011, no vendor shall refuse to permit a person authorized under paragraph (5) to examine any record prepared in accordance with this section during any inspection conducted pursuant to this section, or refuse to permit the use of any record or information by those persons.
- (b) Paragraph (3) of subdivision (a) shall not apply to or affect sales or other transfers of ownership of handgun ammunition by handgun ammunition vendors to any of the following, if properly identified:
- (1) A person licensed pursuant to Section 12071.
 - (2) A handgun ammunition vendor.

(3) A person who is on the centralized list maintained by the department pursuant to Section 12083.

(4) A target facility which holds a business or regulatory license.

(5) Gunsmiths.

(6) Wholesalers.

(7) Manufacturers or importers of firearms licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.

(8) Sales or other transfers of ownership made to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those government agencies if, prior to the delivery, transfer, or sale of handgun 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 he or she is employed.

(c) (1) A violation of paragraph (3), (4), (6), or (7) of subdivision (a) is a misdemeanor.

(2) The provisions of this subdivision 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 different provisions of law shall not be punished under more than one provision.

SEC. 3. A heading for Chapter 2.6 of Title 2 of Part 4 is added to the Penal Code, immediately preceding Section 12316, to read:

CHAPTER 2.6. AMMUNITION

SEC. 5. Section 12316 of the Penal Code is amended to read:

12316. (a) (1) Any person, corporation, or dealer who does any of the following shall be punished by imprisonment in a county jail for a term not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both the imprisonment and fine:

(A) Sells any ammunition or reloaded ammunition to a person under 18 years of age.

(B) Sells any ammunition or reloaded ammunition designed and intended for use in a handgun to a person under 21 years of age. As used in this subparagraph, "ammunition" means handgun ammunition as defined in subdivision (a) of Section 12323. Where ammunition or reloaded ammunition may be used in both a rifle and a handgun, it may be sold to a person who is at least 18 years of age, but less than 21 years of age, if the vendor reasonably believes that the ammunition is being acquired for use in a rifle and not a handgun.

(C) Supplies, delivers, or gives possession of any ammunition to any minor who he or she knows, or using reasonable care should know, is prohibited from possessing that ammunition at that time pursuant to Section 12101.

(2) Proof that a person, corporation, or dealer, or his or her agent or employee, demanded, was shown, and acted in reasonable reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this subdivision. As used in this subdivision, "bona fide evidence of majority and identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, California state identification card, identification card issued to a member of the Armed

valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code. A violation of this subdivision is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars (\$1,000), or both the imprisonment and fine.

(d) (1) A violation of paragraph (1) or (4) of subdivision (b) is justifiable where all of the following conditions are met:

(A) The person found the ammunition or reloaded ammunition or took the ammunition or reloaded ammunition from a person who was committing a crime against him or her.

(B) The person possessed the ammunition or reloaded ammunition no longer than was necessary to deliver or transport the ammunition or reloaded ammunition to a law enforcement agency for that agency's disposition according to law.

(C) The person is prohibited from possessing any ammunition or reloaded ammunition solely because that person is prohibited from owning or possessing a firearm only by virtue of Section 12021 or ammunition or reloaded ammunition because of paragraph (4) of subdivision (b).

(2) Upon the trial for violating paragraph (1) or (4) of subdivision (b), the trier of fact shall determine whether the defendant is subject to the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she is subject to the exemption provided by this subdivision.

SEC. 6. Section 12317 is added to the Penal Code, to read:

12317. (a) Any person, corporation, or firm 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 his or her custody or control, any ammunition or reloaded ammunition pursuant to paragraph (1) or (4) of subdivision (b) of Section 12316, 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) 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.

(c) For purposes of this section, "ammunition" shall include, but not be limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with deadly consequence. "Ammunition" does not include blanks.

SEC. 7. Section 12318 is added to the Penal Code, to read:

12318. (a) Commencing February 1, 2011, the delivery or transfer of ownership of handgun ammunition may only occur in a face-to-face

transaction with the deliverer or transferor being provided bona fide evidence of identity from the purchaser or other transferee. A violation of this section is a misdemeanor.

(b) For purposes of this section:

(1) "Bona fide evidence of identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, state identification card, identification card issued to a member of the Armed Forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(2) "Handgun ammunition" means handgun ammunition as defined in subdivision (a) of Section 12323, but excluding ammunition designed and intended to be used in an "antique firearm" as defined in Section 921(a)(16) of Title 18 of the United States Code. Handgun ammunition does not include blanks.

(3) "Handgun ammunition vendor" has the same meaning as set forth in Section 12060.

(c) Subdivision (a) shall not apply to or affect the deliveries, transfers, or sales of, handgun ammunition to any of the following:

(1) Authorized law enforcement representatives of cities, counties, cities and counties, or state and federal governments for exclusive use by those government agencies if, prior to the delivery, transfer, or sale of the handgun 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) Sworn peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who are authorized to carry a firearm in the course and scope of their duties.

(3) Importers and manufacturers of handgun ammunition or firearms 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) Persons who are on the centralized list maintained by the Department of Justice pursuant to Section 12083.

(5) Persons whose licensed premises are outside this state who are licensed as dealers or collectors 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) Persons licensed as collectors 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 who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071.

(7) A handgun ammunition vendor.

(8) A consultant-evaluator, as defined in subdivision (s) of Section 12001.

SEC. 8. The heading of Chapter 2.6 (commencing with Section 12320) of Title 2 of Part 4 of the Penal Code is repealed.

SEC. 9. 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, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

EXHIBIT

2

BILL NUMBER: AB 2358 AMENDED
BILL TEXT

AMENDED IN SENATE AUGUST 19, 2010
AMENDED IN SENATE JUNE 22, 2010
AMENDED IN SENATE JUNE 3, 2010

INTRODUCED BY Assembly Member De Leon

FEBRUARY 19, 2010

An act to amend Sections 12061 ~~and 12318~~ ,
12318, and 12323 of the Penal Code, relating to ammunition.

LEGISLATIVE COUNSEL'S DIGEST

AB 2358, as amended, De Leon. Ammunition.

Existing law provides that commencing February 1, 2011, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly recording specified information regarding the purchaser or transferee, and maintaining the record for a period of not less than 5 years, as specified. Existing law provides that violation of these provisions is a misdemeanor. Existing law also provides that the records shall be subject to inspection by any peace officer and certain others, as specified, for purposes of an investigation where access to those records is or may be relevant to that investigation, when seeking information about persons prohibited from owning a firearm or ammunition, or when engaged in ensuring compliance with laws pertaining to firearms or ammunition, as specified.

This bill would require the information described above in connection with the transfer of handgun ammunition be legibly or electronically recorded. The bill would provide that commencing February 1, 2011, except for investigatory and enforcement purposes described above, no ammunition vendor shall provide the required information to any 3rd party without the written consent of the purchaser or transferee. The bill would also provide that records may be copied for investigatory or enforcement purposes by any person authorized to inspect those records, as specified, and that copies shall be transmitted to local law enforcement if required by local law. The bill would also provide that any required ammunition records that are no longer required to be maintained shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record. The bill would provide that violation of these provisions is a misdemeanor.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

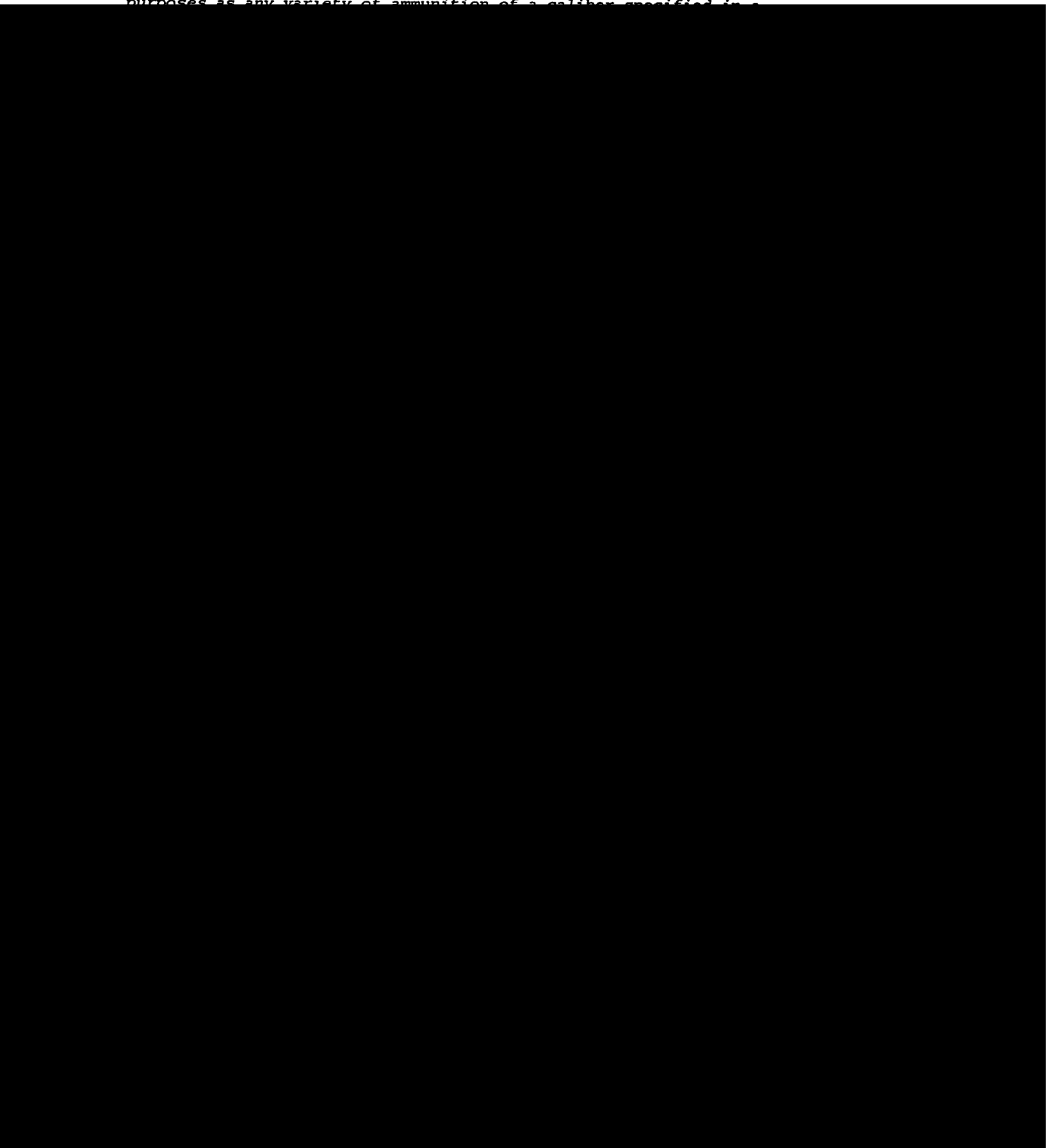
The bill would require ammunition vendors, commencing February 1, 2011, to provide written notice to the local police chief, or if the vendor is in an unincorporated area, to the county sheriff, of the vendor's intent to conduct business in the jurisdiction, and to obtain any regulatory or business license required by the jurisdiction for ammunition sellers.

Existing law provides that commencing February 1, 2011, the delivery or transfer of ownership of handgun ammunition may only occur in a face-to-face transaction with the deliverer or transferor being provided bona fide evidence of identity from the purchaser or other transferee.

This bill would also provide that handgun ammunition may be purchased over the Internet or through other means of remote ordering if a handgun ammunition vendor in California initially receives the ammunition and processes the transfer, as specified.

Existing law defines "handgun ammunition" for most purposes as ammunition principally for use in handguns, notwithstanding that the ammunition may also be used in some rifles.

This bill would instead define "handgun ammunition" for those purposes as any variety of ammunition of a caliber specified in a



forth in paragraph (5), no vendor shall provide the information specified in paragraph (3) to any third party without the written consent of the purchaser or transferee. Any records required by this section that are no longer required to be maintained shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record.

(5) Commencing February 1, 2011, the records referred to in paragraph (3) shall be subject to inspection at any time during normal business hours by any peace officer employed by a sheriff, city police department, or district attorney as provided in subdivision (a) of Section 830.1, or employed by the department as provided in subdivision (b) of Section 830.1, provided the officer is conducting an investigation where access to those records is or may be relevant to that investigation, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4), or any other laws pertaining to firearms or ammunition. The records shall also be subject to inspection at any time during normal business hours by any other employee of the department, provided that employee is conducting an investigation where access to those records is or may be relevant to that investigation, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4), or any other laws pertaining to firearms or ammunition. Records may be copied for investigatory or enforcement purposes by any person authorized to inspect those records pursuant to this subdivision.

(6) Commencing February 1, 2011, the vendor shall not knowingly make a false entry in, fail to make a required entry in, fail to obtain the required thumbprint, or otherwise fail to maintain in the required manner records prepared in accordance with paragraph (2). If the right thumbprint is not available, then the vendor shall have the purchaser or transferee use his or her left thumb, or any available finger, and shall so indicate on the form. If the purchaser or transferee is physically unable to provide a thumbprint or fingerprint, the vendor shall so indicate on the form.

(7) Commencing February 1, 2011, no vendor shall refuse to permit a person authorized under paragraph (5) to examine any record prepared in accordance with this section during any inspection conducted pursuant to this section, or refuse to permit the use of any record or information by those persons.

(8) Commencing February 1, 2011, a vendor shall provide written notice to the local police chief, or if the vendor is in an unincorporated area, to the county sheriff, of the vendor's intent to conduct business in the jurisdiction, and shall obtain any regulatory or business license required by the jurisdiction for ammunition sellers. Copies of the ammunition sales records required by this section shall be transmitted to the county sheriff or chief of police if required by local law.

(b) Paragraph (3) of subdivision (a) shall not apply to or affect sales or other transfers of ownership of handgun ammunition by handgun ammunition vendors to any of the following, if properly identified:

- (1) A person licensed pursuant to Section 12071.
- (2) A handgun ammunition vendor.
- (3) A person who is on the centralized list maintained by the department pursuant to Section 12083.
- (4) A target facility which holds a business or regulatory

license.

(5) Gunsmiths.

(6) Wholesalers.

(7) Manufacturers or importers of firearms licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.

(8) Sales or other transfers of ownership made to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those government agencies if, prior to the delivery, transfer, or sale of handgun 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 he or she is employed.

(c) (1) A violation of paragraph (3), (4), (6), or (7) of subdivision (a) is a misdemeanor.

(2) The provisions of this subdivision 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 different provisions of law shall not be punished under more than one provision.

SEC. 2. Section 12318 of the Penal Code is amended to read:

12318. (a) Commencing February 1, 2011, the delivery or transfer of ownership of handgun ammunition in this state may only occur in a face-to-face transaction with the deliverer or transferor being provided bona fide evidence of identity from the purchaser or other transferee, provided, however, that handgun ammunition may be purchased over the Internet or through other means of remote ordering if a handgun ammunition vendor in California initially receives the ammunition and processes the transfer in compliance with this section and Section 12061. A violation of this section is a misdemeanor.

(b) For purposes of this section:

(1) "Bona fide evidence of identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, state identification card, identification card issued to a member of the Armed Forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(2) "Handgun ammunition" means handgun ammunition as defined in subdivision (a) of Section ~~12323, but excluding ammunition designed and intended to be used in an "antique firearm" as defined in Section 921(a)(16) of Title 18 of the United States Code. Handgun ammunition does not include blanks.~~ 12323.

(3) "Handgun ammunition vendor" has the same meaning as set forth in Section 12060.

(c) Subdivision (a) shall not apply to or affect the deliveries, transfers, or sales of, handgun ammunition to any of the following:

(1) Authorized law enforcement representatives of cities, counties, cities and counties, or state and federal governments for exclusive use by those government agencies if, prior to the delivery, transfer, or sale of the handgun 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) Sworn peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who are authorized to carry a firearm in the course and scope of their duties.

(3) Importers and manufacturers of handgun ammunition or firearms 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) Persons who are on the centralized list maintained by the Department of Justice pursuant to Section 12083.

~~(5) Persons whose licensed premises are outside this state who are licensed as dealers or collectors 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)~~

(5) Persons licensed as dealers or collectors 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 who has a~~ who have current ~~certificate~~ certificates of eligibility issued to ~~him or her~~ them by the Department of Justice pursuant to Section 12071.

~~(7)~~

(6) A handgun ammunition vendor.

~~(8)~~

(7) A consultant-evaluator, as defined in subdivision (s) of Section 12001.

SEC. 3. Section 12323 of the Penal Code is amended to read:

12323. As used in this chapter, the following definitions shall apply:

(a) "Handgun ~~ammunition~~" a ~~mmunition,~~ which does not include blanks and ammunition designed and intended to be used in an "antique firearm" as defined in Section 921(a)(16) of Title 18 of the United States Code, ~~means ammunition principally for use in pistols, revolvers, and other firearms capable of being concealed upon the person, as defined in subdivision (a) of Section 12001, notwithstanding that the ammunition may also be used in some rifles.~~ any variety of ammunition in the following calibers, notwithstanding that the ammunition may also be used in some rifles:

- (1) .22.
- (2) .25.
- (3) .32.
- (4) .38.
- (5) .9mm.
- (6) .10mm.
- (7) .40.
- (8) .41.
- (9) .44.
- (10) .45.
- (11) 5.7x28mm.
- (12) .223.
- (13) .357.
- (14) .454.
- (15) 5.56x45mm.
- (16) 7.62x39.
- (17) 7.63mm.

(18) 7.65mm.

(19) .50.

(b) "Handgun ammunition designed primarily to penetrate metal or armor" means any ammunition, except a shotgun shell or ammunition primarily designed for use in rifles, that is designed primarily to penetrate a body vest or body shield, and has either of the following characteristics:

(1) Has projectile or projectile core constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper, or depleted uranium, or any equivalent material of similar density or hardness.

(2) Is primarily manufactured or designed, by virtue of its shape, cross-sectional density, or any coating applied thereto, including, but not limited to, ammunition commonly known as "KTW ammunition," to breach or penetrate a body vest or body shield when fired from a pistol, revolver, or other firearm capable of being concealed upon the person.

(c) "Body vest or shield" means any bullet-resistant material intended to provide ballistic and trauma protection for the wearer or holder.

(d) "Rifle" shall have the same meaning as defined in paragraph (20) of subdivision (c) of Section 12020.

~~SEC. 3.~~ SEC. 4. 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, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

EXHIBIT

3

BILL NUMBER: AB 2358 AMENDED
BILL TEXT

AMENDED IN SENATE AUGUST 30, 2010
AMENDED IN SENATE AUGUST 19, 2010
AMENDED IN SENATE JUNE 22, 2010
AMENDED IN SENATE JUNE 3, 2010

INTRODUCED BY Assembly Member De Leon

FEBRUARY 19, 2010

An act to amend Sections 12061 , 12077 , 12318, and 12323 of the Penal Code, relating to ammunition.

LEGISLATIVE COUNSEL'S DIGEST

AB 2358, as amended, De Leon. Ammunition.

Existing law provides that commencing February 1, 2011, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly recording specified information regarding the purchaser or transferee, and maintaining the record for a period of not less than 5 years, as specified. Existing law provides that violation of these provisions is a misdemeanor. Existing law also provides that the records shall be subject to inspection by any peace officer and certain others, as specified, for purposes of an investigation where access to those records is or may be relevant to that investigation, when seeking information about persons prohibited from owning a firearm or ammunition, or when engaged in ensuring compliance with laws pertaining to firearms or ammunition, as specified.

This bill would require the information described above in connection with the transfer of handgun ammunition be legibly or electronically recorded. The bill would provide that commencing February 1, 2011, except for investigatory and enforcement purposes described above, no ammunition vendor shall provide the required information to any 3rd party without the written consent of the purchaser or transferee. The bill would also provide that records may be copied for investigatory or enforcement purposes by any person authorized to inspect those records, as specified, and that copies shall be transmitted to local law enforcement if required by local law. The bill would also provide that any required ammunition records that are no longer required to be maintained shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record. The bill would provide that violation of these provisions is a misdemeanor. *This bill would provide that commencing February 1, 2011, except for investigatory and enforcement purposes described above, no ammunition vendor shall provide the required information to any 3rd party, or use the information for any purpose other than as is required or authorized by statute or regulation, without the written consent of the purchaser or transferee. The bill would also provide that any required ammunition records that are no longer required to be maintained shall be destroyed in a specified manner. The bill would provide that violation of these provisions is a misdemeanor.*

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The bill would require ammunition vendors, commencing February 1,

2011, to provide written notice to the local police chief, or if the vendor is in an unincorporated area, to the county sheriff, of the vendor's intent to conduct business in the jurisdiction, and to obtain any regulatory or business license required by the jurisdiction for ammunition sellers. A violation of this provision would be a misdemeanor. The bill would also provide that no public agency may make public the information obtained from the record of the ammunition transaction.

Existing law requires certain information to be collected by firearms dealers in connection with the transfer of firearms and submitted to the Department of Justice, as specified.

This bill would provide that no firearms dealer shall provide the information required by those provisions to any 3rd party, or use the information for any purpose other than as is required or authorized by statute or regulation, without the written consent of the purchaser or transferee, except for purposes of 3rd-party electronic submission to the department. The bill would also provide that any of these records that are no longer required to be maintained, if destroyed, shall be destroyed in a specified manner.

Existing law provides that commencing February 1, 2011, the delivery or transfer of ownership of handgun ammunition may only occur in a face-to-face transaction with the deliverer or transferor being provided bona fide evidence of identity from the purchaser or other transferee.

This bill would also provide that handgun ammunition may be purchased over the Internet or through other means of remote ordering if a handgun ammunition vendor in California initially receives the ammunition and processes the transfer, as specified.

Existing law defines "handgun ammunition" for most purposes as ammunition principally for use in handguns, notwithstanding that the ammunition may also be used in some rifles.

This bill would instead define "handgun ammunition" for those purposes as any variety of ammunition of a caliber specified in a list added by this bill, notwithstanding that the ammunition may also be used in some rifles, and would provide that "handgun ammunition" does not include blanks or ammunition designed and intended to be used in an "antique firearm," as defined.

This bill would incorporate additional amendments to Section 12077 of the Penal Code proposed by AB 1810, contingent on the prior enactment of that bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

(2) A vendor shall not sell or otherwise transfer ownership of, offer for sale or otherwise offer to transfer ownership of, or display for sale or display for transfer of ownership of any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or employee thereof.

(3) Commencing February 1, 2011, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly or electronically recording the following information:

- (A) The date of the sale or other transaction.
- (B) The purchaser's or transferee's driver's license or other identification number and the state in which it was issued.
- (C) The brand, type, and amount of ammunition sold or otherwise transferred.
- (D) The purchaser's or transferee's signature.
- (E) The name of the salesperson who processed the sale or other transaction.
- (F) The right thumbprint of the purchaser or transferee on the above form.
- (G) The purchaser's or transferee's full residential address and telephone number.
- (H) The purchaser's or transferee's date of birth.

(4) (A) Commencing February 1, 2011, the records required by this section shall be maintained on the premises of the vendor for a period of not less than five years from the date of the recorded transfer. Commencing February 1, 2011, except for the purposes set forth in paragraph (5), no vendor shall provide the information ~~specified in paragraph (3) to any third party without the written consent of the purchaser or transferee. Any records required by this section that are no longer required to be maintained shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record.~~ specified in paragraph (3) to any third party, or use the information for any purpose other than as is required or authorized by statute or regulation, without the written consent of the purchaser or transferee of the handgun ammunition who is the subject of the record.

(B) Any records generated pursuant to this section that are no longer required to be maintained shall be destroyed pursuant to Section 1798.81 of the Civil Code.

(5) Commencing February 1, 2011, the records referred to in paragraph (3) shall be subject to inspection at any time during normal business hours by any peace officer employed by a sheriff, city police department, or district attorney as provided in subdivision (a) of Section 830.1, or employed by the department as provided in subdivision (b) of Section 830.1, provided the officer is conducting an investigation where access to those records is or may be relevant to that investigation, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4), or any other laws pertaining to firearms or ammunition. The records shall also be subject to inspection at any time during normal business hours by any other employee of the department, provided that employee is conducting an investigation where access to those records is or may be relevant to that investigation, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law (Chapter 1 (commencing with Section 12000) of

Title 2 of Part 4), or any other laws pertaining to firearms or ammunition. Records may be copied for investigatory or enforcement purposes by any person authorized to inspect those records pursuant to this subdivision.

(6) Commencing February 1, 2011, the vendor shall not knowingly make a false entry in, fail to make a required entry in, fail to obtain the required thumbprint, or otherwise fail to maintain in the required manner records prepared in accordance with paragraph (2). If the right thumbprint is not available, then the vendor shall have the purchaser or transferee use his or her left thumb, or any available finger, and shall so indicate on the form. If the purchaser or transferee is physically unable to provide a thumbprint or fingerprint, the vendor shall so indicate on the form.

(7) Commencing February 1, 2011, no vendor shall refuse to permit a person authorized under paragraph (5) to examine any record prepared in accordance with this section during any inspection conducted pursuant to this section, or refuse to permit the use of any record or information by those persons.

(8) Commencing February 1, 2011, a vendor shall provide written notice to the local police chief, or if the vendor is in an unincorporated area, to the county sheriff, of the vendor's intent to conduct business in the jurisdiction, and shall obtain any regulatory or business license required by the jurisdiction for ammunition sellers. Copies of the ammunition sales records required by this section shall be transmitted to the county sheriff or chief of police if required by local law.

(b) Paragraph (3) of subdivision (a) shall not apply to or affect sales or other transfers of ownership of handgun ammunition by handgun ammunition vendors to any of the following, if properly identified:

- (1) A person licensed pursuant to Section 12071.
- (2) A handgun ammunition vendor.
- (3) A person who is on the centralized list maintained by the department pursuant to Section 12083.
- (4) A target facility which holds a business or regulatory license.
- (5) Gunsmiths.
- (6) Wholesalers.
- (7) Manufacturers or importers of firearms licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.
- (8) Sales or other transfers of ownership made to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those government agencies if, prior to the delivery, transfer, or sale of handgun 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 he or she is employed.

(c) No public agency may make public the information obtained from the record made pursuant to paragraph (3) of subdivision (a).

~~(c)~~

- (d) (1) A violation of paragraph (3), (4), (6),
~~or (7)~~ (7), or (8) of subdivision (a)

is a misdemeanor.

(2) The provisions of this subdivision 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 different provisions of law shall not be punished under more than one provision.

SEC. 2. Section 12077 of the Penal Code is amended to read:

12077. (a) The Department of Justice shall prescribe the form of the register and the record of electronic transfer pursuant to Section 12074.

(b) (1) For handguns, information contained in the register or record of electronic transfer shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, dealer waiting period exemption pursuant to subdivision (n) of Section 12078, dangerous weapons permit holder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to subdivision (t) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, for transactions occurring prior to January 1, 2003, the purchaser's basic firearms safety certificate number issued pursuant to Sections 12805 and 12809, for transactions occurring on or after January 1, 2003, the purchaser's handgun safety certificate number issued pursuant to Article 8 (commencing with Section 12800), manufacturer's name if stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), any identification number or mark assigned to the firearm pursuant to Section 12092, caliber, type of firearm, if the firearm is new or used, barrel length, color of the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), salesperson's certificate of eligibility number if he or she has obtained a certificate of eligibility, name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, any information required to determine whether or not paragraph (6) of subdivision (c) of Section 12072 applies, and a statement of the penalties for any person signing a fictitious name or address or for knowingly furnishing any incorrect information or for knowingly omitting any information required to be provided for the register.

(2) Effective January 1, 2003, the purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the

department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(3) The firearms dealer shall record on the register or record of electronic transfer the date that the handgun is delivered.

(c) (1) For firearms other than handguns, information contained in the register or record of electronic transfer shall be the date and time of sale, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, auction or event waiting period exemption pursuant to subdivision (g) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, dangerous weapons permit holder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to paragraph (1) of subdivision (t) of Section 12078, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), salesperson's certificate of eligibility number if he or she has obtained a certificate of eligibility, name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, and a statement of the penalties for any person signing a fictitious name or address or for knowingly furnishing any incorrect information or for knowingly omitting any information required to be provided for the register.

(2) Effective January 1, 2003, the purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(3) The firearms dealer shall record on the register or record of electronic transfer the date that the firearm is delivered.

(d) Where the register is used, the following shall apply:

(1) Dealers shall use ink to complete each document.

(2) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(3) Each dealer shall be provided instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(4) One firearm transaction shall be reported on each record of sale document. For purposes of this subdivision, a "transaction" means a single sale, loan, or transfer of any number of firearms that are not handguns.

(e) The dealer or salesperson making a sale shall ensure that all required information has been obtained from the purchaser. The dealer

and all salespersons shall be informed that incomplete information will delay sales.

(f) Effective January 1, 2003, the purchaser's name, date of birth, and driver's license or identification number shall be obtained electronically from the magnetic strip on the purchaser's driver's license or identification and shall not be supplied by any other means except as authorized by the department. This requirement shall not apply in either of the following cases:

(1) The purchaser's identification consists of a military identification card.

(2) Due to technical limitations, the magnetic ~~stripe~~ strip reader is unable to obtain the required information from the purchaser's identification. In those circumstances, the firearms dealer shall obtain a photocopy of the identification as proof of compliance.

(3) In the event that the dealer has reported to the department that the dealer's equipment has failed, information pursuant to this subdivision shall be obtained by an alternative method to be determined by the department.

(g) No dealer shall provide the information required by this section to any third party, or use the information for any purpose other than as is required or authorized by statute or regulation, without the written consent of the purchaser or transferee. This subdivision shall not apply to the electronic submission to the department, through a third party authorized by the department, of information required by this section and Section 12076.

(h) Any records generated pursuant to this section by a person licensed pursuant to Section 12071 that are no longer required to be maintained by that licensee, if destroyed, shall be destroyed pursuant to Section 1798.81 of the Civil Code.

~~—(g)—~~

(i) As used in this section, the following definitions shall control:

(1) "Purchaser" means the purchaser or transferee of a firearm or the person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

SEC. 2.5. Section 12077 of the Penal Code is amended to read:

12077. (a) The Department of Justice shall prescribe the form of the register and the record of electronic transfer pursuant to Section 12074.

(b) (1) ~~For handguns,~~ Until July 1, 2012, for handguns, and thereafter for all firearms, information contained in the register or record of electronic transfer shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, auction or event waiting period exemption pursuant to subdivision (g) of Section 12078, dealer waiting period exemption pursuant to subdivision (n) of Section 12078, dangerous weapons permitholder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to subdivision (t) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, for transactions occurring prior to January 1, 2003, the purchaser's basic firearms safety certificate number issued pursuant to Sections 12805 and 12809, for transactions occurring on or after January 1, 2003, the purchaser's handgun safety certificate number issued pursuant to Article 8 (commencing with Section 12800), manufacturer's name if

stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), any identification number or mark assigned to the firearm pursuant to Section 12092, *provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or mark assigned to it, a notation as to that fact, the caliber, type of firearm, if the firearm is new or used, barrel length, color of the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase including, but not limited to, conviction of a felony as described in Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), salesperson's certificate of eligibility number if he or she has obtained a certificate of eligibility, name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, any information required to determine whether or not paragraph (6) of subdivision (c) of Section 12072 applies, and a statement of the penalties for any person signing a fictitious name or address or for knowingly furnishing any incorrect information or for knowingly omitting any information required to be provided for the register.*

(2) ~~Effective January 1, 2003, the~~ The purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(3) The firearms dealer shall record on the register or record of electronic transfer the date that the ~~handgun~~ firearm is delivered.

(c) (1) For firearms other than handguns, information contained in the register or record of electronic transfer shall be the date and time of sale, peace officer exemption status pursuant to subdivision (a) of Section 12078 and the agency name, auction or event waiting period exemption pursuant to subdivision (g) of Section 12078, California Firearms Dealer number issued pursuant to Section 12071, dangerous weapons permit holder waiting period exemption pursuant to subdivision (r) of Section 12078, curio and relic waiting period exemption pursuant to paragraph (1) of subdivision (t) of Section 12078, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, all legal names and aliases ever used by the purchaser, yes or no answer to questions that prohibit purchase, including, but not limited to, conviction of a felony as described in

Section 12021 or an offense described in Section 12021.1, the purchaser's status as a person described in Section 8100 of the Welfare and Institutions Code, whether the purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether the purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), salesperson's certificate of eligibility number if he or she has obtained a certificate of eligibility, name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, any information required by Section 12082, and a statement of the penalties for any person signing a fictitious name or address or for knowingly furnishing any incorrect information or for knowingly omitting any information required to be provided for the register.

(2) ~~Effective January 1, 2003, the~~ The purchaser shall provide his or her right thumbprint on the register in a manner prescribed by the department. No exception to this requirement shall be permitted except by regulations adopted by the department.

(3) The firearms dealer shall record on the register or record of electronic transfer the date that the firearm is delivered.

(4) This subdivision shall become inoperative on July 1, 2012.

(d) Where the register is used, the following shall apply:

(1) Dealers shall use ink to complete each document.

(2) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(3) Each dealer shall be provided instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(4) One firearm transaction shall be reported on each record of sale document. ~~For purposes of this subdivision, a "transaction" means a single sale, loan, or transfer of any number of firearms that are not handguns.~~

(e) The dealer or salesperson making a sale shall ensure that all required information has been obtained from the purchaser. The dealer and all salespersons shall be informed that incomplete information will delay sales.

(f) ~~Effective January 1, 2003, the~~ The purchaser's name, date of birth, and driver's license or identification number shall be obtained electronically from the magnetic strip on the purchaser's driver's license or identification and shall not be supplied by any other means except as authorized by the department. This requirement shall not apply in either of the following cases:

(1) The purchaser's identification consists of a military identification card.

(2) Due to technical limitations, the magnetic ~~stripe~~ strip reader is unable to obtain the required information from the purchaser's identification. In those circumstances, the firearms dealer shall obtain a photocopy of the identification as proof of compliance.

(3) In the event that the dealer has reported to the department that the dealer's equipment has failed, information pursuant to this

subdivision shall be obtained by an alternative method to be determined by the department.

(g) No dealer shall provide the information required by this section to any third party, or use the information for any purpose other than as is required or authorized by statute or regulation, without the written consent of the purchaser or transferee. This subdivision shall not apply to the electronic submission to the department, through a third party authorized by the department, of information required by this section and Section 12076.

(h) Any records generated pursuant to this section by a person licensed pursuant to Section 12071 that are no longer required to be maintained by that licensee, if destroyed, shall be destroyed pursuant to Section 1798.81 of the Civil Code.

~~(g)~~
(i) As used in this section, the following definitions shall control:

(1) "Purchaser" means the purchaser or transferee of a firearm or the person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

~~SEC. 2.~~ SEC. 3. Section 12318 of the Penal Code is amended to read:

12318. (a) Commencing February 1, 2011, the delivery or transfer of ownership of handgun ammunition in this state may only occur in a face-to-face transaction with the deliverer or transferor being provided bona fide evidence of identity from the purchaser or other transferee, provided, however, that handgun ammunition may be purchased over the Internet or through other means of remote ordering if a handgun ammunition vendor in California initially receives the ammunition and processes the transfer in compliance with this section and Section 12061. A violation of this section is a misdemeanor.

(b) For purposes of this section:

(1) "Bona fide evidence of identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, state identification card, identification card issued to a member of the Armed Forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(2) "Handgun ammunition" means handgun ammunition as defined in subdivision (a) of Section 12323.

(3) "Handgun ammunition vendor" has the same meaning as set forth in Section 12060.

(c) Subdivision (a) shall not apply to or affect the deliveries, transfers, or sales of, handgun ammunition to any of the following:

(1) Authorized law enforcement representatives of cities, counties, cities and counties, or state and federal governments for exclusive use by those government agencies if, prior to the delivery, transfer, or sale of the handgun 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) Sworn peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who are authorized to carry a firearm in the course and scope of their duties.

(3) Importers and manufacturers of handgun ammunition or firearms 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) Persons who are on the centralized list maintained by the Department of Justice pursuant to Section 12083.

(5) Persons licensed as dealers or collectors of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who have current certificates of eligibility issued to them by the Department of Justice pursuant to Section 12071.

(6) A handgun ammunition vendor.

(7) A consultant-evaluator, as defined in subdivision (s) of Section 12001.

~~SEC. 3.~~ SEC. 4. Section 12323 of the Penal Code is amended to read:

12323. As used in this chapter, the following definitions shall apply:

(a) "Handgun ammunition," which does not include blanks and ammunition designed and intended to be used in an "antique firearm" as defined in Section 921(a)(16) of Title 18 of the United States Code, means any variety of ammunition in the following calibers, notwithstanding that the ammunition may also be used in some rifles:

(1) .22 rimfire .

(2) .25.

(3) .32.

(4) .38.

(5) .9mm.

(6) .10mm.

(7) .40.

(8) .41.

(9) .44.

(10) .45.

(11) 5.7x28mm.

~~(12) .223.~~

~~(13)~~

(12) .357.

~~(14)~~

(13) .454.

~~(15)~~

(14) 5.56x45mm.

~~(16) 7.62x39.~~

~~(17)~~

(15) 7.63mm.

~~(18)~~

(16) 7.65mm.

~~(19) .50.~~

(b) "Handgun ammunition designed primarily to penetrate metal or armor" means any ammunition, except a shotgun shell or ammunition primarily designed for use in rifles, that is designed primarily to penetrate a body vest or body shield, and has either of the following characteristics:

(1) Has projectile or projectile core constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper, or depleted uranium, or any equivalent material of similar density or hardness.

(2) Is primarily manufactured or designed, by virtue of its shape, cross-sectional density, or any coating applied thereto, including, but not limited to, ammunition commonly known as "KTW ammunition," to breach or penetrate a body vest or body shield when fired from a pistol, revolver, or other firearm capable of being concealed upon the person.

(c) "Body vest or shield" means any bullet-resistant material intended to provide ballistic and trauma protection for the wearer or holder.

(d) "Rifle" shall have the same meaning as defined in paragraph (20) of subdivision (c) of Section 12020.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 12077 of the Penal Code proposed by both this bill and AB 1810. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2011, (2) each bill amends Section 12077 of the Penal Code, and (3) this bill is enacted after AB 1810, in which case Section 2 of this bill shall not become operative.

~~SEC. 4.~~ SEC. 6. 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, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

EXHIBIT

4

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 2358

AUTHOR : De Leon

TOPIC : Ammunition.

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY

2010

Aug. 31 Withdrawn from committee. Ordered to third reading. Read third time, passage refused. (Ayes 20. Noes 17.)

Aug. 30 Senate Rule 29.3(b) suspended. (Ayes 21. Noes 13.) From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on RLS.

Aug. 27 Re-referred to Com. on RLS.

Aug. 23 From committee: Return to Senate floor for consideration. (Ayes 4. Noes 2.) Ordered to third reading.

Aug. 20 Read second time. To third reading. Re-referred to Com. on RLS. pursuant to Senate Rule 29.10. From committee: Be re-referred to Com. on PUB. S. pursuant to Senate Rule 29.10. (Ayes 3. Noes 0.) Re-referred to Com. on PUB. S.

Aug. 19 Read third time, amended. To second reading.

Aug. 3 Read second time. To third reading.

Aug. 2 From committee: Be placed on second reading file pursuant to Senate Rule 28.8.

June 22 Read second time and amended. Re-referred to Com. on APPR.

June 21 From committee: Amend, do pass as amended, and re-refer to Com. on APPR. (Ayes 5. Noes 2.) (June 15).

June 3 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on PUB. S.

May 20 Referred to Com. on PUB. S.

May 6 In Senate. Read first time. To Com. on RLS. for assignment.

May 6 Read third time, passed, and to Senate. (Ayes 43. Noes 30. Page 5049.)

May 3 Read second time. To third reading.

Apr. 29 From committee: Do pass. (Ayes 10. Noes 5.) (April 28).

Apr. 14 From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 5. Noes 2.) (April 13).

Mar. 11 Referred to Com. on PUB. S.

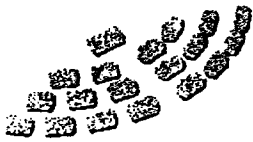
Feb. 22 Read first time.

Feb. 21 From printer. May be heard in committee March 23.

Feb. 19 Introduced. To print.

EXHIBIT

5



LEGISLATIVE INTENT SERVICE, INC.

712 Main Street, Suite 200, Woodland, CA 95695
(800) 666-1917 • Fax (530) 668-5866 • www.legintent.com

LEGISLATIVE HISTORY REPORT AND ANALYSIS

Re: **Senate Bill 1276 (Hart – 1994)**
Unsuccessful Legislation

Our File No.: 1028905

The legislative history of the above-referenced bill is documented by materials* itemized in one declaration.

SENATE BILL 1276 (HART – 1994)

Senate Bill 1276 of 1994 was a failed measure that proposed to amend and add sections of the Penal Code relating to ammunition as last amended on May 26, 1994. (See Exhibit #1d) Senator Gary Hart introduced this measure on January 4, 1994 of his own volition. (See Exhibits #1a and #3)

Senate Bill 1276 was assigned to the Senate Committee on Judiciary where policy issues raised by the bill were considered. (See Exhibit #3) The fiscal ramifications of the bill were considered by the Senate Committee on Appropriations. (See Exhibit #5) Three amendments were made to Senate Bill 1276. (See Exhibits #1b through #1d and #2) Senate Bill 1276 was never approved by the Senate and subsequently died. (See Exhibit #2)

As last amended, the Senate Appropriations Committee Fiscal Summary described this bill as making “various changes to laws regarding firearms, ammunition, possession of a firearms and the sale of firearms and ammunition” (See Exhibit #5, page 1)

The Senate Committee on Judiciary analysis set forth the purpose of this legislation as follows:

The purpose of this bill is to place restrictions on the sale of firearms ammunition which are somewhat similar to the existing restrictions on the sale of firearms in California; to ban handgun bullets which can pierce body armor; to ban the sale of specific

* For information on document numbers, research policies, request for judicial notice and more, please visit www.legintent.com and click on the links “How to Use Our Materials” on the Home page and “Points and Authorities” on the State or Federal Research menu.

incendiary ammunition and ammunition which is designed to expel metal balls connected by metal wire; and to require a specified license of persons who possess more than 1,000 rounds of firearm ammunition.

(See Exhibit #3, page 4)

This same analysis noted a long list of supporters, including the Los Angeles County District Attorney's Office, the Santa Cruz County Board of Supervisors, and the legal Community Against Violence, just to name a few. (See Exhibit #3, page 1) Those opposing Senate Bill 1276 were the National Rifle Association of America, the Attorney general, and the California Rifle and Pistol Association, Inc. (Id.)

Eventually, this bill was held in committee without further action. (See Exhibit #2)

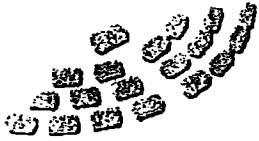
Your careful review of the documents enclosed may reveal helpful discussion on the issue before you. You should also be able to draw some conclusions based upon the assumption that the language was intended to be consistent with the overall goal of the legislation. Thus, if you are unable to find specific discussion regarding your research question, the analyses contained in the legislative bill files enclosed herewith may provide you with an arguable assessment of the goals and purpose that could be applicable to your particular situation.

The language you are investigating may be affected by bills, pending or enacted, in the current legislative session. *We do not ordinarily review for current session bills, but will do so upon request.*

Any analysis provided in this report is based upon the nature and extent of your request to us, as well as a brief review of the enclosed documents. As such, it must be considered tentative in nature. A more conclusive statement of the impact of the legislative history in your case would be dependent upon a complete understanding of all of the factual issues involved and the applicable legal principles.

We appreciate the opportunity to provide this assistance and hope that these efforts will be of value to you.

Prepared by: MARIA A. SANDERS, Attorney at Law/jb/eg; File no.: 1028905
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LEGISLATIVE INTENT SERVICE, INC.

712 Main Street, Suite 200, Woodland, CA 95695
(800) 666-1917 • Fax (530) 668-5866 • www.legintent.com

DECLARATION OF MARIA A. SANDERS

I, Maria A. Sanders, declare:

I am an attorney licensed to practice in California, State Bar No. 092900, and am employed by Legislative Intent Service, Inc., a company specializing in researching the history and intent of legislation.

Under my direction and the direction of other attorneys on staff, the research staff of Legislative Intent Service, Inc. undertook to locate and obtain all documents relevant to the Legislature's consideration of Senate Bill 1276 of 1994. Senate Bill 1276 failed to pass the Senate.

The following list identifies all documents obtained by the staff of Legislative Intent Service, Inc. on Senate Bill 1276 of 1994. All listed documents have been forwarded with this Declaration except as otherwise noted in this Declaration. All documents gathered by Legislative Intent Service, Inc. and all copies forwarded with this Declaration are true and correct copies of the originals located by Legislative Intent Service, Inc. In compiling this collection, the staff of Legislative Intent Service, Inc. operated under directions to locate and obtain all available material on the bill.

SENATE BILL 1276 OF 1994:

1. All versions of Senate Bill 1276 (Hart-1994);
2. Procedural history of Senate Bill 1276 from the 1993-94
Senate Final History;
3. Analysis of Senate Bill 1276 prepared for the Senate
Committee on Judiciary;
4. Material from the legislative bill file of the Senate
Committee on Judiciary on Senate Bill 1276;
5. Fiscal summary of Senate Bill 1276 prepared by the Senate
Committee on Appropriations;
6. Material from the legislative bill file of the Senate
Committee on Appropriations on Senate Bill 1276;
7. Material from the legislative bill file of the Office of the
Senate Floor Analyses on Senate Bill 1276.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 18th day of February, 2010 at Woodland, California.

A handwritten signature in black ink, reading "Maria A. Sanders" with a long, sweeping horizontal line extending to the right.

MARIA A. SANDERS

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SENATE COMMITTEE ON JUDICIARY
David Roberti, Chairman
1993-94 Regular Session

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SB 1276 (Hart)
As amended March 24, 1994
Hearing date: April 4, 1994
Penal Code
SAH:rs

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FIREARMS AMMUNITION - RESTRICTIONS ON POSSESSION AND SALE

HISTORY

Source: Author

Prior Legislation: None

Support: Los Angeles County District Attorney's Office; California District, American Academy of Pediatrics; Chinese for Affirmative Action; Santa Cruz County Board of Supervisors; Criminal Justice Council of Santa Cruz County; Children Now; Lutheran Office of Public Policy - California; California School Employees Association; California Academy of Family Physicians; Handgun Control, Inc.; Legal Community Against Violence

Opposition: National Rifle Association of America; Attorney General; California Rifle and Pistol Association, Inc.

KEY ISSUES

SHOULD FIREARM AMMUNITION CONTAINING EXOTHERMIC PYROPHORIC MISCH METAL AS THE PROJECTILE WHICH IS DESIGNED TO SIMULATE A FLAMETHROWER AND AMMUNITION CAPABLE OF EXPELLING METAL BALLS CONNECTED BY A WIRE BOTH BE ADDED TO THE LIST OF PROHIBITED AMMUNITION IN CALIFORNIA?

SHOULD PERSONS CURRENTLY PROHIBITED FROM OWNING OR POSSESSING FIREARMS ALSO BE PROHIBITED FROM OWNING OR POSSESSING FIREARM AMMUNITION?

(More)

SHOULD EXISTING SENTENCE ENHANCEMENTS FOR A PERSON WHO FURNISHES FIREARMS TO ANOTHER DURING THE COMMISSION OF A FELONY BE EXTENDED TO ALSO INCLUDE FURNISHING FIREARMS AMMUNITION IN THE SAME SITUATIONS?

SHOULD THE SALE OF FIREARMS AMMUNITION IN CALIFORNIA BE INCLUDED IN VARIOUS EXISTING LICENSING REQUIREMENTS FOR THE SALE OF FIREARMS SO THAT THE SALE OF BOTH FIREARMS AND AMMUNITION ARE TREATED IN A MORE SIMILAR MANNER. SO THAT ONLY LICENSED FIREARMS DEALERS COULD SELL AMMUNITION?

SHOULD ANY PERSON SEEKING TO PURCHASE HANDGUN AMMUNITION - EXCEPT FOR SPECIFIED PEACE OFFICERS - COMMENCING JULY 1, 1996, BE REQUIRED TO PRESENT A VALID CALIFORNIA HANDGUN LICENSE?

SHOULD IT BE A MISDEMEANOR TO KNOWINGLY RECEIVE HANDGUN AMMUNITION THROUGH THE MAIL, EFFECTIVE JULY 1, 1996? SHOULD PERSONS SEEKING TO PURCHASE HANDGUN AMMUNITION THROUGH THE MAIL BE REQUIRED TO GO TO A DEALER TO COMPLETE SUCH A PURCHASE?

SHOULD FIREARMS DEALERS BE PROHIBITED FROM EMPLOYING ANY SALES PERSONS UNDER THE AGE OF 21 IF THE DEALER SELLS HANDGUNS AND UNDER THE AGE OF 18 IF THEY DO NOT SELL HANDGUNS? SHOULD FIREARMS DEALERS BE PROHIBITED FROM EMPLOYING ANY PERSON WHO WOULD GENERALLY BE PROHIBITED FROM PURCHASING OR POSSESSING FIREARMS? SHOULD FIREARMS DEALERS BE REQUIRED TO SUBMIT THE NAMES OF PROPOSED EMPLOYEES TO THE DEPARTMENT OF JUSTICE FOR A BACKGROUND CHECK AND WAIT 15 DAYS BEFORE HIRING NEW EMPLOYEES?

PURPOSE

(1) Under existing law, any firearms ammunition that contains or consists of any flechette dart is generally prohibited in California with violations punishable by imprisonment in a county jail not exceeding one year, or in the state prison.

This bill would also prohibit any firearm ammunition that contains exothermic pyrophoric misch metal as the projectile and that is designed for the sole purpose of throwing or spewing a flame or fireball to simulate a flamethrower, or any firearm ammunition that can be fired in a firearm capable of expelling as projectiles 2 or more metal balls connected by metal wire.

(2) Existing law prohibits specified persons from owning or having possession or control, as specified, of any firearm.

(More)

This bill would extend this prohibition to apply to firearm ammunition and to include persons who purchase or receive or attempt to purchase or receive any firearm or firearm ammunition.

(3) Existing law provides for an additional term of imprisonment in the state prison of 1, 2, or 3 years for a person convicted of the commission or attempted commission of a felony during which the person furnished or offered to furnish a firearm to another for the purpose of aiding, abetting, or enabling that person or any other person to commit a felony.

This bill would extend this enhancement to apply to furnishing or offering to furnish firearm ammunition under these circumstances.

(4) Existing law requires that a person be licensed to sell, lease, or transfer firearms.

This bill would extend the licensing provisions to apply to firearm ammunition, as specified, and would generally place similar restrictions on the sale of firearms ammunition as currently exist for the sale of firearms effective July 1, 1995. An exception is made for infrequent sales or transfers of 24 or fewer bullets or shells.

(5) Existing law sets no limits on the mail order purchase of ammunition.

This bill would make it a misdemeanor, effective July 1, 1996, for a person to knowingly sell - or receive - handgun ammunition by mail except for a licensed firearms dealer, punishable as specified. The bill would also authorize a person to order handgun ammunition through a local firearms dealer and to take possession of the handgun ammunition only after furnishing the dealer with clear evidence of his or her identity and a California Handgun License - and California Arsenal License if necessary (both the firearms and arsenal license would be created by SB 1275 [Hart]).

(6) Existing law specifies prohibitions with regard to selling, delivering, or transferring any pistol, revolver, or firearm capable of being concealed upon the person to any person under the age of 21 years or any other firearm to a person under the age of 18 years, punishable as a misdemeanor.

This bill would extend these prohibitions to apply to firearm ammunition so that a person under age 21 may not purchase handgun ammunition and a person under 18 may not purchase any ammunition. The bill would also prohibit any person or dealer licensed to sell firearms from employing any person under the age of 18 years unless the licensee does not sell pistols, revolvers, or other firearms capable of being concealed upon the person. If the licensee sells

(More)

pistols, revolvers, or other firearms capable of being concealed upon the person, this bill would prohibit him or her from employing any person under the age of 21 years.

(7) Existing law places specified restrictions on the proof of identity a purchaser of a firearm must present.

This bill would require any person seeking to purchase handgun ammunition commencing July 1, 1996, to present clear evidence of identity and a valid California Handgun License (SB 1275 [Hart] would create the California Handgun License).

(8) Existing law prohibits, except as specified, the possession, manufacture, importation, sale, offer of sale, or knowing transportation of handgun ammunition designed primarily to penetrate metal or armor, punishable as a felony.

This bill would authorize the Attorney General to ban the sale and manufacture of any type of handgun bullet that tests show is capable of piercing a body vest (defined in Section 12022.2[c]). The bill also would require the Attorney General to annually compile a list of these bullets.

(9) Existing law provides a definition of handgun ammunition (Penal Code Section 12323) and imposes some restrictions on the sale, purchase, possession, or use of ammunition.

This bill would provide that every person who possesses or purchases in excess of 1,000 rounds of firearm ammunition without a valid California Arsenal License is guilty of a misdemeanor. (SB 1275 [Hart] would create the California Arsenal License.)

The purpose of this bill is to place restrictions on the sale of firearms ammunition which are somewhat similar to the existing restrictions on the sale of firearms in California; to ban handgun bullets which can pierce body armor; to ban the sale of specific incendiary ammunition and ammunition which is designed to expel metal balls connected by metal wire; and to require a specified license for persons who possess more than 1,000 rounds of firearm ammunition.

COMMENT

1. Existing Law.

At the present time, there are few restrictions placed on the sale of ammunition at either the federal or the state level. The federal laws were changed in 1986 to allow almost anyone to sell most ammunition in the United States. Ammunition may be sold in California by almost anyone subject to normal local

(More)

business licensing requirements. Federal laws do place some restriction on federal firearms dealers regarding the sale of ammunition to minors. Federal law does prohibit the sale of armor piercing ammunition and ammunition which contains an explosive projectile. Federal law does prohibit dealer sales to known persons in certain prohibited classes and the knowing sale of stolen ammunition is prohibited by anyone. However, there are few other limitations on the sale of ammunition.

California does place some restrictions and conditions on the possession of ammunition by minors (Penal Code Section 12101). California does impose a sentence enhancement on persons convicted of a felony who possess ammunition designed to penetrate metal or armor (Penal Code Section 12022.2) and bullets containing an explosive charge (Penal Code Section 12020). Possession of handgun ammunition primarily designed to penetrate metal or armor is prohibited (Penal Code Section 12320). However, there are few other restrictions on the sale of firearm ammunition in California.

2. Effect of this bill.

This bill contains three significant changes to existing law regarding the sale of ammunition in California. First, it proposes that all firearm ammunition to be sold by California retailers be sold only by licensed firearm dealers effective July 1, 1995 (added to Penal Code Section 12070). Second, it proposes that any person seeking to purchase handgun ammunition must present proof of identity and a valid California Handgun License commencing July 1, 1996 (added to Penal Code Section 12076).

In addition, the bill would make it a misdemeanor for any person to purchase or possess in excess of 1,000 rounds of handgun ammunition without a valid California Arsenal License, effective July 1, 1996 (added in a new Penal Code Section 12327).

(As noted, both the California Handgun License and the California Handgun License would be created by SB 1275 [Hart].)

3. Prohibition on sale of handgun ammunition by mail.

This bill would add a new Penal Code Section 12070.5 which would prohibit the sale of handgun ammunition by mail. That prohibition would apply penalties to both those who sell by mail - to anyone other than a licensed dealer - and to those who knowingly receive handgun ammunition by mail. Whether or not that statute could be enforced against out of state shippers is unclear. In addition, that prohibition would not

(More)

apply to private delivery businesses, such as UPS. The author may wish to consider a clarification of that issue at some point.

4. Definition of handgun ammunition.

Existing Penal Code Section 12323 was added in 1982 and defines handgun ammunition as "ammunition principally for use in pistols and revolvers...notwithstanding that the ammunition may also be used in some rifles."

That definition was added when the prohibition on handgun ammunition designed to penetrate metal or armor was added. However, that definition may not be suitable for defining handgun ammunition in general. It may be assumed that many ammunition calibers are suitable for both rifles and handguns. Without additional statutory guidance, it may be very difficult for dealers to determine which ammunition is "handgun ammunition" for purposes of the requirements added to Penal Code Section 12076.

5. Opposition arguments.

Opposition to SB 1276 is generally based on the assertion that criminals would still have access to ammunition and that only "law-abiding" gun owners would face undue burdens under this bill. (There is no apparent opposition to adding a prohibition on "bolo" or flame-thrower ammunition in California.)

The Attorney General notes opposition to the use of the California Handgun License in this bill since it is premature to assume that any "insta-check" system will soon be implemented in California (whether in SB 1275 [Hart] or in any other manner).

6. Conflict with other legislation.

AB 482 (Peace) was recently signed by the Governor. Some of the same provisions in AB 482 are contained in SB 1276 and at some point double-joining or conforming language should be added to SB 1276.

(800) 666-1917

LEGISLATIVE INTENT SERVICE

EXHIBIT

6

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December 16, 2009

Ms. Alison Merrilees
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VIA FAX (916) 263-0676 & U. S. MAIL

Attorney General's Office
Public Records Ombudsman
1300 "T" Street, Room 1710-6
Sacramento, CA 95820
VIA FAX (916) 322-4532 & U. S. MAIL

Re: **Public Records Act Request**
PRAR # 12.16.09 - "DOJ Bureau of Firearms - AB 962"

Dear Ms. Merrilees:

This letter constitutes a request under the California Public Records Act (CPRA), California Government Code Section 6250, *et seq.* (the "Act").¹ When responding, please include the above reference number for internal tracking purposes.

This request is directed to the Public Records Act Clerk or custodian of records for each entity identified in the addressee section above. If the items listed below are under the control of another department or agency, please forward this letter accordingly and so advise us.

This request seeks the information listed below, whether in the form of a writing,² email (including attachments), computer file, photograph, audio or video tape, or however kept.

¹ All references to standards for compliance are pursuant to the Act, as amended by California Assembly Bill 2799, effective January 1, 2001, and further informed by the heightened right to information as provided by the California Constitution, art. 1, section 3, amended by Proposition 59.

² WRITING, whether singular or plural, includes those items listed in the paragraph above, as well as those items described in the definition provided by Evidence Code section 250, which provides as follows:

"Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

INFORMATION REQUESTED

The following public records and all "writings" related thereto are requested:

1. Any and all writings and communications, including, but not limited to, policies, bulletins, correspondence, notices, or internal memoranda, constituting, referring, or relating to the enforcement of Assembly Bill 962.

TIME TO RESPOND & COST REIMBURSEMENT

As the CPRA requires, we expect to receive notification of your compliance with this request within ten (10) days of your receipt of this letter. If you need additional time, please simply notify us in writing as the code requires. If practical circumstances further prohibit a timely response, please contact us so we may attempt to agree on a reasonable deadline for production.

Pursuant to section 6253(b) of the CPRA, we are willing to pay reasonable costs to reimburse you for direct costs of duplication, or to pay statutory fees. If you estimate that the direct copying costs will exceed one hundred dollars (\$100.00), notify us of the cost estimate so that we may determine how to proceed.

Thank you for your anticipated cooperation. Please contact me if you have questions or concerns.

Sincerely,
MICHEL & ASSOCIATES, P.C.



Eric Fligel

*** TX REPORT ***

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Writer's Direct Contact:
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vpomella@michelandassociates.com

FAX TRANSMITTAL SHEET

TO: Ms. Alison Merrilees, Deputy Attorney General

FIRM:

FAX NO.: (916) 263-0676

TEL. NO.

FROM: Eric Flagel

DATE: December 16, 2009

RE: PRAR#12.16.09 - "DOJ Bureau of Firearms - AB 962"

THIS FAX CONTAINS COVER PAGE PLUS 2 PAGE(S). IF YOU DO NOT RECEIVE ALL PAGES
PLEASE CONTACT Valerie Pomella AT (562) 216-4444.

SPECIAL INSTRUCTIONS

Will follow via U.S. Mail. Thank you.

MICHEL & ASSOCIATES, P.C.
Attorneys at Law

Writer's Direct Contact:
(562) 216-4444
vpomella@michelandassociates.com

FAX TRANSMITTAL SHEET

TO: Ms. Alison Merrilees, Deputy Attorney General

FIRM:

FAX NO.: (916) 263-0676

TEL. NO.

FROM: Eric Flagel

DATE: December 16, 2009

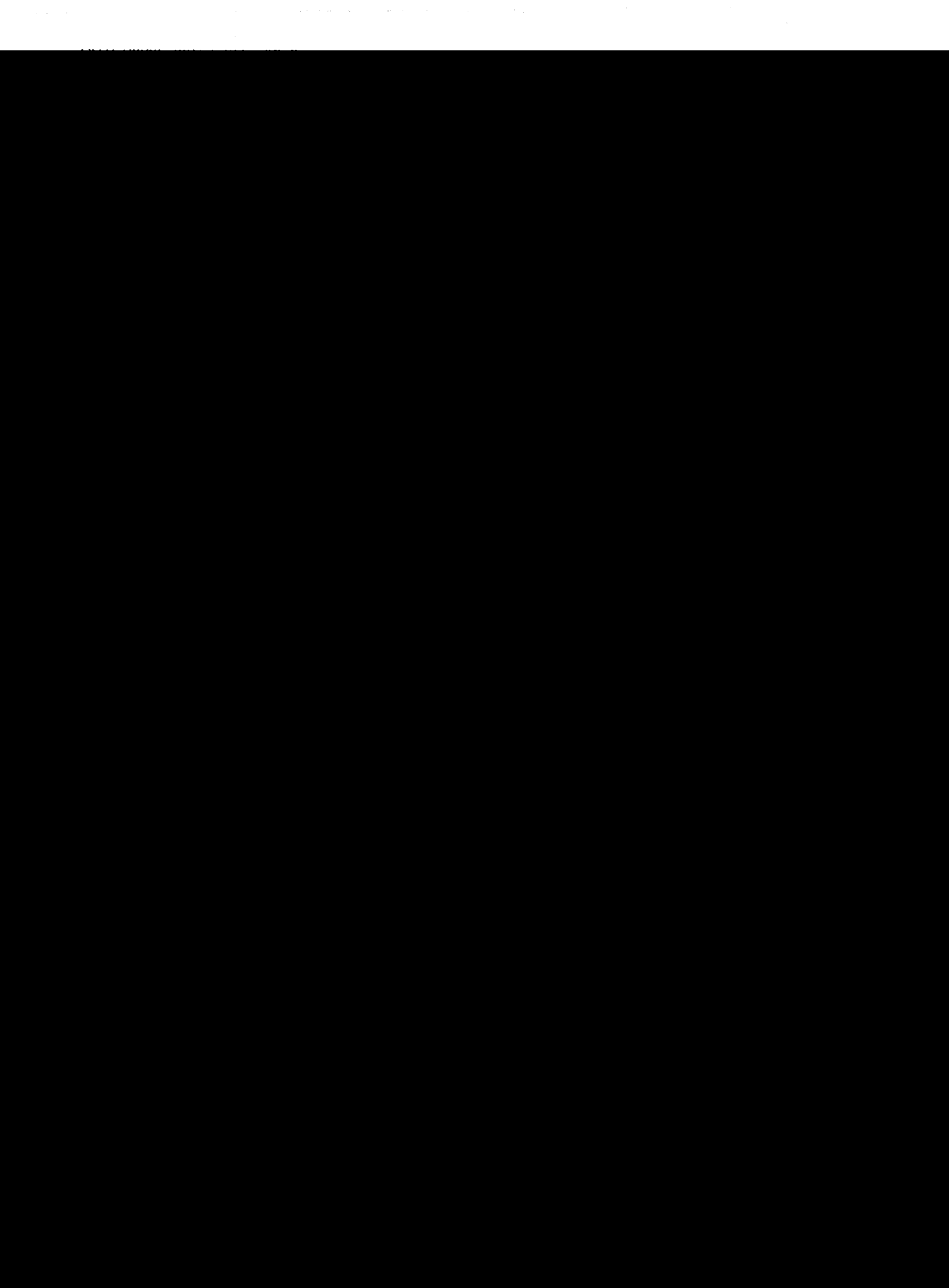
RE: PRAR#12.16.09 - "DOJ Bureau of Firearms - AB 962"

THIS FAX CONTAINS COVER PAGE PLUS 2 PAGE(S). IF YOU DO NOT RECEIVE ALL PAGES PLEASE CONTACT Valerie Pomella AT (562) 216-4444.

SPECIAL INSTRUCTIONS

Will follow via U.S. Mail. Thank you.

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Writer's Direct Contact:
(562) 216-4444
vpomella@michelandassociates.com

FAX TRANSMITTAL SHEET

TO: Attorney General's Office, Public Records Ombudsman

FIRM:

FAX NO.: (916) 322-4532

TEL. NO.

FROM: Eric Flagel

DATE: December 16, 2009

RE: PRAR#12.16.09 - "DOJ Bureau of Firearms - AB 962"

THIS FAX CONTAINS COVER PAGE PLUS 2 PAGE(S). IF YOU DO NOT RECEIVE ALL PAGES PLEASE CONTACT Valerie Pomella AT (562) 216-4444.

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EXHIBIT

7

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



P.O. Box 160487
Sacramento, CA 95816-0487
Telephone: (916) 263-0699
Fax: (916) 263-0676
E-Mail Address: alison.merrilees@doj.ca.gov

January 25, 2010

Eric Flagel
Attorney at Law
Trutanich-Michel LLP
180 E. Ocean Boulevard, Suite 200
Long Beach, CA 90802

COPY

Re: Public Records Act Request 121609 – AB 962

Dear Mr. Flagel:

We received your check (#4631) in the amount of \$24.80. Enclosed are 199 pages in response to the above request, as well as a CD copy.

I hope you find this information helpful.

Sincerely,

ALISON MERRILEES
Deputy Attorney General
Bureau of Firearms

For EDMUND G. BROWN JR.
Attorney General

Enclosures

JA000179

From: Alison Merrilees [<mailto:Alison.Merrilees@doj.ca.gov>]
Sent: Tuesday, December 15, 2009 2:43 PM
To: Clint B. Monfort
Subject: Re: AB 962

Clint,

We expect our annual Information Bulletin about new laws - which will include information about AB 962 - to be sent to dealers and law enforcement, and posted on our website next week. I will be out of the office next week, but will ask for a copy of the IB to be sent to you. If you don't get the IB by December 28th, please let me know and I will forward you a copy when I return to the office.

I do not know how our field representatives will determine whether the type of ammunition sold by a vendor is principally for use in handguns, and therefore needs to be recorded in the ammunition log book. It would be impossible for our field representatives to determine the type of ammunition that is sold and not recorded in the log book, however, unless they personally observe a transfer, because there are no records of past ammunition transfers (other than those recorded in the log book). For the most part, I believe our field representatives will just be checking to make sure a log book is kept, and that it includes all the information required by law to be retained by the ammunition vendor. I do not believe it is accurate to describe this system as "registration," because there is no central record of the purchase to be retained by DOJ, or anyone else.

We cannot adopt a rule about .22 rimfire (or any other specific type of ammunition) without adopting a regulation pursuant to the APA. Otherwise, our rule would be an underground regulation.

My initial thought is that dealers make a similar determination now when deciding whether to sell ammunition to 18 - 20 year olds. A person under 21 cannot lawfully purchase "ammunition designed and intended for use in a handgun" if that ammunition cannot be used in a rifle. (PC 12316, subd. (a)(1)(B).) The definition applicable to record-keeping is slightly more broad, because it applies to ammunition "designed primarily" for use in handguns, "notwithstanding that the ammunition may also be used in some rifles." I suppose if dealers wanted to act in an abundance of caution, they could record the transfer of all ammunition that can be used in a handgun or a rifle.

>>> "Clint B. Monfort" <CMonfort@michelandassociates.com> 12/15/2009 2:03 PM >>>

Alison,

Would you mind to forward me a copy of the materials the Department is sending to California Dealers on this bill? Also, is the Department going to consider .22 rimfire ammunition as ammo principally for use in handguns, thereby requiring registration under section 12061?

Thanks,

Clint B. Monfort

Attorney
(<http://www.michelandassociates.com/>)
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From: "Clint B. Monfort" <CMonfort@michelandassociates.com>
To: Alison Merrilees <Alison.Merrilees@doj.ca.gov>
Date: 12/15/2009 5:53 PM
Subject: RE: AB 962

I understand. If you can please let me know after you check with your field representatives or Dept. head that would be great. Thanks Alison.

Clint B. Monfort
Attorney

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-----Original Message-----

From: Alison Merrilees [mailto:Alison.Merrilees@doj.ca.gov]
Sent: Tuesday, December 15, 2009 5:43 PM
To: Clint B. Monfort
Subject: Re: AB 962

Still don't know and still can't say.

This e-mail was sent from a California Department of Justice BlackBerry Device.

-----Original Message-----

From: "Clint B. Monfort" <CMonfort@michelandassociates.com>
To: Merrilees, Alison <Alison.Merrilees@doj.ca.gov>

Sent: 12/15/2009 5:32:19 PM
Subject: RE: AB 962

No problem. So now that we're on the same page, and circumstances surrounding the sale are irrelevant, will your field reps record this as a violation and seek prosecution by the local DA?

I understand that this is not a DOJ policy interpreting the law. I'm just curious whether your field reps will seek prosecutions for the described action.

Thanks,
Clint B. Monfort
Attorney
[cid:image001.gif@01CA7DAC.8DAD9250]<<http://www.michelandassociates.com/>>

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From: Alison Merrilees [mailto:Alison.Merrilees@doj.ca.gov]
Sent: Tuesday, December 15, 2009 5:27 PM
To: Clint B. Monfort
Subject: RE: AB 962

You're right. It probably wouldn't be relevant, nor would the fact in your hypo that a handgun was being transferred at the same time.

So without those additional facts, it just comes down to the type of ammunition, right? And I have already explained that we can't and won't adopt a general policy about that. If it seems to be a problem, we could consider adopting a regulation. Or, as you suggested, clean-up legislation could address the issue.

>>> "Clint B. Monfort" <CMonfort@michelandassociates.com> 12/15/2009 5:19 PM >>>
I'm sorry, I'm confused. I thought that the definition was "principally for use in handguns." Why would the subjective intent of the purchaser (and his statements about what it was being used for in that one specific instance) matter at all?
Thanks,
Clint B. Monfort
Attorney
[cid:image001.gif@01CA7DAC.8DAD9250]<http://www.michelandassociates.com/>

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From: Alison Merrilees [mailto:Alison.Merrilees@doj.ca.gov]
Sent: Tuesday, December 15, 2009 5:13 PM
To: Clint B. Monfort
Subject: RE: AB 962

I'm sorry, Clint, but we can't answer this hypothetical question in the way you clearly want us to. I think I have been pretty patient and tried to answer all of your questions to the best of my ability. But I have also explained that we cannot adopt a policy about how we would handle this type of situation.

The facts you have described would seem to indicate that handgun ammunition is being transferred (assuming that the handgun can fire the .22 rimfire ammunition. But that determination would have to be made on a case-by-case basis and there could be other factors that would influence the decision, such as statements by the parties. ("I'd like some ammunition for my .22 rifle," or conversely, "I'd like the ammunition for this .22 pistol.")

I'm sorry, but that's as much info as I can give you.

>>> "Clint B. Monfort" <CMonfort@michelandassociates.com> 12/15/2009 4:56 PM >>>

Can you ask your field representatives for me please when you get a chance so that I can properly advise my client and request that he seek the same clarification from the local D.A.? Thank you.

Thanks,
Clint B. Monfort
Attorney

[cid:image001.gif@01CA7DAC.8DAD9250]<<http://www.michelandassociates.com/>>

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From: Alison Merrilees [<mailto:Alison.Merrilees@doj.ca.gov>]

Sent: Tuesday, December 15, 2009 4:51 PM

To: Clint B. Monfort

Subject: Re: AB 962

I don't know.

>>> "Clint B. Monfort" <CMonfort@michelandassociates.com> 12/15/2009 4:48 PM >>>

Sorry, one more thing.

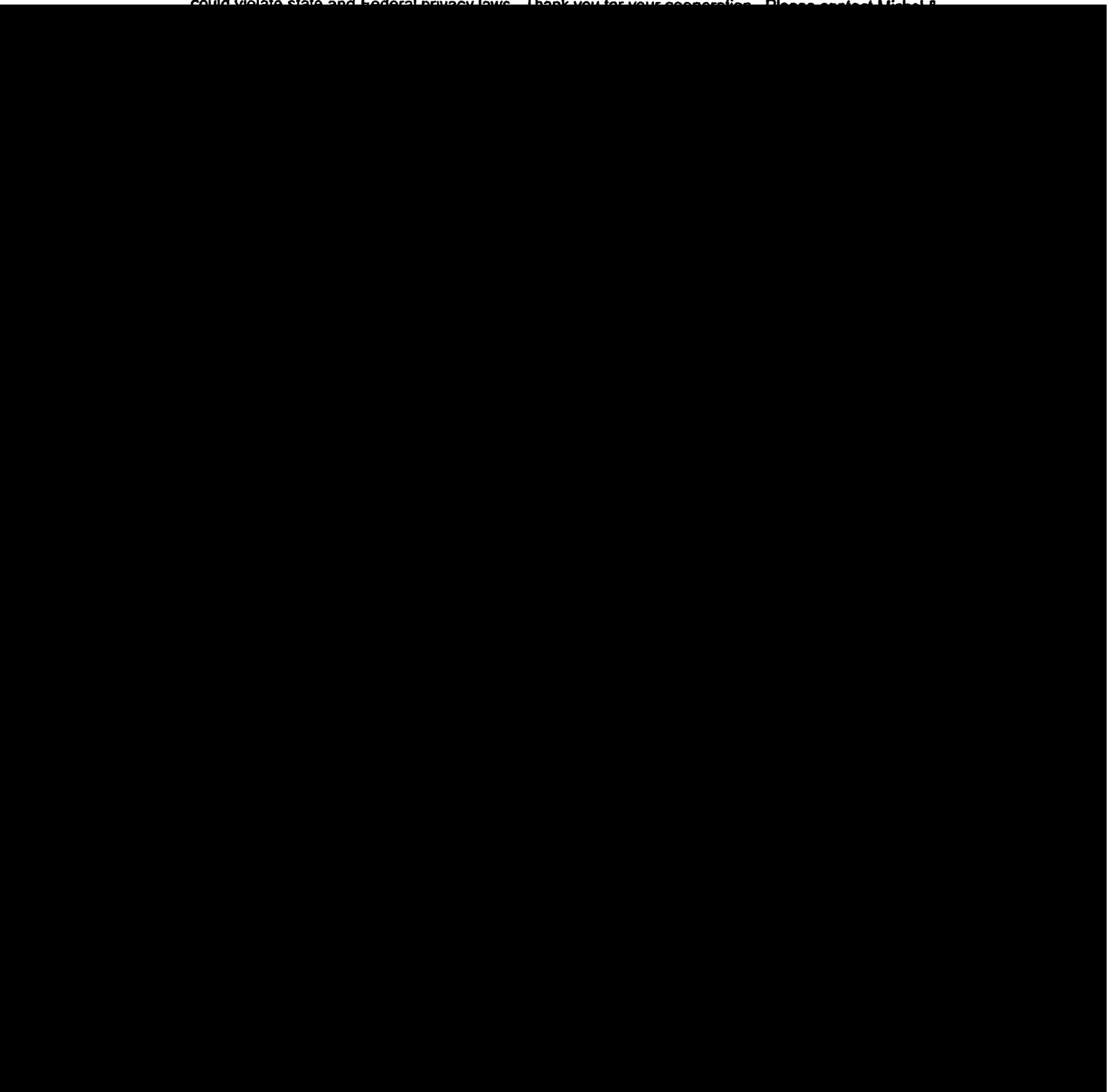
If a field rep sees someone buying .22 rimfire ammunition along with a handgun that they are picking up that day and the vendor does not register the sale of the ammo, will the field rep record this as a violation and submit it to the local D.A. for prosecution?

Thanks,
Clint B. Monfort
Attorney

[cid:image001.gif@01CA7DAC.8DAD9250]<<http://www.michelandassociates.com/>>

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From: Alison Merrilees
To: Clint B. Monfort
Date: 12/15/2009 4:48 PM
Subject: RE: AB 962

In your hypothetical, the vendor has kept the records and presumably made them available for inspection by law enforcement, upon request in compliance with paragraphs 4 and 5 of Penal Code section 12061, subdivision (a).

>>> "Clint B. Monfort" <CMonfort@michelandassociates.com> 12/15/2009 4:26 PM >>>

I know, I know. Well then let me pose it to you or your field representatives this way:

If one of our clients keeps all of their records on microfilm only, will the Dept. record this as a violation and seek prosecution by the D.A.?

I understand that you cannot issue an opinion as to whether this will be a violation generally, and that local law enforcement may enforce the same law differently.

Clint B. Monfort
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From: Alison Merrilees [<mailto:Alison.Merrilees@doj.ca.gov>]
Sent: Tuesday, December 15, 2009 4:02 PM
To: Clint B. Monfort
Subject: RE: AB 962

We can't take a position about how records can and can't be kept without adopting a regulation to that effect. If we did so, our position or policy would be an underground regulation.

The vendor has to keep records. That is all the bill says, and all it requires.

>>> "Clint B. Monfort" <CMonfort@michelandassociates.com> 12/15/2009 3:57 PM >>>

Thanks. Does the Dept. have a position one way or the other whether microfilm or other electronic storage of records will be acceptable? You must agree that the 5 year storage requirement on the premises is a bit much!

Thanks,

Clint B. Monfort

Attorney

(<http://www.michelandassociates.com/>)

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From: Alison Merrilees [<mailto:Alison.Merrilees@doj.ca.gov>]

Sent: Tuesday, December 15, 2009 3:45 PM

To: Clint B. Monfort

Subject: RE: AB 962

I don't believe it will be a huge priority for us, especially since we didn't get any funding or additional spending authority for enforcement. The locals (i.e. LAPD and Sacramento PD) seem to have more interest in doing it.

>>> "Clint B. Monfort" <CMonfort@michelandassociates.com> 12/15/2009 3:40 PM >>>

Is this going to be done in practice? Are field reps going to relay info to the agents to run checks?

Thanks,

Clint B. Monfort

Attorney

(<http://www.michelandassociates.com/>)

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From: Alison Merrilees [<mailto:Alison.Merrilees@doj.ca.gov>]
Sent: Tuesday, December 15, 2009 3:38 PM
To: Clint B. Monfort
Subject: RE: AB 962

You asked about the field reps. Our field reps (like me) **don't** have access to DOJ's criminal history databases. Our agents, like all peace officers, **do** have access to the information. (PC 11105, subd. (b)(2).) Therefore, our agents could check whether persons who entered in the ammunition log book are prohibited from possessing firearms and ammunition.

>>> "Clint B. Monfort" <CMonfort@michelandassociates.com> 12/15/2009 3:31 PM >>>

Who the field reps? What about local law enforcement who want to check for prohibited persons?

Thanks,

Clint B. Monfort
Attorney
(<http://www.michelandassociates.com/>)
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From: Alison Merrilees [<mailto:Alison.Merrilees@doj.ca.gov>]
Sent: Tuesday, December 15, 2009 3:30 PM
To: Clint B. Monfort
Subject: RE: AB 962

No. They don't have access to those databases.

>>> "Clint B. Monfort" <CMonfort@michelandassociates.com> 12/15/2009 3:29 PM >>>
Yep. Oh another thought - so are the Field Reps not going to be running background checks on purchasers?

Thanks,

Clint B. Monfort
Attorney
(<http://www.michelandassociates.com/>)
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From: Alison Merrilees [<mailto:Alison.Merrilees@doj.ca.gov>]
Sent: Tuesday, December 15, 2009 3:26 PM
To: Clint B. Monfort
Subject: RE: AB 962

There's always something (more and more, it seems) to clean up.

Good luck!

>>> "Clint B. Monfort" <CMonfort@michelandassociates.com> 12/15/2009 3:18 PM >>>

Thanks I appreciate it.

I share your same thoughts about the .22 rimfire issue as this definition is technically broader. I think we

are going to advise our clients to register these sales out of an abundance of caution. I realize that the enforcement issue makes this somewhat of a moot point with the Department's Field Reps, but we don't want to advise technical violations of the law nonetheless, especially with regard to other law enforcement agencies (even though we don't consider .22 rimfire to be ammunition principally for use in handguns). Maybe this is something that could be addressed in cleanup legislation. I know we have a few more issues that are worthy of some cleanup/clarification.

Thanks,

Clint B. Monfort

Attorney

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From: Alison Merrilees [<mailto:Alison.Merrilees@doj.ca.gov>]

Sent: Tuesday, December 15, 2009 2:43 PM

To: Clint B. Monfort

Subject: Re: AB 962

Clint,

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>>> "Clint B. Monfort" <CMonfort@michelandassociates.com> 12/15/2009 2:03 PM >>>

Alison,

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Thanks,

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From: Alison Merrilees
To: Clint B. Monfort
Date: 12/10/2009 9:43 AM
Subject: Re: AB 962

Hi Clint,

We don't plan to hold any regulatory meetings. We will send out a "new laws" bulletin to dealers this month, explaining all of the new laws taking effect next year, including this one. Of course, ammunition is sold by many vendors who are not licensed firearms dealers, but those other vendors are not subject to DOJ oversight. Although the bill gives DOJ the ability to inspect ammunition transfer logs kept by ammunition vendors, DOJ has no way to know who the ammunition vendors are (unless they are licensed firearms dealers). Otherwise, as long as the vendor keeps the records that are required, the vendor has complied with the law.

Let me know if you have any other questions, or concerns.

Allison

>>> "Clint B. Monfort" <CMonfort@michelandassociates.com> 12/9/2009 5:23 PM >>>

Hi Allison,

When is the Department planning to hold any regulatory meetings regarding the implementation of this bill? Though I realize regulations were not authorized by 962 it seems like it will be a nightmare to implement, enforce, and comply with without further clarification and guidance. Is the BOF planning to do anything on this?

Thanks,

Clint B. Monfort

Attorney

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Suite 200

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This e-mail is confidential and is legally privileged. If you have received it in error, you are on notice of its status. Please notify us immediately by reply e-mail and then delete this message from your system. Please do not copy it or use it for any purposes, or disclose its contents to any other person. To do so could violate state and Federal privacy laws. Thank you for your cooperation. Please contact Michel & Associates, PC at (562) 216-4444 if you need assistance.

EXHIBIT

8

| | | | | |
|--|---|---|---------------------------------|--|
| California Department of Justice DIVISION OF LAW ENFORCEMENT George B. Anderson, Director | |  | INFORMATION BULLETIN | |
| Subject: New and Amended Firearms Laws | No: 2009-BOF-05 Date: 12/30/09 | | Bureau of Firearms | |

TO: All California Centralized List of Firearms Dealers, Manufacturers, and Exempted Federal Firearms Licensees

This bulletin provides a brief summary of new and amended California firearms laws that take effect on January 1, 2010, unless otherwise noted. You may contact the California State Capitol Legislative Bill Room at (916) 445-2323 to obtain copies of the bills (order by statute year and chapter number), or access the full text of the bills via the Internet at <http://www.leginfo.ca.gov/>.

AB 962 (Stats. 2009, ch. 628)

- Handgun ammunition must be displayed in a manner that makes the ammunition inaccessible to a purchaser or transferee, and requires the assistance of the vendor or an employee of the vendor. (§ 12061.)¹
- An employee of a handgun ammunition vendor, who is prohibited from possessing firearms, cannot handle, sell, or deliver handgun ammunition in the course and scope of his or her employment. (§ 12061.)
- No one shall supply, deliver, or give ammunition to a minor who is prohibited from possessing ammunition pursuant to section 12101. (§ 12316.)
- Any person who is enjoined from engaging in activity associated with a criminal street gang is prohibited from possessing ammunition. A violation is a misdemeanor. (§ 12316.)
- Beginning February 1, 2011, the delivery or transfer of handgun ammunition must occur in a face-to-face transaction, with the recipient providing bona fide evidence of his or her identity and age, subject to specified exceptions. Non-face-to-face transfers, such as internet transactions and mail order deliveries are prohibited. A violation is a misdemeanor. (§ 12318.)
- Beginning February 1, 2011, handgun ammunition vendors must obtain a thumbprint and other information related to handgun ammunition transactions subject to specified exceptions (including transfers to peace officers who are authorized to carry a firearm in the course and scope their duties). The information must be retained by the vendor for five years from the date of the transaction. A violation is a misdemeanor. (§ 12061.)

¹ All further statutory references are to the California Penal Code, unless otherwise specified.

AB 1286 (Stats. 2009, ch. 144)

- An exemption to the limit of one handgun per 30 days has been added, allowing the transfer of multiple handguns within 30 days to community colleges certified by the Commission on Peace Officer Standards and Training for commission-certified law enforcement training. (§ 12072.)

SB 175 (Stats. 2009, ch. 334)

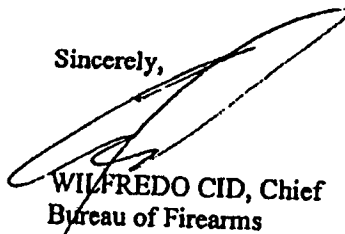
- The firearms dealer licensing requirement provides an exception for the exchange of a firearm to or from a gunsmith for purpose of service or repair. (§ 12072.)
- A California Firearms License Check (CFLC) verification number exemption for dangerous weapons has been removed. (§ 12072.)
- Pawnbrokers are precluded from placement on the Centralized List of Exempted Federal Firearms Licensees (CLEFFL). (§ 12083.)
- Persons who possess a current dangerous weapons permit, are exempt from the fees associated with CLEFFL. (§ 12083.)

SB 449 (Stats. 2009, ch. 335)

- Beginning July 1, 2010, secondhand dealers will report daily to DOJ (rather than the local law enforcement agency) via electronic submission, any firearms purchased, taken in trade, or taken in pawn. Within one working day of receipt of a secondhand dealer report, the DOJ will electronically provide information in the report to a secure mailbox of the local law enforcement agency. (§ 12083; Bus. and Prof. Code §§ 21628 and 21628.2.)

If you have any questions regarding this Information Bulletin, please contact the DOJ Bureau of Firearms at (916) 263-4887.

Sincerely,



WILFREDO CID, Chief
Bureau of Firearms

For EDMUND G. BROWN JR.
Attorney General

EXHIBIT

9

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July 16, 2010

Ms. Kimberly Graham
Deputy Attorney General
DEPARTMENT OF JUSTICE
4949 Broadway, Rm. G321
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VIA FAX (916) 263-0676 & U. S. MAIL

Public Records Ombudsman
ATTORNEY GENERAL'S OFFICE
P.O. Box 944355
Sacramento, CA 94244
VIA U. S. MAIL

Re: **Public Records Act Request**
PRAR # 7.16.10 – "DOJ Bureau of Firearms"

Dear Ms. Graham:

This letter constitutes a request under the California Public Records Act (CPRA), California Government Code Section 6250, *et seq.* (the "Act").¹ When responding, please include the above reference number for internal tracking purposes.

This request is directed to the Public Records Act Clerk or custodian of records for each entity identified in the addressee section above. If the items listed below are under the control of another department or agency, please forward this letter accordingly and so advise us.

This request seeks the information listed below, whether in the form of a writing,² email (including attachments), computer file, photograph, audio or video tape, or however kept.

¹ All references to standards for compliance are pursuant to the Act, as amended by California Assembly Bill 2799, effective January 1, 2001, and further informed by the heightened right to information as provided by the California Constitution, art. 1, section 3, amended by Proposition 59.

² WRITING, whether singular or plural, includes those items listed in the paragraph above, as well as those items described in the definition provided by Evidence Code section 250, which provides as follows:

"Writing" means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

EXHIBIT

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EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



1300 I STREET, SUITE 125
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August 9, 2010

Anna M. Barvir
Michel & Associates
180 E. Ocean Blvd., Suite 200
Long Beach, CA 90802

SENT VIA EMAIL TO abarvir@michellawvers.com

RE: Public Records Act Request (PRAR # 7.16.10)

Dear Ms. Barvir:

I am writing in response to the above request made pursuant to the California Public Records Act set forth in California Government Code §6250 et seq. received by the Bureau of Firearms of the California Department of Justice (DOJ) via facsimile on July 16, 2010. In the PRA request, you seek four categories of documents regarding Assembly Bill 962 (2009) and Assembly Bill 2358 (2010).

Under the PRA, government records are open and subject to inspection by and disclosure to the public, unless they are "exempt from disclosure by express provisions of law." (Gov. Code, § 6253, subd. (b).) The PRA specifically exempts certain types of documents from public disclosure, including those described in Government Code sections 6254 and 6255. In addition, Government Code section 6254, subdivision (k) incorporates confidentiality privileges set forth elsewhere in law, and makes those privileged documents exempt from the disclosure requirements of the PRA.

I will respond to the four categories of documents you seek in your request separately, as indicated below.

Categories 1 and 2: All writings and communications referring or relating to Assembly Bill 962 (2009) and Assembly Bill 2358 (2010).

In categories 1 and 2, you seek "[a]ll writing and communications referring or relating to" Assembly Bill 962 (2009) and Assembly Bill 2358 (2010) "including, but not limited to,

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bulletins, correspondence, memoranda, notices, and policy statements acquired or created between March 1, 2010 and the present." For the reasons set forth below, DOJ objects to the request and therefore is unable to produce certain documents responsive to the request.

Deliberative Process Privilege (§ 6255): The deliberative process privilege is applied to the PRA through section 6255. It exempts from disclosure materials that would expose an agency's decision making process in such a way as to discourage candid discussion within the agency and thereby undermine the agency's ability to perform its functions. Even if the content of a document is purely factual, it is nonetheless exempt from public scrutiny if it is actually related to the process by which policies are formulated or, if it is inextricably intertwined with policymaking processes. (*Times Mirror Co. v. Superior Court, supra*, 53 Cal.3d at p. 1342.)

The documents responsive to this request reveal the decision-making process of the Attorney General and his staff, including but not limited to internal memoranda and emails about the development of policy; specifically, it seeks documents reflecting the analysis by DOJ employees regarding pending legislation. Disclosure of the materials would expose the decision-making process of the Attorney General and DOJ "in such a way as to discourage candid discussion within the agency and thereby undermine the agency's ability to perform its functions. [Citation.]" (*Times Mirror Company v. Superior Court, supra*, 53 Cal.3d at p. 1342.) Therefore, we deny your request for any documents that are responsive to this request which are exempt from disclosure pursuant to the deliberative process privilege.

Attorney-Client Privilege (§ 6254, subd. (k)/Evid. Code 952: Section 6254, subdivision (k), incorporates confidentiality privileges set forth elsewhere in law. The attorney-client privilege is contained in Evidence Code section 952 and protects confidential communications between an attorney and his or her client. Section 6254, sub-division (k), expressly exempts from disclosure matters privileged under the Evidence Code, which includes the attorney-client privilege. (*Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 370.) Public entities may assert the attorney-client privilege. (*Ibid.*) The privilege "applies to communications in the course of professional employment that are intended to be confidential." (*Id.*, at p. 371.)

In the present case, deputy attorney generals provide legal advice to the Attorney General, his designees, and to the bureaus and divisions within DOJ. The documents that are responsive to your request include legal advice to the Attorney General, his designees, and to the bureaus and divisions within DOJ regarding pending legislation. Any documents that constitute legal advice from deputy attorneys general to the Attorney General, his designees, or the bureaus/divisions within DOJ are exempt from disclosure pursuant to the attorney-client privilege. Because attorney-client communications are exempt from disclosure in response to a PRA request, we deny your request for any documents that constitute attorney-client communication.

Attorney Work Product Privilege (§ 6254, subd. (k); see also Code Civ. Pro., § 2018.030): Code of Civil Procedure section 2018.030 exempts from disclosure the work product of an attorney. The attorney work product privilege applies to any writing that reflects an attorney's impressions, conclusions, opinions, legal research or legal theories that are maintained as confidential. It is incorporated into the PRA by section 6254, subdivision (k). (*County of Los Angeles v. Superior Court* (2000) 82 Cal.App.4th 819, 833.) Under the attorney work-product exception, records such as confidential analyses, draft language and memoranda prepared by the attorneys employed in the Attorney General's Office constitute attorney work product that is exempt from public disclosure under the PRA.

In the present case, the attorneys in our department provide legal advice to the Attorney General and his designees. To the extent that records were prepared by deputies attorney general to offer their impressions, conclusions, opinions, legal research or legal theories to the Attorney General, his designees, or the bureaus/divisions within DOJ about pending legislation, those records are attorney work product that is exempt from disclosure in response to your request. Because attorney work product is exempt from disclosure in response to a PRA request, we deny your request for any documents that constitute attorney work product.

Subject to and without waiving these exemptions, BOF will produce any non-exempt, non-privileged documents that are responsive to your request.

Categories 3 and 4: Writing and communications between DOJ and LCAV/Brady Campaign

In categories 3 and 4, you seek "[a]ll writings and communications between the Department of Justice" and the Legal Community Against Violence (LCAV) and the Brady Campaign "acquired or created between January 1, 2010 and the present. These documents may include, but are not limited to, studies and research by and correspondence (including emails) to or from" LCAV/Brady Campaign. During our telephone conversation on July 23, 2010, you agreed to modify your request to those communications regarding Assembly Bill 962 (2009) and Assembly Bill 2358 (2010).

BOF has determined that there may be documents responsive to your request, and is in the process of collecting such documents. However, with respect to emails, please be advised that the DOJ computer system only retains emails for a three-month period; therefore, unless the email was personally archived or printed by the recipient, there will be no record of emails sent or received by a DOJ employee beyond the last three months.

* * * * *

Ms. Anna Barvir
August 9, 2010
Page 4

Should have any questions regarding our response to your request, please do not hesitate to contact me. And, in closing, thank you again for your cooperation with regard to this request.

Sincerely,



KIMBERLY J. GRAHAM
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

KJG:

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EXHIBIT

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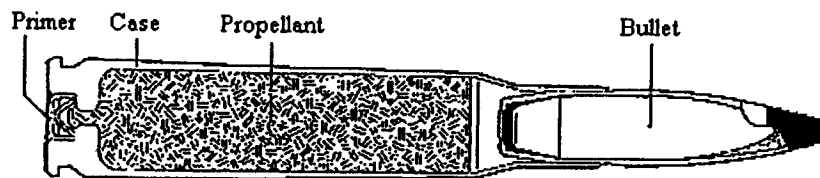
Definitions

Previous Section:  [Gun Types](#)

Ammunition Components

Cartridge

Cartridge firearms have been in service since the mid-1800s. In earlier designs such as flint-lock or percussion cap arms, the propellant (powder) and the ignition mechanism were individual components which had to be separately loaded or were part of the arm itself.



Modern cartridges have a case which holds bullet, propellant and primer in a single self-contained system. This complete unit and the bullet fired from it are also referred to as a *round* or *shell*.

The cartridge is perhaps the single most important factor making modern firearms practical. The cartridge is a stand-alone module of mechanical integrity sealing sensitive chemical compounds from the external environment, and keeping together all the consumable components needed for firing one round. This key development enabled the significant advance of arms technology starting in the latter half of the 19th century.

Bullet

The bullet is the projectile driven down the barrel by the pressure of hot, burning propellant gases. Bullet design is a fairly specialized sub-field involving a much design and experimentation. Bullets must be aerodynamically stable and have low drag at their design velocities. They must be soft enough to allow some deformation in the rifling of the barrel. Bullets must have sufficient strength to withstand high acceleration during firing.

One of the topics not covered in this document is ballistics. Internal ballistics is the study of bullet and barrel performance while the bullet is in the barrel. External ballistics studies the bullet in free flight from muzzle to target. Terminal ballistics is the study of the effects of the projectile in the target medium. Targets studied usually include armor plating, sheet metal, flesh, or flesh simulants such as ballistic gelatin. See the [Bibliography](#) for some ballistics references.

It was the .50 caliber Browning rifle bullet which helped shape the first successful manned supersonic aircraft (Chuck Yeager's [Bell X-1](#)) since it was one of the few objects known to be aerodynamically stable at three times the speed of sound.

Case

Cartridge cases are usually made of brass or steel, though some shotgun cases are made mostly or

entirely of plastic. As described above the case is the carrier which holds the propellant, primer and bullet securely. This makes it practical to transport and deploy the components as a single module, greatly simplifying logistics and use. To re-iterate, the important principle was to group the relevant components as a self-contained functional unit.

The most important role of the case after feeding is the sealing of the breech. During firing the case expands outward against the barrel chamber providing a gas-tight seal and preventing the high pressure gases from entering the rest of the arm. Such a release could case a failure hazardous to the user, since usually only the combined case/chamber/breech system has sufficient strength to withstand the high pressures generated. Since the case expands under great pressure against the chamber, considerable force is required to overcome friction in extracting the fired case from the chamber.

Primer

The modern cartridge's percussion primer was a major improvement in starting the ignition chain. Previously a spark from a flint, heat from a smoldering match (a cotton cord), or an externally placed percussion cap provided the source of ignition. The modern primer is cup-shaped and contains percussion (impact or pressure) sensitive explosive compounds. When struck, the primer expels hot burning particles onto the propellant (powder) contained in the cartridge.

In modern rifle and pistol rounds the primer is press fit and sometimes crimped into the back of the cartridge, where the striker can reach it. Cannon rounds are usually electrically fired. That is, the primer is an electrical device with two insulated, usually concentric terminals which is ignited through electrical current. In rimfire rounds, the primer compound is in the fold at the back of case which also forms the extraction rim. The striker impacts the rim, detonating the primer material.

Propellant (Powder)

The first part of the ignition chain is the primer. When struck, the primer detonates (it is a primary explosive rather than a propellant) and begins to ignite the propellant (powder). The powder then burns at a controlled rate appropriate to the particular bore diameter, projectile mass, barrel length, etc. Note that powder is not a primary explosive, so in normal operation it burns relatively gradually rather than detonating. The burning propellant generates high pressure gases which accelerate the projectile down the barrel. Smokeless powder is usually composed of double base (twice nitrated) compounds and binders (glues) to hold grain shape.

Modern powders are extruded in the shape of rods or discs and come in a variety of sizes which together with chemical composition affect the burning rate. Smaller-grained, fast-burning propellants are generally used in higher velocity applications and larger-grained, slower-burning used in lower velocity rounds. Matching of burning rates to bore diameters and projectile masses requires careful calculation and measurement of pressure versus time. This is important to keep within the safe pressure limits of the barrel and rest of the system. Such development can be aided by using piezoelectric cells or strain gauges feeding computerized data acquisition systems. Once calibration procedures are established, these measurement systems are more efficient and simpler to use than old-style mechanical copper crushers.

Next Section: [Gun Components](#)



 [Back to Definitions Index](#)

 [Back to Main Index](#)

EXHIBIT

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Rifles: Standard with 24" barrel, octagonal through about the serial range 100000, at which time round barrels became common. Brass frame, buttplate, and forend cap (steel cap became standard after serial range 135000). The buttplate of the crescent type.

Carbines: Standard with 20" round barrel and two barrel bands. Brass frame and buttplate, the latter of the distinctive curved profile. Saddle ring mounted on the left side of the frame.

Muskets: Standard with 27" round barrel, 24" magazine, and 17" forend. Three barrel bands present, and the buttplate of carbine style.

Major variations are:

First Model 1866, tang serial number concealed by the buttstock, "Henry drop" in profile of frame at the hammer area, frame does not flare out to meet forend, upper tang has two screws, flat loading gate cover, Henry and King's patent barrel marking, serial range 12476 to about 15500 (with some overlap with Henry Rifle).

Rifle version of the First Model (not fitted with forend cap):
5K-026 Values—Good \$10,000 Fine \$32,500

Carbine version of the First Model:

5K-027 Values—Good \$6,000 Fine \$15,000

Musket version of the First Model: (None produced)

Second Model 1866, concealed "inside" serial marking on the tang (early production through about 19000 serial range), flared frame to meet the forend, the "Henry drop" frame profile has turned to a graceful curved shape in the hammer area, Henry and King's patent barrel marking for most of production, serial range about 15500 to 23000+.

Rifle:
5K-028 Values—Good \$3,500 Fine \$10,000

Carbine:
5K-029 Values—Good \$3,000 Fine \$8,000

Musket: None known to be produced.

Third Model 1866, serial marked in block numerals behind the trigger (and thus visible without removing stock), flared frame to meet forend, and the curved frame profile in hammer area not as pronounced as the First and Second Models; Winchester, New Haven and King's Patent barrel marking, serial range about 23169 (lowest recorded number to date) to 149000.

Rifle:
5K-030 Values—Good \$3,000 Fine \$7,500

Carbine:
5K-031 Values—Good \$2,500 Fine \$6,500

Musket:
5K-032 Values—Good \$2,250 Fine \$5,500

Fourth Model 1866, the serial number marked in script on the lower tang near lever latch, flared frame to meet forend, the curved frame profile in hammer area even less pronounced than the Third Model, barrel marking same as the Third Model, serial range about 149000 to 170101. Late production iron mountings.

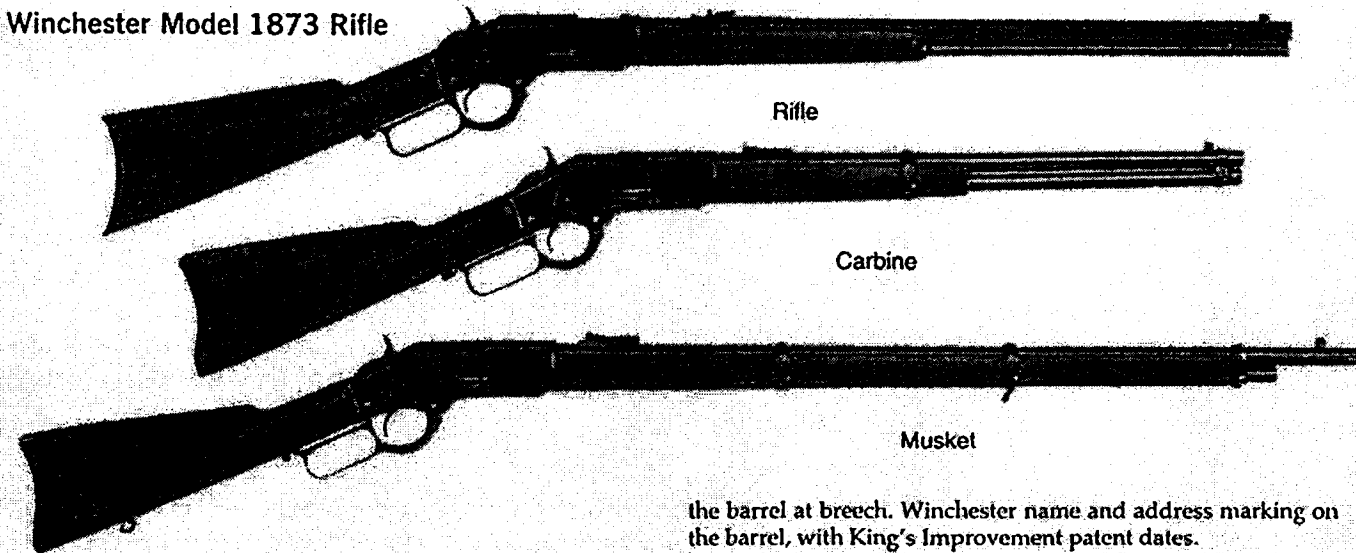
Rifle:
5K-033 Values—Good \$2,500 Fine \$6,750

Carbine:
5K-034 Values—Good \$2,250 Fine \$6,000

Musket:
5K-035 Values—Good \$2,250 Fine \$5,500

(Note: A premium placed on round barrels on rifles, as these are less frequently encountered than octagon.)

Winchester Model 1873 Rifle



Model 1873 Rifle. Made c. 1873-1919; total produced approximately 720,610 (figure includes 19,552 made in 22 rimfire).

32-20, 38-40, and 44-40 calibers. Tubular magazine located beneath barrel. The frames of iron with sideplates, and noticeably different from the Model 1866 predecessor.

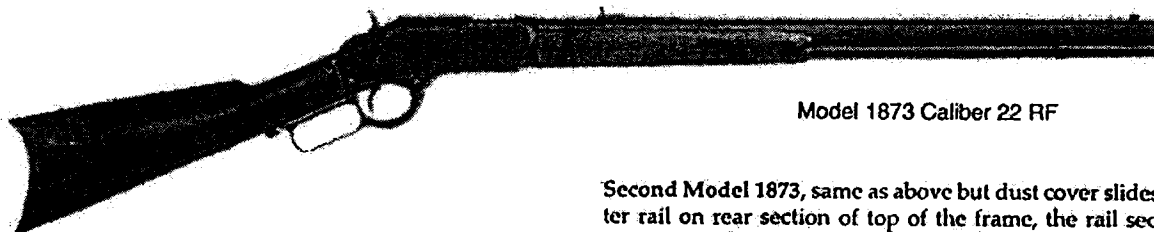
Oil stained or (less common) varnished walnut stocks. Blued finish, with hammers, levers and buttplates casehardened; frames also not uncommon casehardened.

Serial numbering in individual series from 1 on up; located on the lower tang. MODEL 1873 and Winchester markings appear on the upper tang; caliber markings usually are present on bottom of the brass elevator block (see bottom of frame) and on

the barrel at breech. Winchester name and address marking on the barrel, with King's Improvement patent dates.

To the good fortune of collectors, Winchester Museum factory records are virtually complete for the Model 1873 production. This is a model in which the collector can specialize exclusively, and perhaps never run out of variations to acquire. Considerable variety is apparent in the Model 1873, in sights, magazines, finishes, markings, barrel lengths and weights, stocks, and even in screws, varying contours of wood and metal, knurlings, and *ad infinitum*. Export sales were considerable, and many of these arms experienced rough handling and those that survived are often in poor condition. Domestic sales have survived in a generally better state of condition, but the majority do show use, and often to a great degree. Perhaps the most famous of all Winchesters, the '73 was featured in the James Stewart film "Winchester

V-K: Winchester



Model 1873 Caliber 22 RF

'73." The Model boasts a production record covering more years (about 50) and more guns (over 720,000) than most of the company's other lever action models. Those under No. 525900 (approx.) made prior to December 31, 1898.

Rifles: Standard with 24" barrel, round or octagon. Buttplate of the crescent type. Cap on front of forend; the magazine tube attached to barrel with small band. Adjustable, open style sporting rear sight.

Carbines: Standard with 20" round barrel, and two barrel bands. Buttplate of distinctive curved profile. Saddle ring mounted on the left side of the frame. The rear sights of adjustable carbine type (compare with Rifle).

Muskets: Standard with 30" round barrel, 27" magazine. Three barrel bands usually present, the buttplate of carbine style, and the sights of adjustable musket type.

Major variations are:

Early First Model 1873, the dust cover with guide grooves is mortised in forward section of the frame; checkered oval thumbrest is separately affixed (very earliest is round thumbrest and worth premium). Note two screws on frame above trigger, lever latch fits into lower tang with threads, upper lever profile curves away from trigger; serial range from 1 to about 1600 (serials under 100 worth 30% to 50% premium).

Rifle:
5K-036 Values—Good \$1,500 Fine \$5,500

Carbine:
5K-037 Values—Good \$2,250 Fine \$7,500

Musket: None known to be produced.

(Note: On serial numbers 1 through approximately 600 Model 1873 markings are hand engraved and found on the lower tang with the serial number. This feature worth a premium in value.)

Late First Model 1873, the dust cover mortised as above (oval thumbrest is checkered on the cover itself and variations of that oval panel occur and fetch premiums), trigger pin appears below the two frame screws above trigger, improved type lever latch (the threads not visible) became standard as did the trigger block safety and the added profile to the lever behind trigger (to engage newly added safety pin); serial range about 1600 to 31000 (serials under 100 worth 30% to 50% premium).

Rifle:
5K-038 Values—Good \$1,100 Fine \$4,500

Carbine:
5K-039 Values—Good \$1,600 Fine \$6,000

Musket
5K-040 Values—Good \$1,750 Fine \$6,500

Second Model 1873, same as above but dust cover slides on center rail on rear section of top of the frame, the rail secured by screws; serial range about 31000 to 90000. On later Second Models, serrations on rear edges (for finger hold) replaced the checkered oval panel on the dust cover.

Rifle:
5K-041 Values—Good \$650 Fine \$2,250

Carbine:
5K-042 Values—Good \$1,000 Fine \$3,750

Musket:
5K-043 Values—Good \$1,000 Fine \$3,250

Third Model 1873, same as above but the dust cover rail is a machined integral part of the frame, no longer present are the two frame screws and pin formerly located above the trigger, and screws on lower tang are located much more rearward than previously; serial range about 90000 to end of production. Serrated rear edges on dust cover.

Rifles:
5K-044 Values—Good \$600 Fine \$1,800

Carbine:
5K-045 Values—Good \$850 Fine \$3,500

Musket:
5K-046 Values—Good \$900 Fine \$2,000

Model 1873 22 Rimfire Rifle, easily identified by the 22 caliber markings and the lack of a loading gate in the right sideplate. Chambered for 22 short and long rimfire cartridges, and loaded through the front end of the magazine tube. 24" or 26" barrels standard. Made c. 1884-1904 in a total quantity of 19,552; this was the first repeating rifle manufactured in America chambered for the 22 rimfire ammunition. Made only in rifle form:

5K-047 Values—Good \$775 Fine \$2,250

1 of 1000 and 1 of 100 rifles, are among the ultimate rarities in Winchester collecting. In the Model 1873 only 136 "1 of 1000" rifles were made, and 8 "1 of 100". These are distinguished by the special marking found on the top of the breech. Confirmation of the series can be made through Winchester Museum records, in which the original arms are documented. The desirability of 1 of 100/1000 rifles has made them attractive for faking; and caution is suggested in making a purchase. Although the "1 of 100" is the scarcer rifle it seems that the "1 of 1000" is more eagerly sought after, hence values are apparently the same for these two great rarities, ranging from:

1 of 100:
5K-048 Values—Good \$32,500 Fine \$70,000
Exc. \$125,000

1 of 1000:
5K-049 Values—Good \$32,500 Fine \$70,000
Exc. \$125,000

EXHIBIT

13

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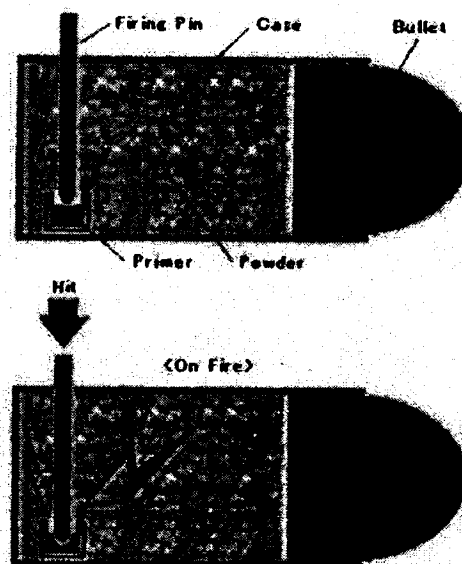
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- Barrel Making: Early Barrel Making in Europe
- Barrel Making: Early Gun Making in Europe
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- Rifling: Manufacturing: Flow Forming
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- Rifling: Manufacturing: Button Rifling
- Rifling: Manufacturing: Broach Rifling
- Rifling: Manufacturing: Cut Rifling
- Rifling: Terminology
- Rifling: Breechloaders

Tuesday, May 4, 2010

Cartridges: Pinfire Cartridge

In our last post, we studied the cartridges of the needle gun. We've also studied how shock-sensitive materials such as fulminates make percussion locks work. We've also studied how the breech-loader loading mechanisms work. In our studies of the needle gun's cartridges, it was noted that one of the defects of this weapon was that the needle tended to break off often. The next type of cartridge we will study is the Pinfire cartridge.

The pinfire cartridge was originally developed around the same time as the needle gun's cartridge. However, unlike the needle gun, where the long needle is part of the gun's firing mechanism, a pinfire cartridge has a firing pin as part of the cartridge.



Public domain image courtesy of wikipedia.com

It consists of a cartridge with a metallic case. On one side of the cartridge is a protruding firing pin. The other end of the pin touches a small copper cap containing a pressure sensitive primer explosive such as mercury fulminate or potassium chlorate. The rest of the case is filled with gunpowder and there is a lead bullet at the end.

To ignite the gunpowder charge, one applies a sharp blow to the pin.

Rifling: Polygonal Bore and the
Whitworth Rifle
Rifling: Expanding Bullets and the
Minie Rifle
Rifling: Brunswick Rifle
Rifling: History
Rifling: Basics
Exotic Firing Mechanisms:
Electrical
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Cartridges: Centerfire cartridge
Cartridges: Rimfire Cartridge
Cartridges: Pinfire Cartridge
Cartridges: Needle Gun Cartridge
Cartridges: The Paper Cartridge
► April (16)

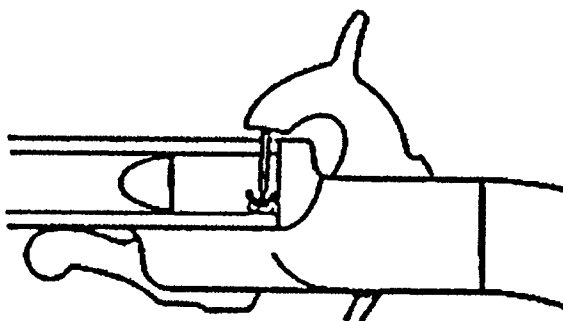
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The Editor

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The other end of the pin then strikes the primer which then ignites and then burns the main gunpowder charge.

To load the weapon, the user opens the breech of the gun and drops in a cartridge. There is a slot at the top of the barrel so that the pin can protrude out of the slot. The user then cocks the hammer against spring pressure. When the user pulls the trigger, the hammer is released and the spring force drives the hammer onto the pin, thereby firing the weapon.



Pinfire revolvers also work on similar principles. There is a slot cut into compartment of the revolver's cylinder, so that the pin can protrude out of it. The hammer of the revolver strikes the top of the pin and thereby fires the weapon.

A little history on the pinfire gun: The original mechanism was developed in 1828 by a Frenchman named Casimir Lefauchaux. By the mid 1840s, guns using this mechanism grew very popular in France, but had limited success in England, chiefly because they were suspicious of breech-loaders in England and also because they didn't trust a French inventor. It was only past the 1850s that the English began to look at breech-loaders and they didn't use the pin-fire cartridge with their weapons. Hence, the pin-fire cartridges were never really popular in English speaking countries. On the other hand, they were very popular in France and French neighbouring countries (Spain, Italy Switzerland etc.)

The pinfire cartridge was one of the reasons for the decline of muzzle-loading weapons. It was much quicker and easier to load a breech-loading weapon using pinfire cartridges. The cartridge was also relatively gas-tight compared to the needle gun, which made the shooting a bit more efficient. It must be noted however that it wasn't as gas tight as some later cartridges working on other principles. The pinfire cartridges were the first metallic cartridges and also responsible for the decline of paper cartridges as well. All future cartridges with metal cases owe some history to the pinfire.

The problems with the pinfire were that, with the protruding pin, it took a little longer to load than the future centerfire and rimfire cartridges, since the pin needs to be aligned to the slot before the gun can be closed. Rough handling could sometimes accidentally trigger the pin and cause the cartridge to detonate. The pin-fire cartridge, while it was an improvement over the needle gun

cartridge, was also not very gas-tight and often, a bit of the expanding hot gas would push the pin up and escape that way. These days, the only weapons that use pinfire cartridges are either antiques from the 1800s, or weapons with really small caliber bullets (e.g. 2 mm bullets), where a rimfire or centerfire cartridge would not work.

Posted by The Editor at 12:26 AM

Labels: cartridge, pinfire cartridge

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07-25-2010, 04:21 PM

AaronN322
Firearm Enthusiast

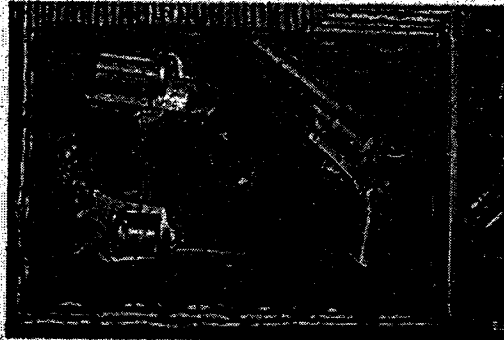
Join Date: Feb 2009
Location: Canton, OH

Some of my Antiques

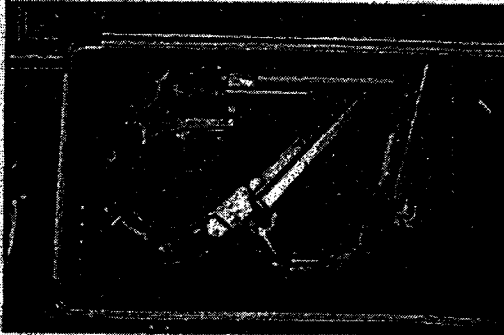
Let's get this antique forum started! ☺

Some of this has been posted before but I want to get some content into the new forum.

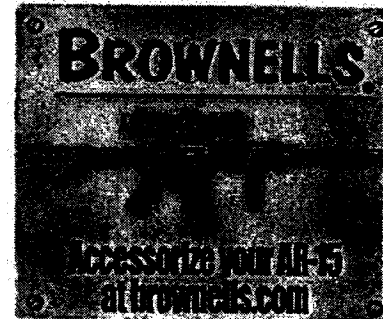
Guns:



7mm Pinfire Pistol



12mm pinfire revolver, 12mm double barrel pinfire, 15mm double barrel pinfire



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Posted By Full McTal Jack
09-06-2010

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Posted By SwedeSteve
09-06-2010

I seem to have contracted...

Posted By Jellybean18
09-06-2010

Don't piss off the American...

Posted By homerfirez32
09-06-2010

The woman and a fork

Posted By Huey Rider
09-06-2010

Shooting while pregnant

Posted By Jay
09-06-2010

A little politically...

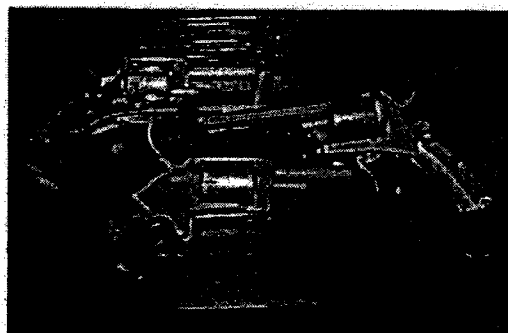
Posted By DaTeacha
09-06-2010

Globalist Soros Launches...

Posted By grizety
09-06-2010



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Top to Bottom: 32s CF 7mm (approx .32 cal bullet) pinfire. .32 rimfire
This is a nice comparison of the 3 competing technologies in the late 1800s



Left:

Top: Different variations of 12mm Pinfires
Middle: 2mm, 5mm, 7mm, 9mm, 12mm 15mm pinfires and a

12mm Perrin, The 12mm Perrin was mainly used
for 12mm pinfire to centerfire conversion guns.

Bottom: .28, .30, .42 Plant Cupfire cartridges. These were used
to circumvent the patents S&W had for their breach-loading RF
guns

Middle:

Top: 4 black powder .22 variations
Bottom: 2mm, 4mm, 5mm, 6mm, 7mm, 9mm Flobert Rimfire

Right:

All UMC (with "U" headstamp) rimfire cartridges from .25, .30,
.32, .38, .41, .42, .44, .46, .50, .52 with different variations
(short, long, long rifle, extra long, etc)

Oh! And check out my website if you want to see detailed images of all my
hundreds of pinfire cartridges and boxes: <http://www.FreeMyCollection.com>

Last edited by AaronN322: 07-25-2010 at 04:47 PM.



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07-25-2010, 04:44 PM

woody1981

Firearm Zealot



Join Date: Jun 2009
Location: southwest PA

All I can say right now is "Wow"!!!!

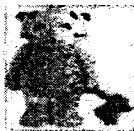
Take our country back. Vote! --Woody


[Reply with Quote](#)

07-25-2010, 08:13 PM

#3

Para Cassatt
Firearm Aficionado



Join Date: May 2010
Location: South Carolina

Nice collection!

If Eastwing made a 1911 then I would be complete.


[Reply with Quote](#)

07-25-2010, 10:43 PM

#4

hack1911
Firearm Enthusiast

Join Date: May 2010

Very nice, thanks for sharing, thats the first time I've seen many of those cartridges.


[Reply with Quote](#)

07-25-2010, 11:00 PM

#5

MosinRuger
Firearm Aficionado



Join Date: Jan 2010
Location: Florida

lol im more interested int he cartridges than the guns


[Reply with Quote](#)

07-26-2010, 02:05 AM

#6

AaronN322
Firearm Enthusiast

Join Date: Feb 2009
Location: Canton, OH

Quote: Originally Posted by MosinRuger

lol im more interested int he cartridges than the guns

and those are just the UMC rimfires! =)

Plenty more where they came from. Any particular questions about them, or want to see any other pinfires?


[Reply with Quote](#)

07-26-2010, 02:10 AM

#7

ArkansasHunter
Firearm Zealot



Join Date: Mar 2007
Location: Buck Snort, Arkansas

Thanks from me to, for shareing your very nice collection.

IN GOD WE TRUST
NRA MEMBER


[Reply with Quote](#)

07-26-2010, 07:15 AM

#8

Tha Dave
Firearm Aficionado



Join Date: Nov 2009
Location: All over

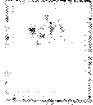
2mm!!!! that's less than half the size of a BB that crazy. Awsome collection. Anything that you would want to share about any of these rounds I'd love to read.

Youtube is **NOT** a gunsmithing guide

07-26-2010, 12:49 PM

SwedeSteve

Firearm Zealot



Join Date: Feb 2007
Location: Anchortown, Alaska

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#9

Thanks for the pics !! Much appreciated !!

We can slow the aging process by requiring it to pass through Congress !!

Reply with Quote

07-26-2010, 08:41 PM

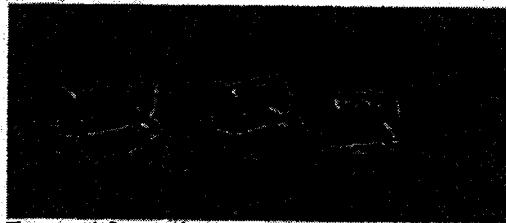
AaronN322

Firearm Enthusiast

Join Date: Feb 2009
Location: Canton, OH

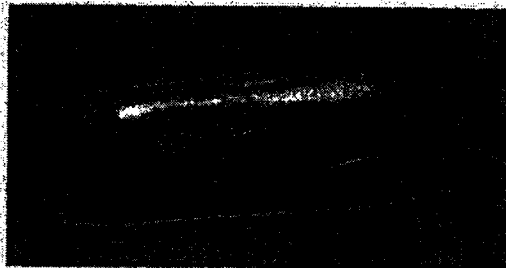
Quote: Originally Posted by The Dave

2mm!!!! that's less than half the size of a BB that crazy. Awsome collection. Anything that you would want to share about any of these rounds I'd love to read.

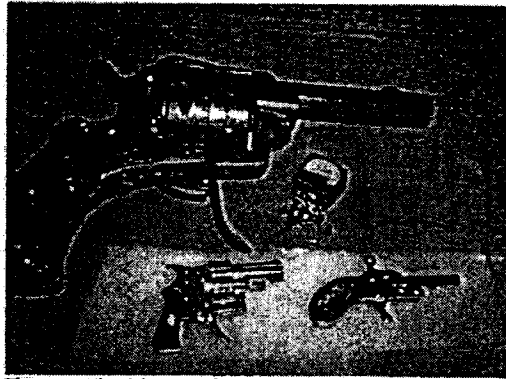


The 2mm pinfire cartridge sizes varied quite a bit. The base is generally between .078 and .088 inches (2mm) whereas the case length ranges anywhere from .117 to .211 inches. This particular cartridge in the middle is the shortest in my collection, though they have been found shorter. Mine measures in at .134 inches. The cartridge on the left is the longest I have found; measuring in at .211 inches. These cartridges were manufactured in Austria, Japan and Germany.

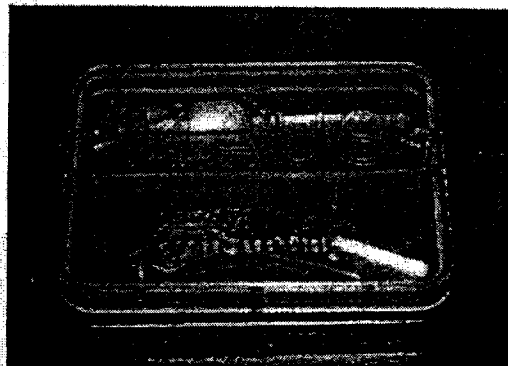
On the right is the .2mm Xythos blank made by ADK in Austria. This is the newer style pinfire that is still currently produced. It has a rounded base and is made specifically for the Berloque Xythos pinfire guns. These guns often have a 9mm flare shooter that attaches to the end of the barrel. They are sold as novelties and for hikers to be able to carry a very small flare launcher.



The two on the left most often came in capsules like the one shown with between 6 and 21 cartridges.



The one on the right most often comes in the little red box as shown in the pictures with the guns.



The older style guns often came in boxes such as the German MAUS that is from early to mid 1900s

Last edited by AaronN322: 07-26-2010 at 08:36 PM.

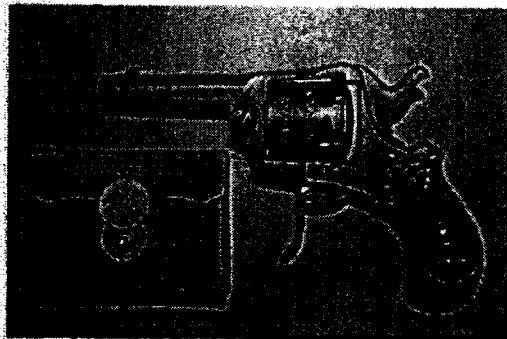
07-26-2010, 09:09 PM

AaronN322
Firearm Enthusiast

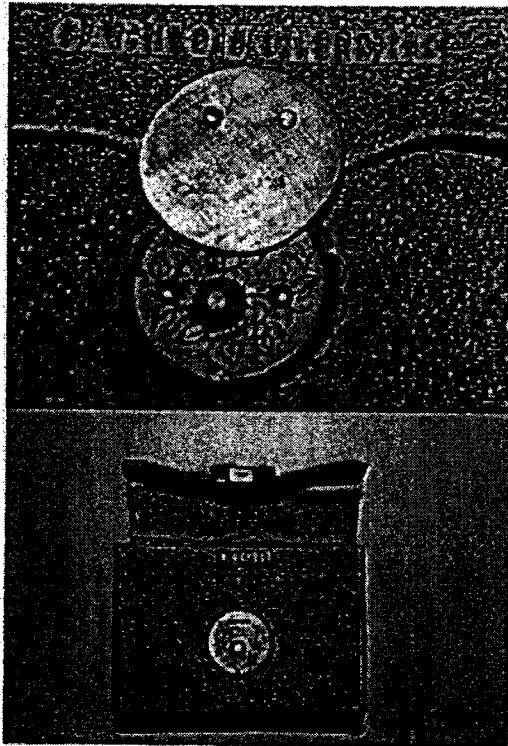
Join Date: Feb 2009
Location: Canton, OH

#11

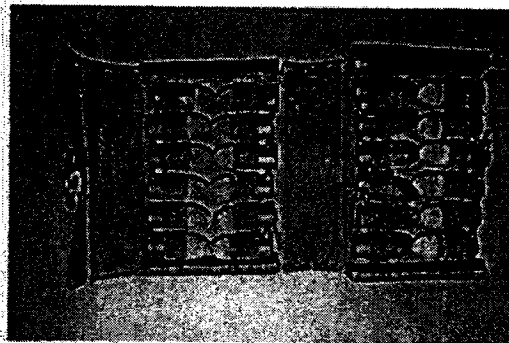
Another one of my favorite pieces in my collection is this leather cartridge holder for 7mm pinfires. I believe this to be from the 1860-1880s. It was most likely used in Europe but who knows, maybe it was even used in our Civil War! Both Union and Confederate soldiers are known to have used pinfire (Lefauchaux) revolvers and carbines during the Civil War. If you all are interested I could type a little about their use in that war.



The Cartridge Case along with a 7mm pinfire revolver.



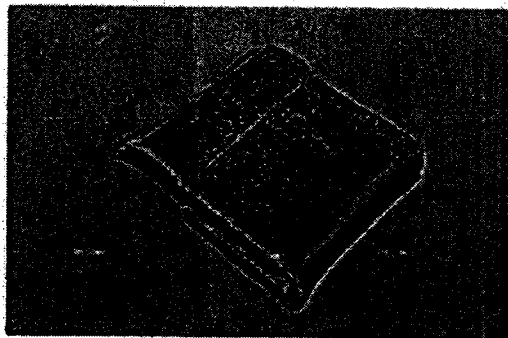
The protruding spherical brass on the bottom brass piece moves down, unlocking the snap.



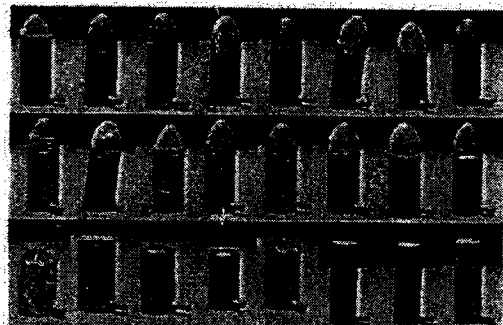
Can hold 24 7mm pinfire cartridges. The elasticity has begun to diminish, but is still holding them tightly.



Just a close up



The back



The rest of my 7mm cartridges that are displayed on my webpage with information such as headstamp and manufacturer. Some have further information too. I have about this many more that I still need to catalog and photograph. These are all different manufacturers.
<http://www.FreeMyCollection.com/>

Reply with Quote

07-27-2010, 06:30 PM

#12

rimfirenut
Firearm Aficionado

Very interesting... I like the web site and look forward to more information in the near future.. Oh... bye the way... NICE COLLECTION!!



Join Date: Feb 2009
Location: michigan

Reply with Quote

07-27-2010, 08:41 PM

#13

Para Cassatt
Firearm Aficionado

Very nice collection and site. I would like to hear about the pinfires of the Civil War and perhaps a little background of the firearms. Did anyone produce pinfire rifles?



Join Date: May 2010
Location: South Carolina

If Eastwing made a 1911 then I would be complete.

Reply with Quote

07-28-2010, 01:17 AM

#14

.22guy
Firearm Zealot

Amazing stuff!! Thanks for sharing!

My first priority will be to reinstate the assault weapons ban as soon as I take office.



Join Date: Jul 2004



Reply with Quote

07-28-2010, 11:35 AM

#15

Bigfoot

Firearm Aficionado



Nice batch of old irons there!

Join Date: Oct 2008
Location: Afton NY



Reply with Quote

07-28-2010, 12:02 PM

#16

chesterwin

Super Moderator



Very impressive! I would certainly like to hear more!

NRA LIFE MEMBER - Support Our Troops - Land of the Free, because of the Brave.

Join Date: Jun 2009
Location: Outer Banks



Reply with Quote

08-01-2010, 02:10 PM

#17

AaronN322

Firearm Enthusiast

Join Date: Feb 2009
Location: Canton, OH

Quote: Originally Posted by Para Caseatt

Very nice collection and site. I would like to hear about the pinfires of the Civil War and perhaps a little background of the firearms. Did anyone produce pinfire rifles?

I will try to do a write up sometime about pinfire use in the civil war. I will also include information on American manufacturers of pinfire cartridges during that time.

Lefauchaux (Pinfire) rifles and especially shotguns were definitely made. Shotguns were actually probably more popular than the revolvers. People still hunt with them today.

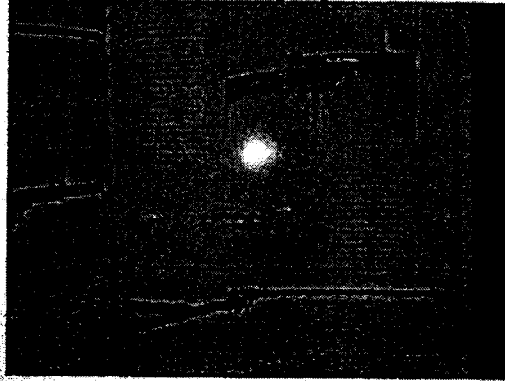
"The pictures in this post are not my own guns"

Here are a couple 12mm single shot rifles.





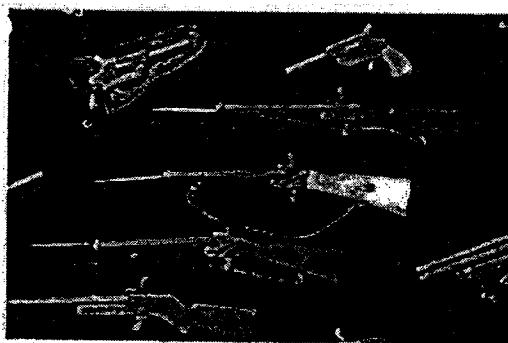
Here are a couple revolving 12mm pinfire carbines. They also came in 15mm, as well as various gauges of revolving shotguns.



Here is an interesting pinfire punt gun. A single shot would shoot about a pound of BB shot. The gun weighs 130lbs. This one is 9'4" long. "A well placed shot fired at sitting waterfowl might kill as many as fifty ducks."



Also, here are some 2mm pinfire rifles:



Last edited by AaronN322; 08-01-2010 at 02:14 PM. Reason: grammar, spelling

Reply with Quote

08-01-2010, 02:32 PM

#18

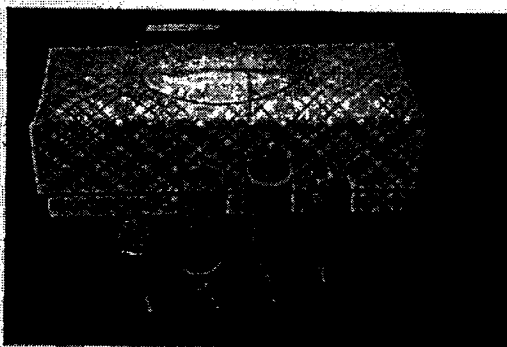
AaronN322
Firearm Enthusiast

Join Date: Feb 2009
Location: Canton, OH

Also, Here is a picture of some 12mm carbine length pinfire cartridges. The cartridge on the left is a standard size, for size comparison.

The box in the back is a full, sealed box of the cartridge on the right. It was made by Houllier & Blanchard of Paris, France. These are documented to have been used in revolving carbines during our Civil War. They are also occasionally dug at civil war battlefields; but not near as often as the shorter, revolver-size pinfires. This cartridge (and box) was made between 1855 and 1872.

The two in the middle are a special cartridge made by Gevelot (Gevelot S. A., (Societe Francaise des Munitions), Paris, France) for a specific British rifle. It has a much longer case than most and it has hard cardboard (pasteboard? paper?) for the case attached to a brass base. I have included a sample of a conical bulletted version and a round ball version.



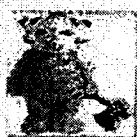
Last edited by AaronN322; 08-01-2010 at 03:39 PM. Reason: spelling

Reply with Quote

08-01-2010, 03:56 PM

#19

Para Cassatt
Firearm Aficionado



Join Date: May 2010
Location: South Carolina

Awesome stuff!

If Eastwing made a 1911 then I would be complete.

Reply with Quote

08-06-2010, 06:30 AM

#20

thrillbilly
Firearm Zealot

Very neat...thanks for kicking off the Antique Forum with a "bang"!

Red Neck, Blue Collar
270win- "Perfecting the .06 since 1923"



Join Date: Apr 2009
Location: San Diego, California



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-- Child of Gun and Game - fixed 2

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09-06-2010

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Posted By Jellybean18
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Posted By homerfire232
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Posted By Huey Rider
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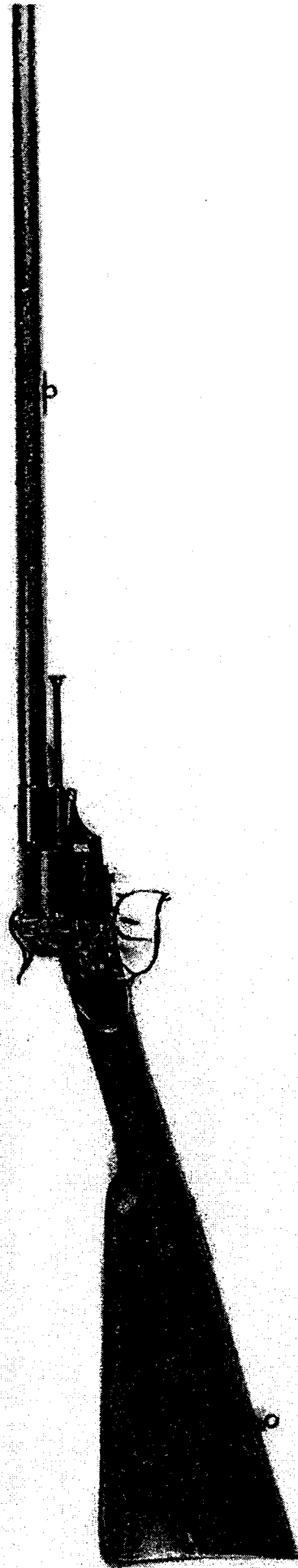
[Output: 136.26 Kb. compressed to 125.70 Kb. by saving 10.56 Kb. (7.75%)]

EXHIBIT

15

Plate 2-11 (above). A Lefauchaux Model 1854 pinfire "pistol-carbine" revolver fitted with scarce 16-inch barrel and detachable skeleton shoulder stock, serial number "1700." Note rear leaf sight. Courtesy Musée d'Armes de Liège; Francis E. Niffle photograph

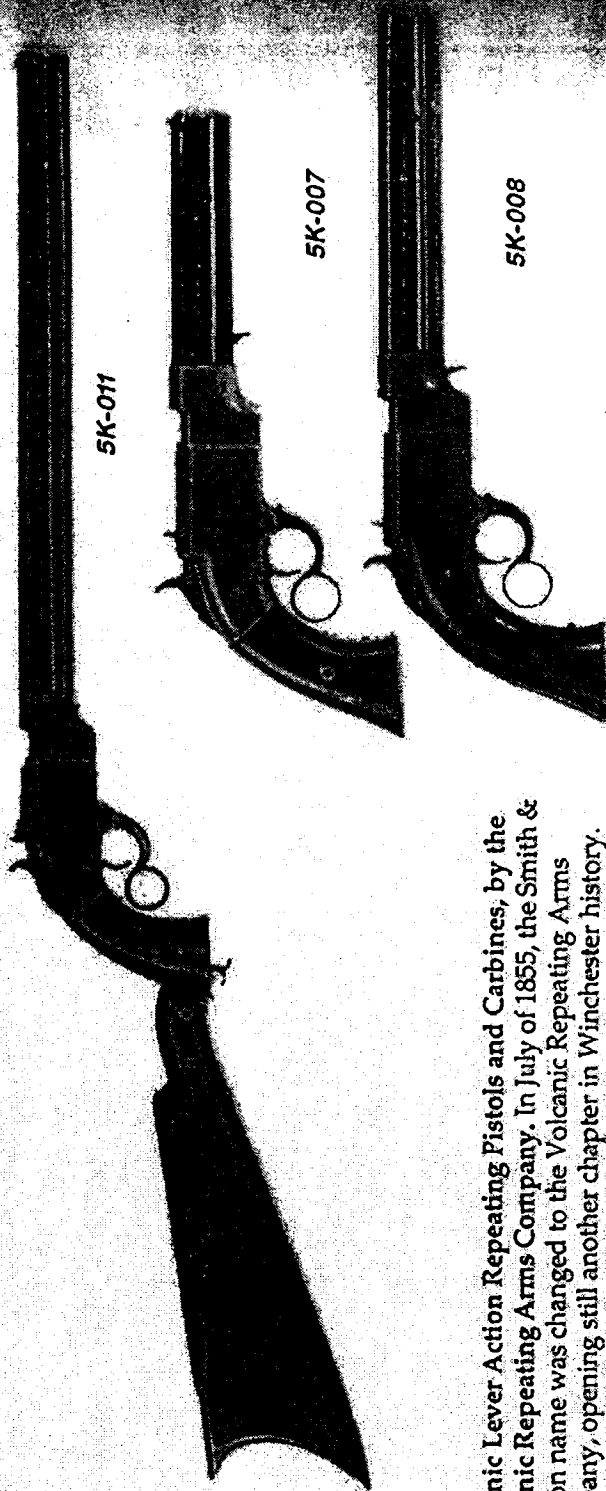
Plate 2-12 (below). A Lefauchaux Model 1854, single-action pinfire revolving rifle in 12mm caliber. Courtesy James Lowther; John Calcany photograph



EXHIBIT

16

Volcanic Lever Action Pistols and Carbines



Volcanic Lever Action Repeating Pistols and Carbines, by the Volcanic Repeating Arms Company. In July of 1855, the Smith & Wesson name was changed to the Volcanic Repeating Arms Company, opening still another chapter in Winchester history. Business was carried on under the Volcanic name from 1855 to 1857, at which time it was reorganized as the New Haven Arms Company. Oliver F. Winchester, a successful manufacturer of clothing, became an increasingly active investor in the lever action arms, having first purchased stock in the Volcanic firm c. 1855. Smith and Wesson both dropped out of the enterprise c. 1855-56.

The breakdown of Volcanic arms is presented in the following model listings. All guns were of the same caliber, 41, and fired the patented, specially designed cartridges (though improved) of the Smith & Wesson type; magazines of integral structure, located beneath the barrel. The Volcanics began with serial 1, and have been observed marked in excess of the number 3000. Standard markings of all models, on the barrels: THE VOLCANIC/REPEATING ARMS CO./PATENT NEW HAVEN CONN/FEB 14, 1854. Marking variations are noted in these. Finish: Unfinished brass frames; the barrels blued. (Note: Engraved specimens, cut in a large, open scroll pattern, are often encountered. These arms command an added premium.) Lever Action Navy Pistol; 6" barrel, 41 caliber, brass frame, flat-bottomed varnished walnut grip, rounded finger hole in the lever. VOLCANIC barrel markings as noted above. Quantity estimated 1,200: 5K-007 Values—Good \$3,500 Fine \$8,000

Lever Action Navy Pistol; same as above but with 8" barrel. Quantity estimated 1,500:

5K-008 Values—Good \$3,500 Fine \$8,000

(Note: Pistols as above fitted with shoulder stocks desirable premium.)

Lever Action Navy Pistol; as above but with 16" barrel, and attachable shoulder stock. Quantity estimated 300. Rare.

Pistol:

5K-009 Values—Good \$5,000 Fine \$16,000

Pistol with Stock:

5K-010 Values—Good \$8,500 Fine \$22,500

Lever Action Carbine; 41 caliber, barrel length of 16-1/2" utilizing left-over barrels from Navy Pistol. Long and smooth varnished walnut, buttstocks, with crescent type brass buttplate. VOLCANIC markings as noted above:

16-1/2" barrel:

5K-011 Values—Good \$7,000 Fine \$17,500

21" barrel made only by New Haven Arms Co. (q.v.)

5K-012

25" barrel made only by New Haven Arms Co. (q.v.) 5K-013

EXHIBIT

17



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A Brief History of .22 Rimfire Ammunition

By Chuck Hawks

The rimfire principle was used to create the first successful self-contained metallic ammunition. Rimfire cases are constructed with the priming compound spun inside the rim of the copper or brass case, which is crushed by the blow of the firing pin to ignite the main powder charge.

The first rimfire cartridges were .22s, but after the type became established many larger caliber rimfire cartridges were developed in the mid to late 19th Century. Some of these had a good run of popularity until they were superseded by the development of higher pressure centerfire ammunition.

Calibers ranged from the .25 Short to the .58 Miller. Probably the best known of the larger caliber rimfires are the .25 Stevens, .32 Long, and .44 Henry Flat. The latter was the cartridge for which the seminal Henry and Winchester 1866 "Yellow Boy" lever action rifles were chambered.

Guns and ammunition for the last of the larger caliber rimfires was discontinued in the U.S. in the late 1930's and early 1940's. According to *Cartridges of the World* by Frank C. Barnes/Edited by M.L. McPherson, for which I am indebted for much of the historical information in this article, Navy Arms commissioned a run of .32 Long ammunition from a Brazilian manufacturer in 1990.

In addition to the larger caliber rimfire cartridges of the past, in recent times sub-caliber rimfire cartridges have been introduced. Among these are the 5mm Remington Magnum, .17 Mach 2, and the very successful .17 HMR. However, the focus of this article is .22 caliber rimfire cartridges.

All .22 rimfires (except the WRF and WMR) are ancient black powder designs, and use tapered heel bullets. If you examine a .22 S, L, or LR cartridge, you will see that the case and bullet are the same diameter. The part of the bullet inside of the case (the heel) is reduced in diameter to allow it to fit inside of the case. Such bullets are also called "outside lubricated," because they are ordinarily waxed or copper plated. In all other modern cartridges, the bullet shank is of constant diameter and the case is slightly larger than the bullet to allow the heel of the latter to fit inside. This old fashioned term for this design is "inside lubricated," as the lubrication grooves of lead bullets are inside of the case.

The BB Cap was the first type of rimfire ammunition. BB stands for "bullet breech." It was invented in France around 1845, designed for the Flobert indoor target rifle. BB Caps were designed for shooting gallery use and are seldom encountered these days, as shooting galleries are now considered politically

incorrect by socialists, tort lawyers, girly men, and liberal politicians.

The BB Cap fires a round lead projectile (ball) powered only by the priming compound in the rim of the case, which is very short as no powder is used. The case is just there to hold the priming compound and bullet together.

BB Caps were made in Europe and America until fairly recently. The last I saw were made in Germany by RWS who, I believe, still loads them today.

The successor to the BB Cap was the CB Cap. "CB" stands for "Conical Bullet." The CB cap uses a 29 grain round nose lead bullet and a tiny pinch of powder. This is also shooting gallery ammunition. CCI produces modern CB Cap loads in .22 Short and .22 Long cases (firearms chambered for the Long Rifle cartridge being far more common today) for gallery and indoor practice use. The MV of either is 710 fps.

The common .22 Short cartridge dates from 1857. It is the oldest cartridge still being loaded today. It was the first American metallic cartridge, introduced in for the first S&W revolver, a pocket pistol developed for personal protection. It was popular during the American Civil War, carried as personal weapons by soldiers on both sides.

The .22 Short is a development of the BB cap using a 29 grain round nose (RN) bullet in a lengthened case (compared to the BB Cap). It was originally powered by 4 grains of fine black powder (about FFFFg). After the advent of smokeless powder, the .22 short was adapted to the new, cleaner burning propellant. Although no longer extremely popular, it is still used all over the world and in the Olympic games for the rapid fire pistol event. Modern .22 Short High Velocity ammunition is loaded to a MV of approximately 1095 fps and ME of 77 ft. lbs. from a rifle barrel (Remington figures).

The .22 Short is a pretty anemic round, and in 1871 a longer case of the same diameter was developed for the 29 grain Short bullet. This became the .22 Long cartridge, still occasionally seen (but obsolescent) today. The .22 Long was once chambered in a large number of pistols and rifles. It was originally loaded with 5.0 grains of very fine black powder and offered about 100+ fps greater velocity than the .22 Short. The Long survived the change to smokeless powder and is still occasionally seen today. CCI loads their .22 Long High Velocity ammo to a MV of 1215 fps and ME of 95 ft. lbs.

Around 1880 the .22 Extra Long cartridge appeared, powered by 6.0 grains of black powder. It fired a 40 grain tapered heel bullet (the same as the later .22 Long Rifle) at a MV similar to the Long Rifle, but used a longer case than the .22 LR. This cartridge was available in a number of rifles in the late 19th Century. .22 Extra Long ammunition was finally discontinued around 1935.

In 1887 the Stevens Arms Co. developed the ultimate in .22 rimfire cartridges, the .22 Long Rifle. This used the .22 Long case with a 40 grain RN bullet loaded to higher velocity than the 29 grain Long bullet. It shot flatter and hit harder than any of the previous .22 rimfires except the .22 Extra Long, whose performance it essentially duplicated in a shorter case, and it was more accurate than that cartridge.

The .22 Long Rifle caught on, was adapted to both rifles and pistols, and became

the most popular sporting and target shooting cartridge in the world. After the advent of smokeless powder a High Velocity version of the .22 LR was introduced, which further extended the .22 LR's superiority as a small game hunting cartridge.

Modern .22 LR target ammunition is loaded to a MV of about 1085 fps with a 40 grain RN bullet. .22 Long Rifle High Velocity cartridges drive a 40 grain copper-plated bullet at a MV of 1255 fps and ME of 140 ft. lbs. from a rifle barrel. For small game hunters, most manufacturers offer a 36-37 grain copper-plated lead hollow point bullet at about 1280 fps (Remington figures). This load expands nicely and makes for quick kills on small game, given proper bullet placement.

Because of its popularity there are many permutations of the .22 LR cartridge. One of the more useless is the .22 LR shot cartridge, which fires a pinch of very fine #12 shot. This load is used, among other things, to collect very small creatures, mice and the like, for museum displays. This is not a hunting load, as it is ineffective for use even on very small birds beyond about 10 feet.

Far more useful are the Hyper Velocity .22 LR loads pioneered by CCI in the form of the Stinger. These use lightweight hollow point bullets at increased velocity for flatter trajectory and dramatic expansion. Remington followed suit with their famous Yellow Jacket load, and the idea was subsequently picked-up by most other manufacturers. The CCI Stinger drives a 32 grain GLHP bullet at a MV of 1640 fps with 191 ft. lbs. of ME.

In 1890 the .22 Winchester Rim Fire (WRF) was introduced. This cartridge is loaded with a 45 grain, flat point, inside lubricated bullet with a full diameter heel, rather than the tapered heel bullet of the .22 LR. The .22 WRF fires a .224" diameter bullet, just like modern centerfire .22s and the later .22 Magnum (WMR). At one time a 40 grain HP bullet was also available, but it has since fallen by the wayside.

Remington called this cartridge the .22 Remington Special, and loaded it with a 45 grain RN bullet. The .22 Rem. Spec. and .22 WRF are the same cartridge and are interchangeable.

The .22 WRF is a good small game cartridge, superior to the .22 LR. CCI loads the ammunition, and Winchester does an occasional run of .22 WRF. Modern CCI ammo is loaded to a MV of 1300 fps and ME of 169 ft. lbs.

Today the .22 WRF is kept alive primarily as a less destructive small game load for rifles chambered for the .22 WMR cartridge. The .22 Magnum is a lengthened version of the .22 WRF and will chamber in firearms designed for the .22 WMR, much as .38 Special ammunition may be fired from .357 Magnum guns, although it will not function correctly in autoloaders.

In the early 20th Century a pair of cartridges about the same size and offering about the same ballistics as the .22 LR were introduced. These were designed for use in autoloading rifles, used smokeless powder and inside lubricated bullets, and in that respect are a more modern design than the .22 LR. However, as soon as the established .22 LR was universally converted to smokeless powder, the .22 Auto cartridges became superfluous.

The .22 Winchester Automatic cartridge was designed for their Model 1903

autoloading rifle (discontinued in 1932). Ammo was produced into the 1970's. Remington's .22 Automatic appeared in their Model 16 autoloader. That rifle was discontinued in 1928, and the ammunition was not loaded after the Second World War. Although similar, these two cartridges differ dimensionally and are *not* interchangeable.

Jump to 1959, the year Winchester introduced their very successful .22 Winchester Magnum Rimfire (WMR). This cartridge pushes the limits of pressure possible with a rimfire case given the limits of contemporary metallurgy. The .22 Magnum was initially offered with 40 grain FMJ and JHP bullets at an advertised MV of 2000 fps from a rifle barrel and 1550 fps from a pistol barrel. Due to its high velocity, .22 WMR cartridges are loaded with jacketed bullets.

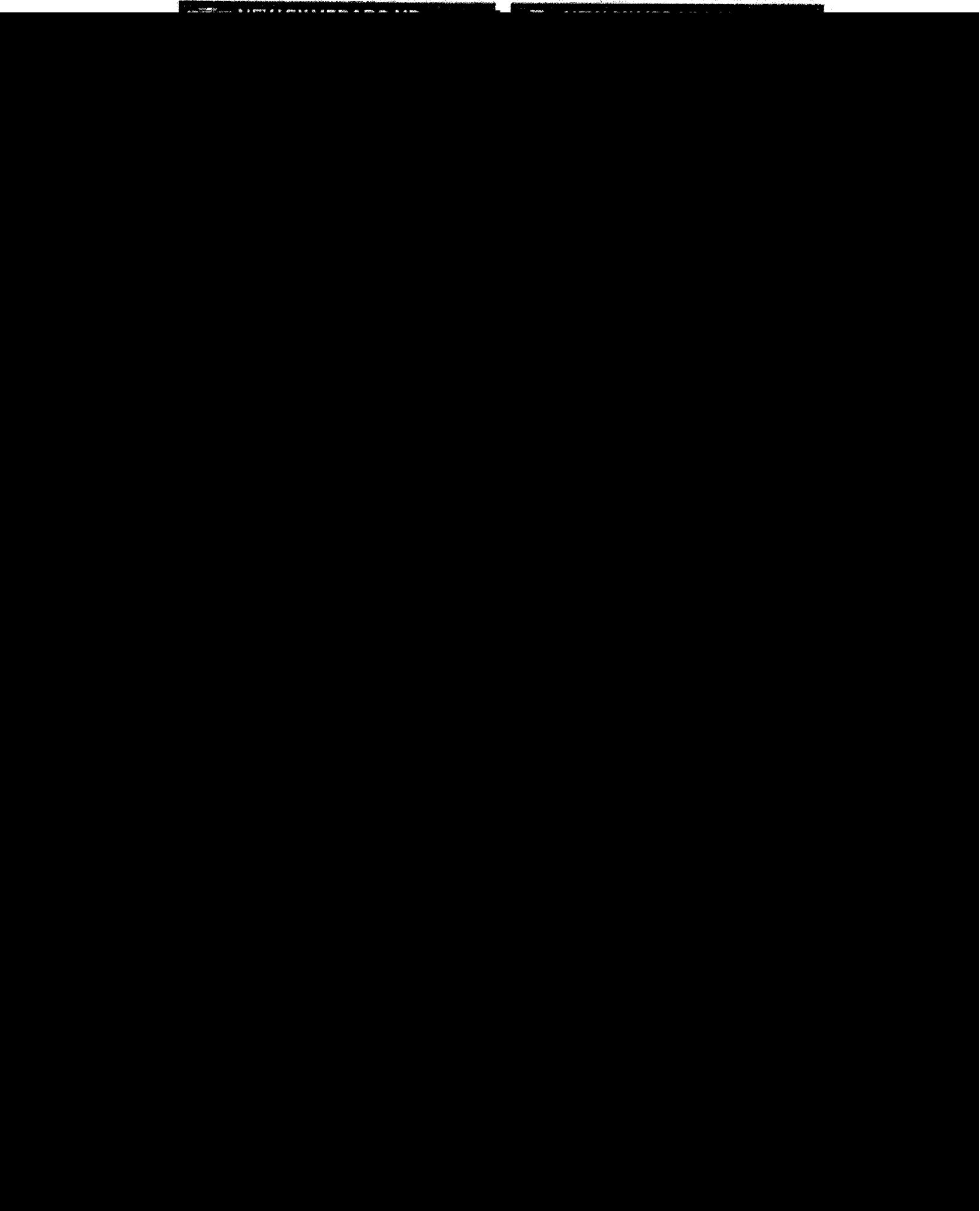
The .22 WMR is based on a lengthened version of the .22 WRF case, like that cartridge uses standard diameter .224" inside lubricated bullets, and remains to this day the most powerful .22 rimfire cartridge ever. It has been adapted to many types and brands of firearms, and .22 WMR ammunition is loaded by all of the major rimfire ammunition manufacturers and is very widely distributed.

As good as the .22 WMR is as a rifle cartridge, I feel that it is even better as a revolver cartridge. It offers velocity and trajectory similar to the centerfire magnum pistol cartridges at a fraction of the recoil and cost. Convertible revolvers, supplied with both .22 LR and .22 WMR cylinders, are the ultimate in versatility for plinking, small game hunting, and varmint shooting.

Today the .22 WMR is available with bullet weights ranging from about 30 to 50 grains, and CCI loads a shot shell version. The standard Winchester 40 grain JHP bullet is now loaded to a rifle MV of 1910 fps with ME of 324 ft. lbs. The various 30-40 grain JHP bullets are best for varmint hunting, but are overly destructive on small game intended for the dinner table. A better choice in that case are the heavier 45-50 grain bullets intended for small game hunting, or the use of .22 WRF ammo when possible.

The .22 WMR is the newest, commercially successful, .22 rimfire cartridge (so far). With .22 rimfire cartridges now available from the BB Cap to the WMR, the field seems pretty well covered. Recent rimfire development has concentrated on lighter, smaller caliber bullets that can achieve higher velocity within the existing pressure limits. The .17 HMR, based on a necked-down .22 Magnum case, is the best example.

Rimfire cartridge design is limited by the fact that the brass case rim must be weak enough to be crushed by the blow of the firing pin. This severely limits the permissible maximum pressure and thus the performance of the cartridge. I suspect that the advent of more potent .22 rimfire cartridges will depend on the future development of more advanced case materials.



EXHIBIT

18

TIGER TAMER: A 12-BORE HOWDAH DOUBLE

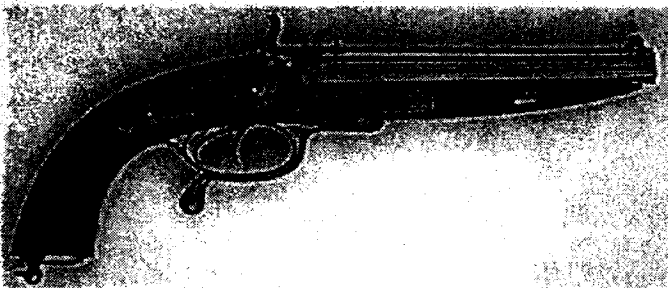
from the collection of

Tony Orr

From very early historical times Indian royalty enjoyed the sport of hunting, or shikar as it was known, especially the pursuit of dangerous game such as tiger, bison and bear from a howdah on the back of specially trained elephants. Regal hunts were by all accounts gala affairs, with an extensive entourage of palace staff, high-ranking officials, tentage and furniture, opulent table fare, and of course shikaris, elephants and their mahouts. The practice appears to have reached almost fever pitch during the British Raj, with the influx of military and civil service personnel from England bringing with it the British *penchant* for field sports. The advantages of hunting tiger from an elephant were quickly realised by senior civil servants and high-ranking military officers alike, especially the added security of an elevated position in the event of a charge from wounded dangerous game.



By all accounts this lofty sanction was far from secure and a range of emergency weapons has been carried in the howdah to be pressed into service in the not-unlikely event (apparently!) of a tiger attempting to leap onto the elephant to attack the hunters. No doubt swords and short jobbing-spears served this purpose well enough in the very early days however large-bore single-barrel or



side-by-side double-barrelled pistols had taken over as outright favourites by the mid-1800s. Ranging from percussion dragoon-pistols or side-by-side muzzle-loaders early on, to break-open breech-loading handguns usually built on a rotary or snap-action under-lever design, these specialised heavy side-arms

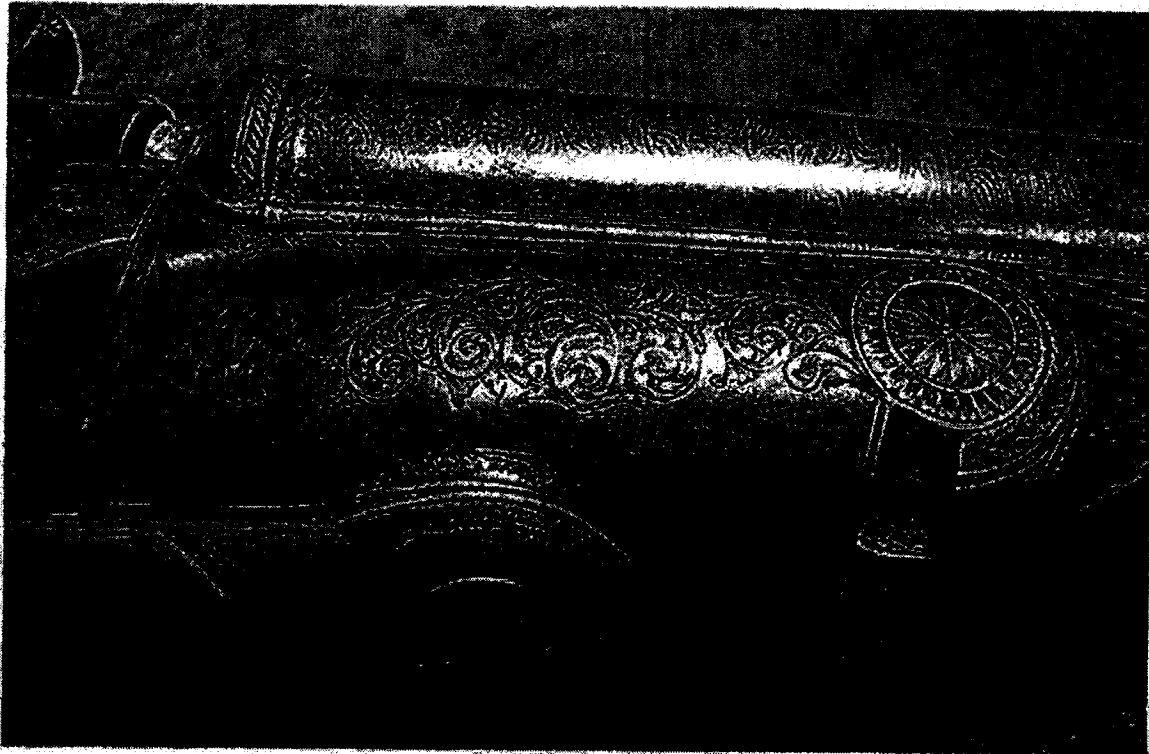
were usually sheathed on or

in the howdah within easy reach of the occupant, or holstered on the hunter's person for instant accessibility in the gravest extreme!



Street foundry in 1821 where the company continued to trade for over 100 years! Like the rib and locks of this gun, trade labels from the second half of the 19th Century read "W & J Kavanagh", however the Dublin City Directory of 1850 listed only William Kavanagh as a gun-maker and no-one by the name of J. Kavanagh was listed in the trade. We can surmise that he joined the firm some time after 1850, a younger brother perhaps? Later guns made around the turn of the century were marked "Wm Kavanagh & Son", implicating the next generation of this famous gun-making dynasty.

The Kavanagh firm hung its shingle alongside other well-known Dublin gun-makers, the most notable being William & John Rigby of Suffolk Street, and William Trulock of several addresses in the Dublin gun-making quarter including Dame Street. The well-respected London maker, Stephen Grant, apprenticed to William Kavanagh in his youth.

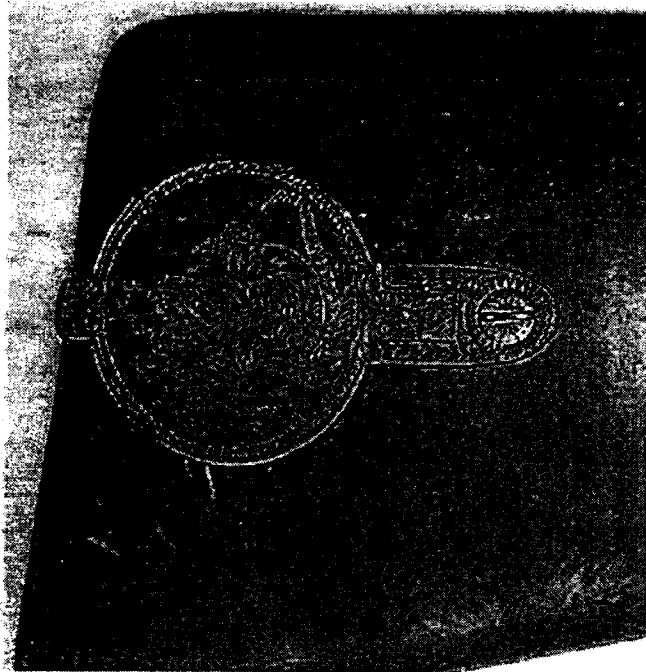


The rifle before us is an early side-by-side double-barrelled hammer gun built on the Jones-patent rotary under-lever action. While this might suggest a date of manufacture some time after 1859, a number of other features of this remarkable vintage firearm speak to us of a far more interesting origin! Neatly-executed and barely-visible metal patches dove-tailed into the tops of the chambers indicate that the gun was converted to central-fire from the earlier pin-fire ignition system. The relatively thin chamber walls and the shallow fences provide further evidence that the firearm is a

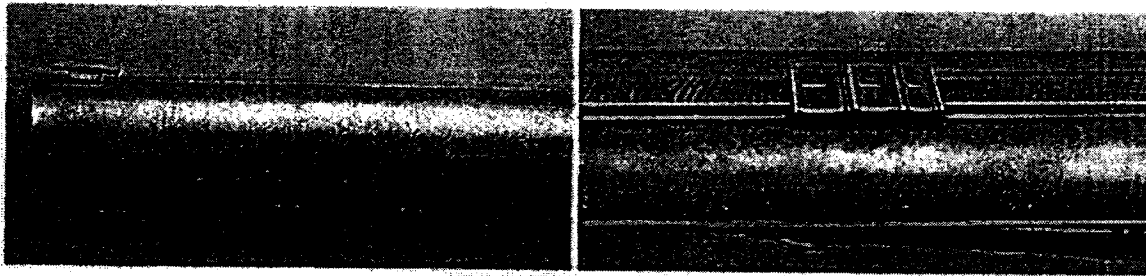
conversion. The pin-fire system lasted only 15 years or so from its appearance in 1847 till the widespread acceptance of Daw's central-fire patent by 1862. Conversion from pin-fire to central-fire was common as the benefits of

the new system were quickly realised.

A prominent patch-box adorns the right hand side of the butt-stock, suggesting that the stock, and therefore probably the locks and possibly even the barrels, may have been salvaged from a percussion side-by-side muzzle-loader prior to the pin-fire conversion! The patch-box is of the correct diameter for 12-bore spherical ball patches, and is engraved with a tiger prowling among palm trees although the style is markedly different from the bold scroll engraving on the remainder of the gun.

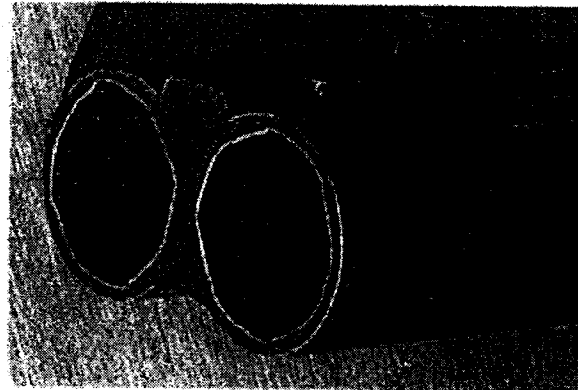


The short barrels measure just under 22 inches, with their wide 4-groove rifling making almost half a turn in that length for perhaps a 1:48 twist rate. The rifling lands are a little steeper on the leading edge and slightly rounded on the trailing edge, giving the impression of an intriguing 'ratchet' effect. The top rib is equipped with three folding leaves ambitiously marked for 100, 200 and 300 yards, with a moderate front bead measuring 80 thou in diameter. The absence of a standing leaf would have proven very handy for point-blank personal defence when the tiger was in dangerously close proximity to the hunter! This firearm is obviously intended to be pointed at the adversary at times, rather than aimed, and perhaps even 'prodded' at the point of discharge in dire circumstances!

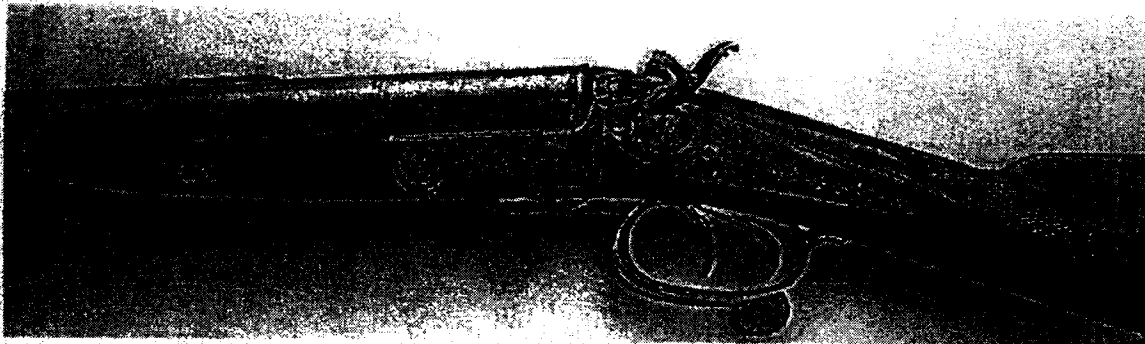


Information on the early 12-bore ball cartridge for which this double-gun was probably intended is rather sketchy in the historical literature. According to W.W. Greener's tome, the most likely charge of the pin-fire cartridge used in these barrels prior to the conversion was $2\frac{3}{4}$ to 3 drams, so I think we can safely regard this double as a 3-dram gun.

Could this particular rifle have been intended for more general hunting than from a howdah? Most historical writings from Baker to Burrard would tend to indicate otherwise. Even at the beginning of the breech-loading era, the 3 dram charge and spherical ball was not considered particularly adequate for jungle



shikar, and was probably rather light even as the primary arm in a howdah. As well as tiger and bear, buffalo and gaur were common quarry, and a rhinoceros or wild bull elephant in 'must' could not be ruled out.



For such game, heavy bore-guns from the 5-dram No.12 up to the 10-dram No.8 were *sine qua non* during the mid to late 1800s. Double express rifles from .450 to .577 would soon become popular as bore-guns gradually faded from the scene, and although the 'Paradox' or 'Jungle Guns' were to enjoy brief popularity around the turn of the century, the various cordite express rifles would eclipse them all by the beginning of the Kaiser's War.

Like the better-known howdah pistols, however, this stumpy 12-bore 3-dram rifle would have possessed all the short-range power required to dislodge an angry tiger from the elephant's head, at distances measured in feet and sometimes barely inches! Sadly, the attempts of modern man to distance himself from the soil have relegated many marvellous

artefacts like this howdah rifle to insipid curiosity, and as a result the majority are now lost. For the avid hunter/collector, however, merely shouldering this surviving example conjures up the sights, smells, and excitement of shikar in that distant land so long ago!

Sources

“Wild Beasts and Their Ways” by Sir Samuel Baker. MacMillan & Co, 1890.

“Notes on Sporting Rifles” by Sir Gerald Burrard. 3rd Edition, 1932.

“The Gun and Its Development” by W.W.Greener 9th Edition, 1910.

“Gunmakers' Row, Dame Street and Environs, Dublin” by David Stroud pp 43 –45 in
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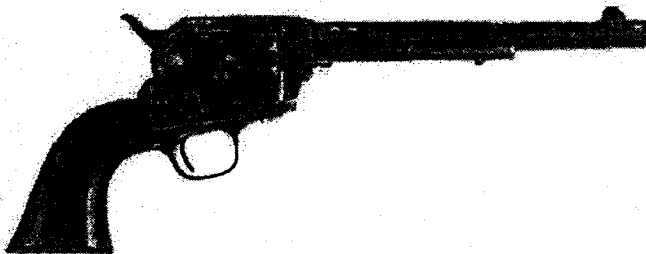
<http://www.dublin1850.com/dublin1850/xdubbir44.html#Kavanagh>

EXHIBIT

19

model and the 44/40 caliber with the etched barrel panel. Other fake single action rarities will undoubtedly show up, too. Close scrutiny is mandatory when acquiring these types; bills-of-sale from the seller with guarantees of authenticity should be obtained.

Classification of these famous Colt single actions, and the identification of their myriad of variants is so extensive that there are currently 15 books specifically dealing with the subject. Quite a few of those works are of major significance to understanding them (see *Bibliography* this chapter).



BASIC VARIATIONS AND THEIR VALUES:

Early production revolvers, 45 caliber, 7-1/2" barrel, with so-called "pinched frame" (constriction in the topstrap to form the rear sight), and slanted barrel address (serial range about 1 to 100):

5B-136 Values—Good \$20,000 Fine \$70,000

Early Martially Marked Model, 7-1/2" barrel with slanted address markings (most of the first 24,000 pistols produced), in 45 caliber, with U.S. markings and inspector stampings:

5B-137 Values—Good \$4,000 Fine \$25,000

Standard models above the serial range 24000 to end of production; common calibers, e.g., 45, 44-40, 38-40, 32-20, etc. Longer barrel lengths and largest calibers in greater demand and tend to bring higher values. Those made for smokeless powder (after c. 1898) to end of production tend to bring lesser values than indicated:

5B-138 Values—Good \$1,200 Fine \$4,000 Exc. \$7,500

Rare calibers: This model was made in a great many calibers of which quite a few are considered either scarce or rare. These calibers, along with quantities manufactured of each, may be found listed in many of the major Colt reference works and should be consulted to determine relative rarity. Depending on the quantity produced of each specific caliber (and, of course, condition) prices of this model can increase from 50 percent to 500 percent.

Civilian arms with the early slanted barrel address, 45 caliber, 7-1/2" barrels (no U.S. government markings):

5B-139 Values—Good \$1,750 Fine \$6,500

U.S. martially marked revolvers with conventional barrel address, 7-1/2", 45 caliber, government inspector markings:

5B-140 Values—Good \$2,750 Fine \$8,500

Springfield Armory and Colt factory refinished U.S. martially marked revolvers with 5-1/2" barrels; so called ARTILLERY MODEL. Three variations: TYPE I all mixed serial numbers;

TYPE II barrel number mismatched, other numbers match, worth small premium; TYPE III all matching numbers, very scarce, worth premium:

5B-141 Values—Good \$1,200 Fine \$4,500

Made for British Market with Pall Mall London address markings:

5B-142 Values—Good \$1,200 Fine \$4,000

44 rimfire series, individual serial range of from 1 to about 1800, 44 Henry caliber, made c. 1875-80, majority with 7-1/2" barrels:

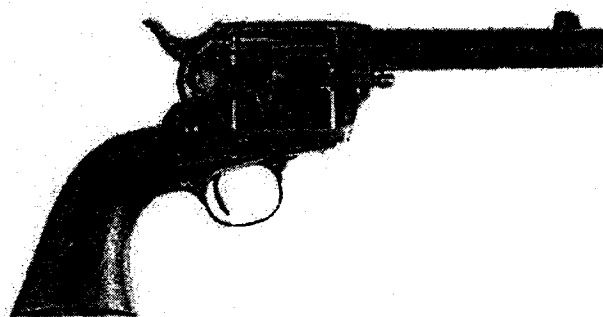
5B-143 Values—Good \$3,750 Fine \$20,000

22 rimfire series, 7-1/2" barrel. Total 107 made (flat-top model not included); 90 of these utilized frames and some parts of the 44 r.f. series (q.v.) with serial numbers in the 44 r.f. special range 1 - 1800; others fall mostly in serial range 135000. 22 CAL marked on side of trigger guard:

5B-143.2 Values—Good \$4,000 Fine \$17,500

44-40 revolvers with etched COLT FRONTIER SIX SHOOTER barrel marking (left side); within serial range about 21000 to about 130000:

5B-144 Values—Good \$1,400 Fine \$7,500



Sheriff's or Storekeeper's Model. Made without ejector rod or ejector housing. Right forward side of frame made without provision for the ejector housing. 4" barrel most commonly encountered with majority of other barrel lengths from 2-1/2" to 4-3/4" and a small group with 7-1/2". Various calibers:

5B-145 Values—Good \$4,500 Fine \$20,000

Wells Fargo & Company revolvers, bearing the W.F. & Co. markings on the butt, and documented by Colt factory ledgers, 45 caliber, usually 5-1/2" barrels:

5B-146 Values—Very Good \$4,000 Exc. \$8,500

Long fluted cylinder model, made in the serial range 330001 - 331480, to use up double action cylinders:

5B-147 Values—Very Good \$2,000 Exc. \$5,500

(Note: Among the important details affecting collector valuations are calibers, barrel lengths, special markings, variations in sights, frames, ejector rods, hammers, cylinder pin locking devices and grips. The number of variants catalogued by collectors is very extensive. Fortunately the Colt factory ledgers are nearly complete for this model. The collector should perform careful and thorough research on rare and/or high value pieces prior to acquisition.)

Colt Flattop Target Model Single Action Army

Flattop Target Model Single Action Army. Made c. 1888 to about 1896; a few in later years; total quantity approximately 925.

Values shown are for following calibers and quantities known made of each: 22 RF (107); 38 Colt (122); 41 (91); 45 (100); 450 Boxer (89); 450 Eley (84).

Premiums usually added to rarer calibers: 32 Colt (24); 32 S&W (30); 32-44 (9); 32-20 (30); 38 S&W (39); 38 Colt Special (7); 38-44 (11); 380 Eley (3); 38-40 (19); 44 Russian (51); 44 S&W (51); 44 S&W Special (51); 44-40 (21); 455 Eley (37); 476 Eley (2).

7-1/2" barrel standard. Variants known, most prominent being the mis-named "Buntline Specials."

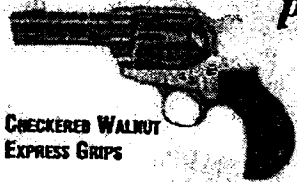
Grips of checkered hard rubber; checkered walnut also available. Metal parts blued, with casehardened hammers.

Serial number markings within the range of about 127000 - 162000, with a few in higher ranges; numbered in the sequence of the Single Action Army. Barrel marking: COLT'S PT. F.A.MFG. CO HARTFORD, CT.U.S.A. Frame markings of 2-line 1871, 1872, and 1875 patent dates and the rampant colt were standard. Caliber markings on left side of the barrel for most of the production.

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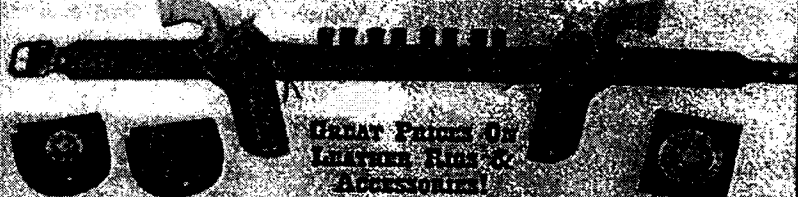
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Colt Single Action Army Revolver

Single Action Army Revolver. A legendary American gun. Contracted and issued in large quantities by the U.S. Army during the Indian Wars; widely carried in the "golden days of the old west" by the most illustrious of lawmen and most notorious of outlaws. A.k.a. "Peacemaker", "Frontier Six-Shooter", "Equalizer", "Hog-leg", "Thumb-buster" and more recently "First Generation" for pre-World War II production 1872-1940 (included here); popularly known as merely the "Single Action" among collectors. "Second Generation" (1956-1978) and "Third Generation" (1978-present) types are easily recognized by large letters "SA" after serials or letter-number combinations on commemoratives and custom guns. (Post-WWII types not covered.) Total quantity, including Flattop Target model and Bisley Model (both numbered in same range) 357,859 of which 310,386 were this standard model. (Those under No. 182,000 (approx.) made prior to Dec. 31, 1898.)

Most popular calibers for collectors are 45 (150,683 made); 44-40 (64,489 made). Other popular calibers: 41 (16,402 made); 38-40 (38,240); 32-20 (29,812 made).

Other scarce and rare calibers with respective quantities follow. Values and premiums are usually in direct relation to quantity produced: (except where noted all are centerfire) 22 RF (107); 32 RF (1); 32 Colt (192); 32 S&W (32); 32-44 (2); 38 Colt (1,011); 38 Colt (up to 1914 1,011); 38 Colt (after 1922 1,365); 38 S&W (9); 38 Colt Special (820); 38 S&W Special (25); 38-44 (2); 357 Magnum (525); 380 Eley (1); 44 Smoothbore (15); 44 RF (1,863); 44 German (59); 44 Russian (154); 44 S&W (24); 44 S&W Special (506); 45 Smoothbore (4); 45 Auto (44); 450 Boxer (729); 450 Eley (2,697); 455 Eley (1,150); 476 Eley (161).

Barrel lengths were standard in 4-3/4", 5-1/2", and 7-1/2". Lengths listed in the Colt serial ledgers run from 2-1/2" on up to 16". Ejector rod standard, mounted on the right side of the barrel.

Long barreled Colts with attachable, skeleton-type Colt made shoulder stocks are commonly called "Buntline Specials" after the legendary Dime Novel author Ned Buntline. He allegedly had five made for presentation to Dodge City lawmen, a story debunked by critical arms and Western students. Some special order Single Actions with varying long length barrels were made and attachable shoulder stocks could be separately purchased from Colt for them (or any Single Action). All are considered rare. Though these types have acquired the nickname of "Buntline Special," the so-called "true" Buntline is a special flat top single action in the serial range of 28800 through 28830, with folding leaf rear sight and barrel length varying from 10" to 16". Considered an extreme rarity. All of those long barreled models with stocks fetch values far in excess of those shown here but each must be valued on its own individual merit and unique features.

Grip types vary, beginning with walnut (either oil stained or varnished), and changing to eagle and shield pattern hard rubber at the serial range about 75000. At the range about 165000 these were succeeded by rampant colt hard rubber without the eagle and shield design. A variety of special grips were available, particularly in ivory and pearl, sometimes carved; quantities, however, were relatively limited.

Finish was standard blued, the frame and hammer casehardened. Nickel plating was fairly common. Silver, gold, and other finishes could be ordered, but are scarce.

Serial numbering began with 1 and continued through 357859. The only exception to the sequence was the special 44 Rimfire Model, which is considered individually below. Barrel address markings went through two standard types:

+COLT'S PT. F.A. MFG. Co. HARTFORD, CT. U.S.A.+ (serial range 1 to approximately 24000). Slanted, italic markings.

COLT'S PT. F.A. MFG. Co. HARTFORD, CT. U.S.A. (serial range 24000 to end of production; in single line on barrels of 5-1/2" and longer).

Patent date markings were on the left sides of the frames. The sequence was as follows: Two line marking of 1871 and 1872 dates (beginning of production through about 34000). Three line marking of 1871, 1872, and 1875 dates (34000—about 135000). Two line marking of 1871, 1872, and 1875 dates (135000 to end of production). A rampant colt trademark was stamped next to the patent dates, beginning at about the 130000 range, and continued in slightly varying formats through the end of manufacture.

The stamping of serial numbers on cylinders ceased about 120000; no serial appeared on that part thereafter. Around 144000 Colt introduced the transverse, spring-loaded catch for the cylinder pin (located on the front of the frame just below barrel) to replace the cylinder pin retaining screw. Generally believed to be the demarcation of the use of black powder loads for smokeless, high pressure loads, it should be specifically noted that such is not the case! By 180000 (October, 1898) Colt warned against the use of smokeless powder and continued to do so until early 1900 (approx. 192000) when they first stated their smokeless guarantee.

Most caliber markings appeared on the left side of the barrel; excepting the early production (up through about the 130000 serial range), where marks were usually on the trigger guard area.

The variety of other marks classified is extensive, and includes government inspector and proof stampings, Colt factory inspector stamps, serial numbering, various inscriptions (e.g., W.F. & Co.), etc., etc.

Caution: Since 1981 there have appeared on the market a number of extremely clever, well-made, completely spurious Colt single-action FAKES of the martially marked 45 caliber

EXHIBIT

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WHAT IS SASS?

Become a Member Now!

The Single Action Shooting Society is an international organization created to preserve and promote the sport of Cowboy Action Shooting™. SASS endorses regional matches conducted by affiliated clubs, stages END of TRAIL The World Championship of Cowboy Action Shooting, promulgates rules and procedures to ensure safety and consistency in Cowboy Action Shooting matches, and seeks to protect its members' 2nd Amendment rights. SASS members share a common interest in preserving the history of the Old West and competitive shooting.



Experience the Fun, Excitement and Traditions of our Old West History and Lore!

Click here to [learn more about SASS Mounted Shooting](#).

Click here for a [brief history](#).

OLD WEST ALIASES AND COSTUMES

One of the unique aspects of SASS approved Cowboy Action Shooting™ is the requirement placed on costuming. Each participant is required to adopt a shooting alias appropriate to a character or profession of the late 19th century, a Hollywood western star, or an appropriate character from fiction. Their costume is then developed accordingly. Many event participants gain more enjoyment from the costuming aspect of our sport than from the shooting competition, itself. Regardless of a SASS member's individual area of interest, SASS events provide regular opportunities for fellowship and fun with like-minded folks and families.



CHOOSING AN ALIAS

Every SASS member is required to select a shooting alias representative of a character or profession from the Old West or the western film genre. Your alias may not in anyway duplicate or easily be confused with any other member's alias. The following guideline should help you in choosing an alias:

Your alias must be printable before a wide audience. No duplications are permitted. If it sounds the same, it is the

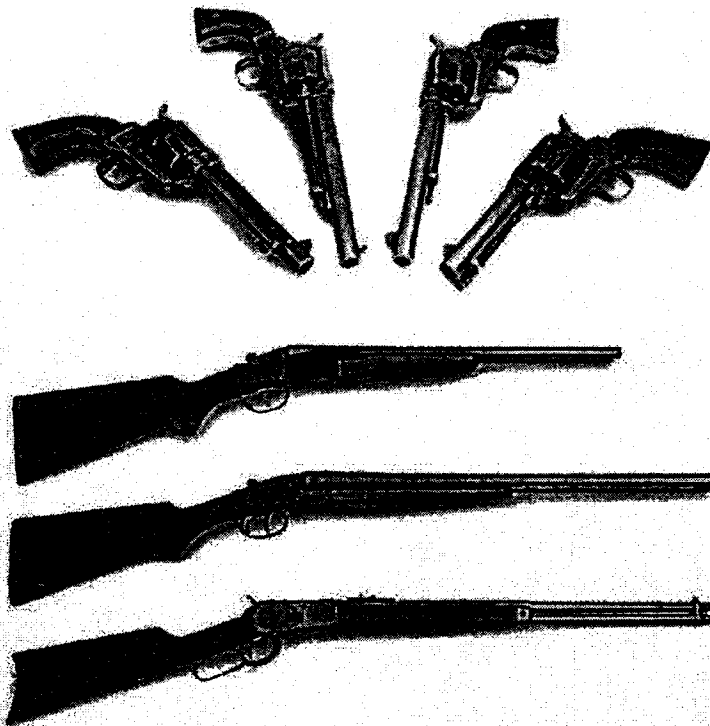


same. Adding "too," "II," etc., is not acceptable. "Ranger" could become "Texas Ranger" but not "The Ranger." "John Henry Chisum" could be modified to "Jack Chisum" but not "John H. Chisum" or "Jon Henry Chisum." Historical names may not be modified to make them different. "Wyatt Earp" and "Marshal Wyatt Earp" are considered the same.

The SASS Alias Registry changes daily. Feel free to search the current alias list then telephone or fax the SASS office to confirm the availability of your alias choice. Be creative and good luck!

OLD WEST FIREARMS

Cowboy Action Shooting is a multi-faceted shooting sport in which contestants compete with firearms typical of those used in the taming of the Old West: single action revolvers, pistol caliber lever action rifles, and old time shotguns. The shooting competition is staged in a unique, characterized, "Old West" style. It is a timed sport in which shooters compete for prestige on a course of different shooting stages.



Each scenario, as they are called, features an array of situations, many based on famous incidents or movies scenes, in which the shooters must test their mettle against steel targets.

SPIRIT OF THE GAME

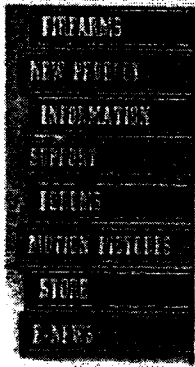
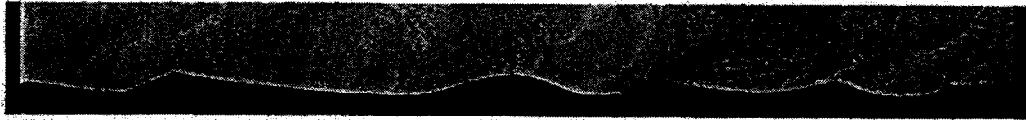
As the game of Cowboy Action Shooting™ has evolved, our members have developed and adopted an attitude towards their participation called "The Spirit of the Game." It is a code by which we live. Competing in "The Spirit of the Game" means you fully participate in what the competition asks. You try your best to dress the part, use the appropriate competition tools, and respect the traditions of the Old West. Some folks would call it nothing more than good sportsmanship. We call it "Spirit of the Game."

Become a Member Now!

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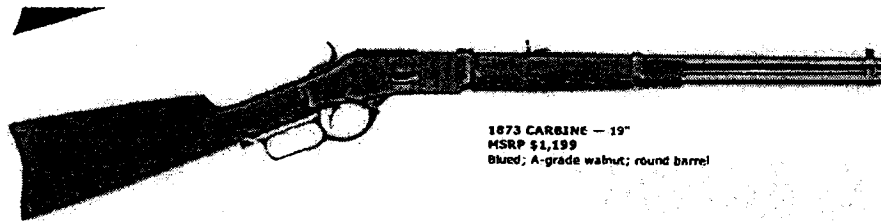
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Winchester's 1873 rifle was the "Rifle that Won the West." It was chambered in a new, more powerful cartridge, the .44-40--a .44 caliber bullet, propelled by 40 grains of black powder.

However, a factor that really insured the success of the 1873



| ITEM NUMBER | MODEL | CALIBER | BARREL LENGTH | MATERIALS | MSRP |
|-------------------------------|------------------------|----------|------------------|--|--------|
| 1873 Rifle and Carbine | | | | | |
| 342430 | Trapper | .45 Colt | 16 1/2" | Blue Steel Frame and Buttplate, Case-Hardened Lever | \$1229 |
| 342435 | Trapper | .357 MAG | 16 1/2" | Blue Steel Frame and Buttplate, Case-Hardened Lever | \$1229 |
| 342440 | Half Octagonal Rifle | .45 Colt | 18" | Case-Hardened Frame Buttplate and Lever | \$1299 |
| 342445 | Half Octagonal Rifle | .357 MAG | 18" | Case-Hardened Frame Buttplate and Lever | \$1299 |
| 341260 | Carbine | .44 MAG | 19" | Blue Steel Frame, Rubber Recoil Pad, Case-Hardened Lever | \$1299 |
| 342700 | Carbine | .357 Mag | 19" | Blue Steel Frame and Buttplate, Case-Hardened Lever | \$1199 |
| 342400 | Carbine | .44/40 | 19" | Blue Steel Frame and Buttplate, Case-Hardened Lever | \$1199 |
| 342800 | Carbine | .45 Colt | 19" | Blue Steel Frame and Buttplate, Case-Hardened Lever | \$1199 |
| 342710 | Short Rifle | .357 Mag | 20" | Case-Hardened Frame, Buttplate, and Lever | \$1249 |
| 342410 | Short Rifle | .44/40 | 20" | Case-Hardened Frame, Buttplate, and Lever | \$1249 |
| 342810 | Short Rifle | .45 Colt | 20" | Case-Hardened Frame, Buttplate, and Lever | \$1249 |
| 342720 | Sporting | .357 Mag | 24 25" | Case-Hardened Frame, Buttplate, and Lever | \$1249 |
| 342420 | Sporting | .44/40 | 24 25" | Case-Hardened Frame, Buttplate, and Lever | \$1249 |
| 342820 | Sporting | .45 Colt | 24 25" | Case-Hardened Frame, Buttplate, and Lever | \$1249 |
| 342138* | Special Sporting Short | .357 Mag | 20" | Case-Hardened Frame, Buttplate, and Lever | \$1379 |
| 342058* | Special Sporting Short | .44/40 | 20" | Case-Hardened Frame, Buttplate, and Lever | \$1379 |
| 342068* | Special Sporting Short | .45 Colt | 20" | Case-Hardened Frame, Buttplate, and Lever | \$1379 |
| 342760* | Special Sporting | .357 Mag | 24 25" | Case-Hardened Frame, Buttplate, and Lever | \$1379 |
| 342750* | Special Sporting | .44/40 | 24 25" | Case-Hardened Frame, Buttplate, and Lever | \$1379 |
| 342770* | Special Sporting | .45 Colt | 24 25" | Case-Hardened Frame, Buttplate, and Lever | \$1379 |

SPECIFICATIONS: Capacity: 13+1 (24.25" barrel) or 10+1 (18", 19" and 20" barrel) or 9+1 (16.125" barrel) **Number of Grooves:** 6 **Twist:** Right **Total Lengths:** 38", 39", and 43.3" **Weights:** 7.4, 7.7, and 8.2 lbs. **Barrel:** Octagonal on rifle; round on carbine **Stock:** A-grade walnut
*Checkered pistol-grip stock and fore-end

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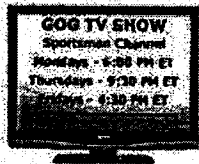
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ITEM DETAIL



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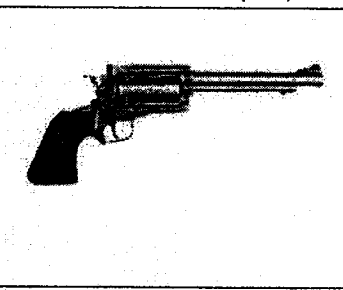
INSTANT QUOTE

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BRAND: Magnum Research
MODEL: BFR
TYPE: Revolver
CALIBER: 45-70
FINISH: Brushed Stainless Steel
ACTION: Single Action
STOCK: Black Rubber Grips
CAPACITY: 5
CHOKES:
CHAMBER:
MUZZLE:

OF MAGS:
SAFETY: Transfer Bar
SIGHTS: Front: Black Rear: Adjustable
BARREL LENGTH: 7.5"
OVERALL LENGTH: 15"
WEIGHT: 64 oz
PACKAGING:
FEATURES: Weaver Style Scope Mount Included
FEATURES:
BUTT PLATE:
RECEIVER: Brushed Stainless Steel, Drilled & Tapped

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Item (1 of 1)

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Trapdoor Springfield Rifle

From imfdb :: guns in movies :: movie guns :: the internet movie firearms database

(Redirected from Springfield 1873 "Trapdoor" Carbine)

- | | | | | |
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Contents

- 1 Specifications
- 2 Film
- 3 Television
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Specifications

Type: Rifle

Caliber: .45-70

Capacity: 1 round

Fire Modes: Single shot

The *Trapdoor Springfield* refers to a series of breech loading rifles developed by Springfield, beginning with the Springfield Model 1868 (chambered in .50-70) up to the Springfield Model 1870 (.45-70) and then the most famous Model 1873, which was adopted by the U.S. Army (chambered in .45-70), and the later Models 1877, 1884 and 1888.

The Model 1873 (full sized or cavalry carbine version) is the most likely variant of the Trapdoor Springfield rifle to appear in movies or television shows.

The Trapdoor Springfield (1873) has been seen in the following:

Film

- Prison guards in *For a Few Dollars More*
- The 10th Cavalry Regiment (Buffalo Soldiers) as well as other infantry regiments in *Rough Riders* (Cavalry Carbine)
- Velken's men in *Van Helsing*
- Sergeant York (1941) (Mocked up Kentucky Rifle)
- Winchester 73 (1950) Cavalry soldiers...including Tony Curtis and James Best.
- *Rio Conchos* (1964) Tony Franciosa uses a Trapdoor Carbine. Vito Scotti...as the Bandit Chief...carries a Trapdoor Rifle across his saddle.

Television

- *Weaponology*

Video Games

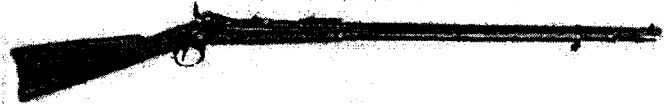
- *Red Dead Redemption*

Retrieved from "http://www.imfdb.org/index.php/Trapdoor_Springfield_Rifle"

Categories: Gun | Rifle | Battle Rifle

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Original Springfield Model 1888 "Trapdoor Springfield" - .45-70



Replica Springfield Model 1873 "Trapdoor Springfield" built by Uberti



Replica Springfield Model 1873 Cavalry Carbine "Trapdoor Springfield" by Uberti Arms - .45-70



Springfield Trapdoor 1879 - .45-70.

EXHIBIT

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SR-22®

10/22®

Carbine

Target

Compact

Sporter

Target Tactical

Distributor Exclusives

Mini-14®

Ranch Rifle

All-Weather® Ranch Rifle

Target Rifle - Laminate

Target Rifle - Hogue

Rifle with ATI Stock

Tactical Rifle

Mini Thirty Rifle

Distributor Exclusives

Shotguns

Centerfire Pistols

Rimfire Pistols

Double-Action
RevolversSingle-Action
Revolvers

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Caliber Search

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CA Approved Handguns

MA Approved &
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All New Models

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OVERVIEW

FIREARMS

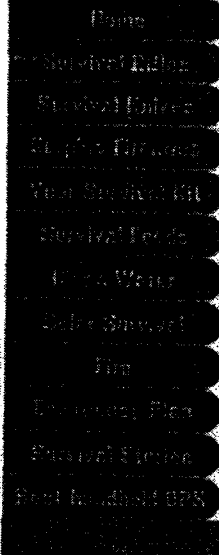
The Benchmark for .22 Rifles – Experience the Tradition. The Ruger® 10/22® rifle is America's favorite .22 LR rifle, with proven performance in a wide range of styles for every rimfire application. Ideally suited for informal target shooting, "plinking," small game hunting and action-shooting events, Ruger has sold millions of 10/22 rifles since their introduction in 1964. With its legendary action and renowned reliable rotary magazine, all 10/22 rifles are sleek, perfectly balanced, rugged and superbly accurate.

With a variety of choices – from the standard 10/22 Carbine, to the tack-driving accuracy of the Target model, the 10/22 is still today's most popular .22 rifle. It looks right, feels right, shoots right and continues to perform under heavy use – inspiring the most fanatical loyalty from its owners. With proven design, legendary reliability and the modern features demanded by today's .22 LR shooters, these firearms are priced right to make keeping tradition affordable.

EXHIBIT

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Survival Gear Guide



Ruger Charger

A new look.



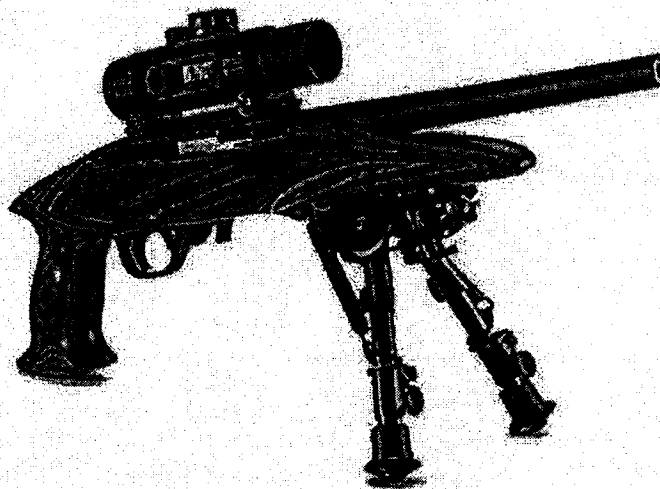
The Ruger Charger is a new offering from Sturm Ruger and appears to have the potential to be a great option to a full size or even folding or collapsable survival rifle. The Charger .22 pistol is almost a hybrid pistol / rifle, built around the 10/22's action. The precision rifled barrel length is just 10" but together with the on-board adjustable bipod, the charger proves to be very accurate. The standard 10-round 10/22 magazine is utilized, and removed easily with and extended release just in front of the trigger guard. At 3.5 lbs and 19 1/4 inches long, it wont require a lot of room in your gear bag. The charger is selling for around \$300, a good deal less than the MSRP. The lack of open sights would probably be the biggest drawback to substituting this weapon for a survival rifle, break your scope, and you may have a problem. Other than that, the charger stands out somewhat in a league of its own.

- ~ 10/22 action.
- ~ Ruger reliability.
- ~ Compact.
- ~ 10 round capacity
- ~ integrated bipod.
- ~ Good Accuracy.

[Ruger Charger Video](#) 

Caliber: .22LR only
 Operation: Semi Auto
 Stock: Wood
 Capacity: 10+1
 Finish: Blued
 MSRP: \$369

Ruger Charger



courtesy Sturm Ruger

EXHIBIT

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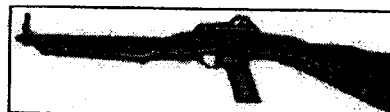
There is no real reason for us to do a "best" list, because each gun is so different. What is awesome is that a 9mm bullet has a muzzle velocity of 1400 to 2000 FPS from a 16" carbine barrel. One thing is for sure; the fun factor is very high!

We didn't list those over \$1000. If we missed any, please let us know.

Hi-Point 995 Carbine: Hagggle Price \$180-\$210

Barrel: 16.5". Weight: 7 lbs., 10 shot magazine. Scope mounts, Sling and swivels, Grip mounted clip release, Quick on-off thumb safety, Operations safety sheet, Free trigger lock, Lifetime warranty, 100% American-made, parts and assembly

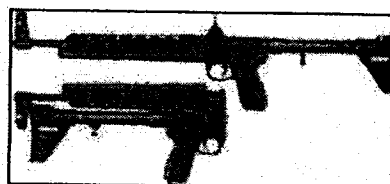
[Hi-Point 995 Carbine page](#) [Get the awesome ATI stock](#)

**Kel-Tec SUB-2000: Hagggle Price \$300-\$330**

Barrel: 16.1". Weight: 4 lbs., Takes Glock, Beretta, Sig, or S&W magazines.

The SUB-2000 has a greatly extended range compared to a handgun. The superior precision is also very useful against small or partially covered targets at shorter range. Rifle can be reduced to a size of 16" x 7" to facilitate secure storage.

[Kel-Tec SUB-2000 site](#)

**Ruger PC9 Carbine: Hagggle Price \$480 and up**

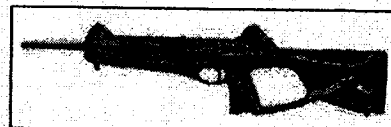
Barrel: 16.25". Weight: 6.375 lbs., 10 shot magazine. Ruger has recently discontinued production of PC9 Carbines, but you can still find them new at many dealers. The PC9 was one of the best and used by hundreds of police departments. It takes the P series pistol magazines.

[Ruger PC9 page](#)

**Beretta CX4 Storm: Hagggle Price \$690-\$720**

Barrel: 16.6". Weight: 5.75 lbs., 15 shot magazine. This is a popular carbine for police use. Form follows function in a symphony of smooth, sweeping curves made possible by the use of modern high strength techno polymers. Berettas use of cutting edge materials also keeps weight down, making the Cx4 a pleasure to carry

[Beretta USA Rifles page](#)

**AR-15 Type Rifles & Carbines: Hagggle Price \$750 and up**

The M16, M4, A3, and AR-15 type rifles are made by about a dozen companies. Normally the 9mm Luger is priced the same as the .223 (5.56mm) centerfire rifle. It may be a better choice to get the .223 as it is twice as powerful, even though 9mm ammo is cheaper. These military type guns are very durable and fun to shoot. Aftermarket accessories galore.

[Bushmaster Colt Website](#) [Olympic Arms](#)

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A rhythmic educational time telling game for ages 7 and up and educators

Daily Motivational**Calico M-900 Liberty I 50: Hagggle Price \$690 and up**

Barrel: 16.0", Weight: 3.7 lbs., 50 shot magazine. Retarded blowback action. Heat treated Chrome Moly barrel. A-356 aluminum receiver. Also check out the Liberty II with 100 round magazine, and the awesome M-950 Liberty III pistol. Can you believe a pistol with a 50 round mag! [Calico Weapons](#)

**Vector Arms UZI Clones: Hagggle Price \$650 and up**

Vector Arms has a huge selection of knockoff UZI carbines and pistols with receivers made in the USA. What is cool is that the Vector product is very high quality at a lower price. There is too much to tell, so it is better to visit the Vector Arms website. [Vector Arms](#)

**Masterpiece Arms MPA30: Hagggle Price \$350 and up**

These machine gun type pistols are available with 3", 6" or 10" barrels. You also have the option of top cocking or side cocker (MPA30ST). In the accessories section of the website it shows the 32 round Sten Magazine. These pistols can be a lot of fun and do get attention at the range! [Masterpiece Arms Site](#)



EXHIBIT

26

**NOW WITH
5-YEAR WARRANTY**

Owner's Manual

Marlin[®]

MODEL 9

CAMP CARBINE

SELF-LOADER

CAL. 9MM LUGER

(ALSO KNOWN AS 9MM PARABELLUM AND 9X19mm)

IMPORTANT

This manual contains operating, care and maintenance instructions. To assure safe operation, any user of this firearm must read this manual carefully. This manual should always accompany this firearm, and be transferred with it upon change of ownership.

The warranty card attached to the cover must be filled out and mailed within 10 days of purchase.

WARNING: KEEP THIS FIREARM OUT OF THE REACH OF CHILDREN

LIMITED WARRANTY

The Marlin Firearms Company FIVE YEAR LIMITED WARRANTY AGAINST DEFECTS IN MATERIAL & WORKMANSHIP

This firearm warranty is good only to the ORIGINAL OWNER who has registered his ownership with the Marlin Firearms Company at: 100 Kenna Drive, North Haven, Connecticut. WARRANTY and CERTIFICATE OF OWNERSHIP card must be completed and mailed to The Marlin Firearms Company at the above address WITHIN TEN (10) DAYS of purchase to insure the protection of the warranty. NOTICE of defect in materials and/or workmanship must be received by the company WITHIN FIVE (5) YEARS from the date of purchase.

Normal wear, or damage resulting from neglect, abuse, alteration, or repairs not made or authorized by The Marlin Firearms Company or use of non-Marlin parts are not covered by the warranty.

THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE.

MARLIN'S PERFORMANCE UNDER THE ABOVE WARRANTY

1. After notice of defect in material and/or workmanship is received by the Marlin Firearms Company, Marlin shall send instructions for shipment of the firearm; and repairs will be made and the firearm returned within a reasonable time after the firearm is received. Cost of shipping, insurance charges, etc. involved in returning the firearm to the company shall be prepaid by the original owner.
2. Cost of parts and labor performed shall be provided without charge by the Marlin Firearms Company.
3. If The Marlin Firearms Company, after receipt of the firearm, determines that the defects in material and/or workmanship were the result of abuse and/or neglect, or otherwise not covered by the warranty set forth above, Marlin shall notify such owner to that effect and give an estimate for repair. In such cases, repair, return, shipping and insurance charges, etc. shall be paid by such owner.
4. In the event that The Marlin Firearms Company is unable to make warranty repairs to the firearm, it shall, within a reasonable time after its receipt, notify the owner to that effect and give him the option either to receive a replacement of the same model, if then available in its inventory, or to receive a refund, either of which, if feasible, will be made through the store of purchase.

The Marlin Firearms Company
100 Kenna Drive, North Haven, CT 06473

Before You Use This Firearm

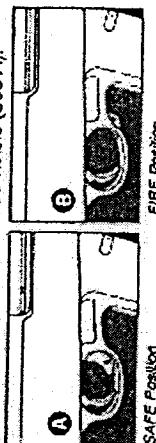
It is very important that you read and understand this manual before using your firearm. Warnings are highlighted in red, and should be read and heeded carefully. Also follow "Marlin's Guide to Gun Safety", in this manual.

- **WARNING:** We specifically disclaim responsibility for any damage or injury occurring with a Marlin firearm in which faulty, non-standard, "remanufactured", or handloaded (reloaded) ammunition is used.
- **WARNING:** Your rifle is shipped completely assembled and should not be used or disassembled without fully reading and understanding the instructions in this Owner's Manual.
- **WARNING:** Do not use ammunition designated "9mm +P+" in this rifle. The pressures generated by these cartridges may cause damage to the gun, or personal injury.
- **WARNING:** Sub-sonic ammunition will fire in this rifle, but may not cycle the action. (This type of "special" ammunition should always be tested by lots in the firearm in which it is to be used.)

How to Operate the Safety

- **WARNING:** Prior to firing, become familiar with the operation of the safety by practicing with the rifle unloaded.

The safety mechanism is a Garand-type steel lever located in the forward section of the trigger guard. To put the rifle on SAFE, pull the lever rearwards as far as it will go. It will protrude into the trigger guard and the letter "S" will be visible (See A).



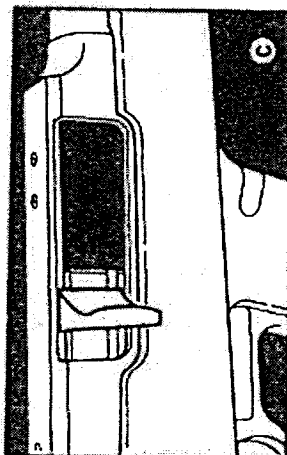
To move the safety to the FIRE position, push it forward as far as it will go. It will protrude in front of the trigger guard, and the letter "F" will be visible (See B).

- **WARNING:** Never disassemble the safety. It has been correctly designed, fitted and tested. Any mechanical device can fail, however, so never rely on the safety to justify careless handling. Never use a gun with a safety that does not function properly. (See instructions for factory maintenance in this manual.)

Other Safety Features

1. Automatic "Last-Shot" Bolt Hold-Open

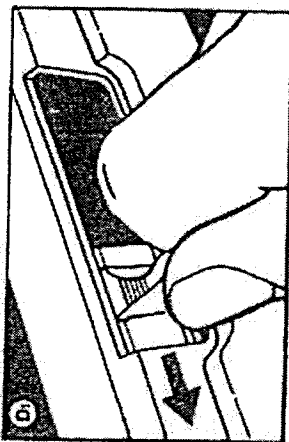
This feature is activated when the magazine is empty and the last shot has been fired, or when the charging handle is pulled back fully with an empty magazine in place (See C). The bolt will not stay open automatically unless an empty magazine is locked in place. To release bolt from automatic hold-open position, remove magazine, pull charging handle to the rear, and release.



2. Manual Bolt Hold-Open Feature

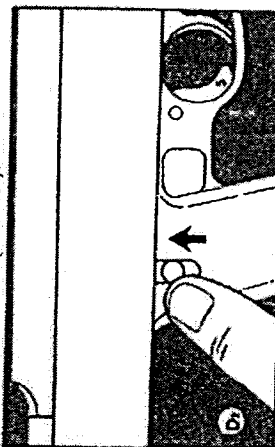
In addition to the automatic "last-shot" bolt hold-open, the manual bolt hold-open device allows

you to lock the bolt in the open position at any time. (It can be used whether or not the magazine is locked in place.)



Pull charging handle all the way back.

First, pull the charging handle all the way back (See D1). Then, while holding the handle back, push the bolt hold-open button (located on the left side of the magazine housing) up as far as it will go (See D2). Bolt is now manually locked open. To close the bolt, push the bolt hold-open button all the way down, pull the charging handle back, and release it (See H&I).



With charging handle held back, push bolt hold-open button up.

If an empty magazine is in the gun, the bolt will not close because of the automatic "last-shot" hold-open feature (See C). If a loaded magazine is in the gun, a cartridge will be chambered when you release the bolt.

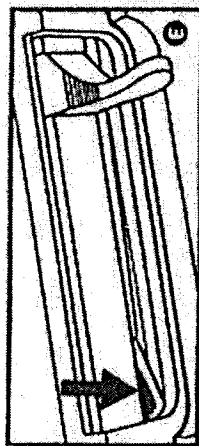
• **WARNING:** When not in use, the safest possible way to handle your rifle is completely unloaded, with the action open, the safety on SAFE, the magazine removed, and pointed in a safe direction.

3. Magazine Disconnect Feature

As an additional safety feature, your rifle will not fire when the magazine has been removed from the gun.

4. Loaded Chamber Indicator

A red indicator protrudes from the rear right side of the bolt when a cartridge is in the chamber. This is an *instant visual warning* that the chamber is loaded (See E).



Loaded Chamber Indicator.

How to Load

• **WARNING:** Before loading your rifle, always check the bore to be sure it is free of grease, oil or any other obstruction.

Depress the magazine release on the left side of the magazine housing (See F), and remove the magazine. Insert cartridges as shown in G.



Releasing the magazine.



Loading the magazine.

With the gun pointed in a safe direction, and the safety on SAFE, insert the loaded magazine fully into its housing, being sure it locks in place.

Cocked and Ready

With the safety on SAFE and loaded magazine locked in place, the rifle in normal shooting position, and pointed in a safe direction, pull the charging handle all the way back and let it snap forward freely (See H&I).



Pull charging handle all the way back. Let it snap forward freely.

Your rifle is now cocked and ready to fire as soon as the safety is moved to the FIRE position.

How to Fire

Push the safety to the FIRE position and, with the gun pointed at the target, squeeze the trigger. Since your rifle is a self-loader, after each shot is fired it is ready to be fired again. If you have not fired all cartridges at the target, be sure to put the safety on SAFE until you are ready to shoot again.

• **WARNING:** Because of its self-loading action, always assume that your rifle is cocked and loaded.

What to do if rifle fails to fire

• **WARNING:** If you have squeezed the trigger and the rifle does not fire, point the gun in a safe direction and, with the safety on, unload completely (See "How to Unload").

What to do after an underpowered shot

• **WARNING:** You can usually tell if a shot is underpowered by the low report it makes. This can result in a bullet being lodged in the bore. An obstructed bore can occur if the cartridge you have fired is damaged or deficient in some way.

Should this happen, to prevent possible injury, or damage to the gun, do not fire again.

You must completely clear the action and chamber, put the safety on "SAFE", and look through the bore. If the bore is obstructed, insert a proper size cleaning rod (without a tip) from the muzzle end, and push the bullet out. If the bullet cannot be dislodged by tapping the rod, it should be removed by Marlin Gun Service.

After removal of the obstruction with a cleaning rod, check the bore for damage.

How to Unload

• **WARNING:** Before you unload, be sure your rifle is on **SAFE** and pointed in a safe direction.

Remove the magazine as shown in F, and empty all cartridges. Next, clear the action by pulling the charging handle all the way back and releasing it. Then replace and lock the magazine back in position. Pull the charging handle all the way back, release it, and it will lock in the automatic "fast-shot" hold-open position. Finally, check the chamber visually to be sure that no cartridges remain.

Sighting

Your rifle has been sighted-in and test-fired at the factory. Due to individual shooting characteristics, however, sighting should be range verified.

1. **Vertical Correction (elevation):** To raise the point of impact, raise the rear sight, by moving the sight elevator rearward. To lower the point of impact, lower the rear sight, by moving the sight elevator forward.

2. **Horizontal Correction (windage):** To move the point of impact to the left, tap the rear sight base to the left. To move the point of impact to the right, tap the rear sight base to the right.

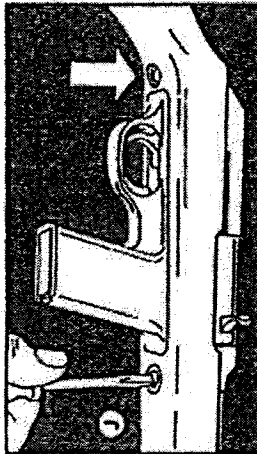
How to Clean your Rifle

• **WARNING:** Never attempt to wipe down or clean a loaded gun. Follow instructions under "How to Unload" before cleaning. Wear safety glasses while cleaning rifle.

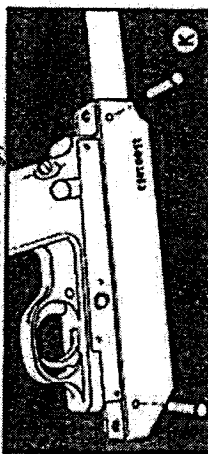
To insure proper functioning of the rifle, you must keep the action and magazine clean.

Disassembly for Cleaning

With the gun empty and the safety on **SAFE**, remove the magazine. Next, close the action as shown in H&I. Turn the gun upside down and loosen the front and rear take-down screws until the stock can be separated from the barreled action. (These screws do not have to be removed from the stock.) (See J).

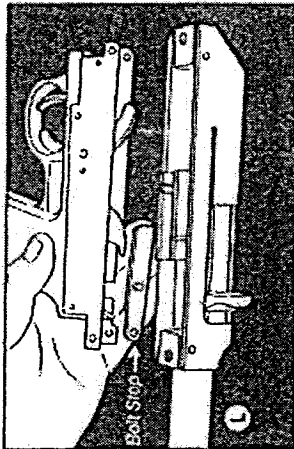


Separate stock and barreled action. Next, with punch or nail, remove front and rear take-down pins. Note: since the front pin has a head on one end, it *must* come out on the side of the receiver which has the serial number (See K). (Also be sure the headed end of this pin is on the serial number side when reassembling.)



Remove take-down pins.

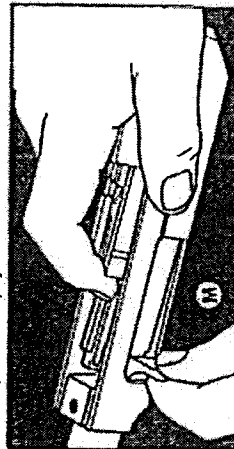
Remove trigger group and bolt stop (which will fall free) from receiver (See L).



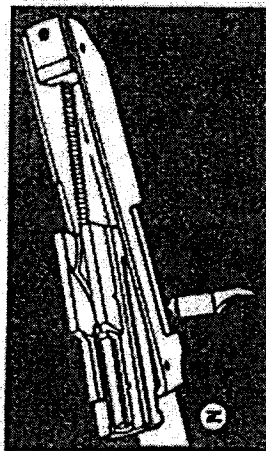
Remove trigger group and bolt stop.

Then, with forefinger, pull bolt slightly to the rear, and lift the muzzle end of the breech bolt from the receiver. As you begin to lift the bolt out, the charging handle will become free and can be removed (See M). The recoil spring and spring guide are now within easy reach for removal (See N). Further disassembly of the gun is not recommended.

• **WARNING:** If, at this stage of disassembly, the magazine is inserted into housing, and the trigger is pulled, the hammer spring and strut will fly free, and could cause personal injury.

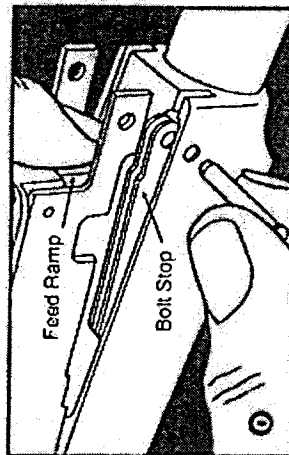


Lift breech bolt from receiver.



Clean the bolt, receiver and trigger group thoroughly using a toothbrush and a commercial gun cleaner. (Be sure to follow manufacturer of gun cleaner's directions as some chemicals may damage the synthetic trigger guard/magazine housing.) Clean the bore with powder solvent and brush. For storage, wipe the bore with lightly oiled patch, and follow storage instructions in this manual.

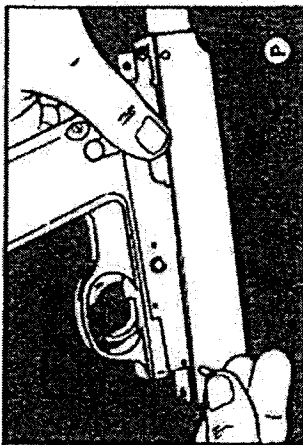
Reassembly



Seating front of trigger group.

Insert bolt, recoil spring and rod into receiver, and reinstall charging handle through ejection port (See M). Position bolt stop in receiver as shown in O. Insert rear of trigger group into receiver, line up rear pin holes, and insert pin (See P).

Next, exert and maintain slight rearward pressure on feed ramp, as shown in Q, while seating front end of trigger guard. (Important: if feed ramp is not pressed rearward, and holes in bolt stop are not aligned, action will not reassemble.)



Install trigger group and insert rear pin.

Exert slight rearward pressure on feed ramp while aligning front pin holes.

With a nail or punch, line up holes in bolt stop with holes in front of receiver, and insert front takedown pin, with the flat-headed end on the serial number side of the receiver.

(Important: insertion of this pin should not require the use of a hammer.)

Replace stock and tighten take-down screws. This completes reassembly.

Storage

Use only a very thin coat of light oil during below freezing conditions. Condensation droplets will form soon after the gun is brought into a warm room, or it may become wet during inclement weather. In any case, all moisture should be removed. Exterior metal finishes may be wiped down with a slightly oiled cloth. For long term storage, lightly oil the bore, barrel and action with gun oil. Your gun should be completely unloaded and stored in a dry area with the action open. Never store your gun in a carrying case.

Repair Instructions

Your firearm has been designed, engineered and manufactured in accordance with Marlin's rigid quality control standards. However, any mechanical device may occasionally require adjustment or repair. Questions regarding the performance and serviceability of your firearm should be addressed to our Gun Service Division. You should include the Serial Number, Model Number and a full description of the conditions and problems involved.

Warranty Repairs

Our Warranty policy covers all our firearms against defects in workmanship or material for a period of two years from the date of purchase to the original owner. See the inside front cover of this manual for warranty details. Guns requiring warranty repairs should be returned to the factory. Be sure to follow the "Shipping and Handling" instructions in this manual.

Non-Warranty Repairs

A competent gunsmith may be able to repair your gun. If not ship it to the factory, following the "Shipping and Handling" instructions in this manual. After receiving your firearm, we will send you an estimate of the repair cost. Repairs will begin upon receipt of your check or money order. If repairs are not possible, your gun will be returned.

Shipping and Handling

When sending your firearm to the factory you must follow these instructions.

1. Prior to mailing, be absolutely certain that the chamber, action and magazine of your firearm are not loaded (See "How to Unload" in this manual).
2. Pack your gun carefully. Use ample cushioning material and a sturdy outer cardboard box. Do not ship in a special container which you want returned.
3. Accessories such as scopes, scope mounts, gun case, quick detach type swivels, sling straps and other special appointments should be removed prior to returning the firearm.
4. Inside the box, include a sheet with the following information: model number, serial number, description of damage or problem, and under what conditions difficulty occurs.
5. Clearly mark your return address on the outside of the box and on your instruction sheet.
6. Do not ship live ammunition under any circumstances.

7. Ship your firearm via insured Parcel Post or U.P.S. Shipment must be prepaid and addressed to:

**Marlin Gun Service
100 Kenna Drive
NorthHaven, Conn. 06473**

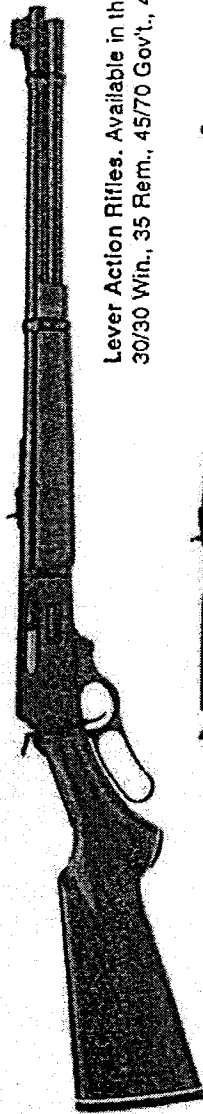
Health Warning

Discharging of firearms in poorly ventilated areas and handling ammunition may cause exposure to lead and/or lead compounds. Exposure may cause birth defects or damage to the kidney, nervous, blood forming and reproductive systems. Have adequate ventilation at all times, especially in confined areas. Wash hands thoroughly after shooting, handling ammunition, or cleaning a firearm. Do not eat or smoke during these activities.

Safety Warning

Marlin strongly recommends that you take a hunter safety course, taught by a certified instructor, before you use this firearm. Your State Fish & Game Dept. or a local gun shop can suggest courses in your area.

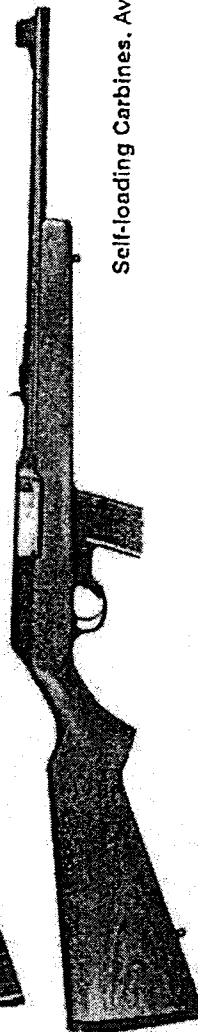
Center Fire Rifles



Lever Action Rifles. Available in the following calibers:
30/30 Win., 35 Rem., 45/70 Gov't., 444 Marlin.

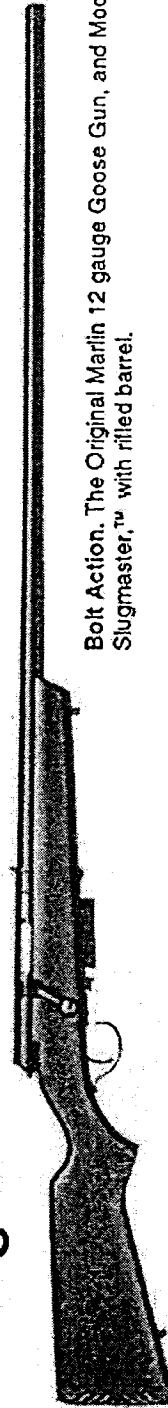


Lever Action Carbines. Available in the following calibers: 44
Rem. Mag./44 S&W Spl., 357 Mag./38 Spl.



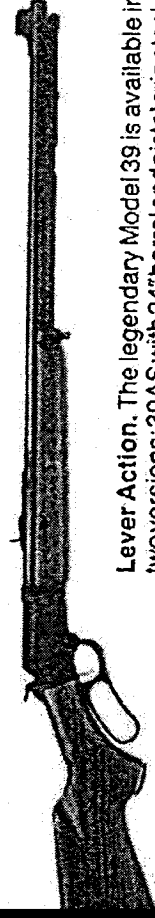
Self-loading Carbines. Available in 9mm Luger and 45 Auto.

Shotguns



Bolt Action. The Original Marlin 12 gauge Goose Gun, and Model 512
Slugmaster,[™] with rifled barrel.

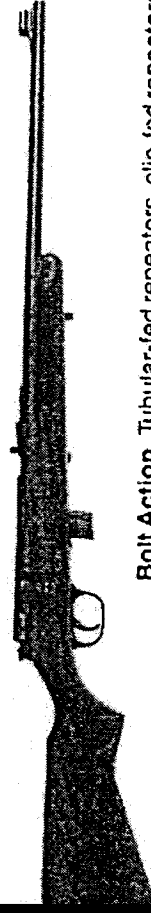
2 Rimfire Rifles



Lever Action. The legendary Model 39 is available in two versions: 39AS with 24" barrel and pistol grip stock, and 39TDS with 16 1/2" barrel and straight grip stock.



Self-loading. Models available with either large-capacity tubular magazines, or convenient clips.



Bolt Action. Tubular-fed repeaters, clip-fed repeaters and a single shot, as well as models chambered for 22 Win. Magnum Rim Fire.

IMPORTANT

If you have any questions or problems relating to your new Marlin, would like additional information on safe operation, or wish to order parts or accessories, just call our Customer Service Center. A Service Representative can be reached at the numbers listed below, between 8 A.M. and 4:30 P.M. (Eastern Time), Monday through Friday.

Nationwide

1-800-544-8892
(Toll Free)

Conn. Residents
239-5621
(North Haven)

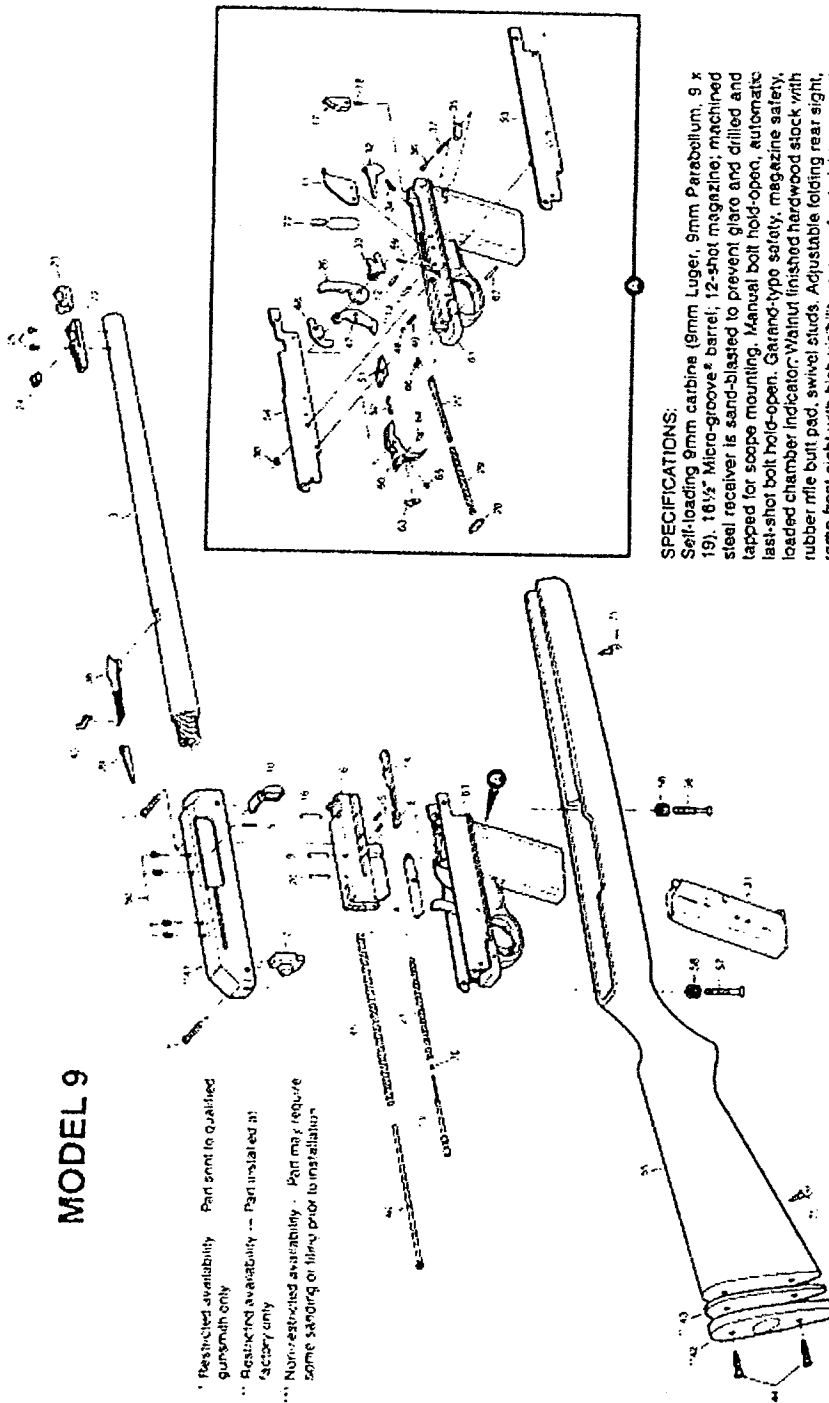
Marlin's Guide to Gun Safety

1. Handle every gun as you would a cocked and loaded gun.
2. Keep the safety on SAFE until you are ready to shoot.
3. Be sure of your target before you shoot.
4. Before target shooting, be sure you have an adequate backstop. Remember, all rifle ammunition is dangerous at ranges up to, and in excess of a mile.
5. Control the muzzle, and never point a gun at anything you don't want to shoot.
6. Always wear protective glasses when shooting.
7. Wear hearing protectors when target shooting.
8. Do not use modified, damaged or dirty ammunition.
9. Use only ammunition of the correct caliber, size and bullet shape.
10. Cartridges that have been improperly handloaded can damage the gun and cause personal injury.
11. Avoid ricochets by never shooting at water, or any hard, flat surface.
12. Be sure no one is in path of ejecting shells.
13. Never climb or jump over a fence or other obstacle with a loaded gun.
14. Never climb into or out of a tree, or tree stand with a loaded firearm.
15. Never pull a gun toward you by the muzzle.
16. Avoid alcoholic beverages before and during shooting.
17. Never use a gun that fails to function properly. Do not try to force a jammed action.
18. Be sure to keep the barrel and mechanism free of obstructions.
19. Before cleaning, be sure the chamber, action and magazine are completely unloaded.
20. Always unload a gun before storing, transporting, or leaving unattended.
21. Never enter a motor vehicle with a loaded gun.
22. Store guns and ammunition separately, locked and beyond the reach of children.
23. Always carry your rifle empty with the action open, except when you intend to shoot.
24. Avoid bumping, dropping or jarring any firearm. Bumping, dropping or jarring has resulted in certain firearms discharging accidentally under some circumstances.
25. Consult owner's manual before using any firearm.

Failure to follow these rules, or other instructions in this manual, can result in personal injury.

MODEL 9

- * Restricted availability - Part sent to qualified gunsmith only
- ** Restricted availability - Part installed at factory only
- *** Non-restricted availability - Part may require some sanding or filing prior to installation



SPECIFICATIONS:
 Self-loading 9mm carbine (9mm Luger, 9mm Parabellum, 9 x 19), 18½" Micro-groove* barrel; 12-shot magazine; machined steel receiver is sand-blasted to prevent glare and drilled and tapped for scope mounting. Manual bolt hold-open, automatic last-shot bolt hold-open. Garand-type safety, magazine safety, loaded chamber indicator; Walnut finished hardwood stock with rubber rifle butt pad, swivel studs. Adjustable folding rear sight, ramp front sight with high visibility, orange front sight post and cutaway Wide-Scan** hood; approx. weight 6¼ lbs., o.a. length 35½".

#616080

MODEL 9 PARTS LIST

For parts prices, call 1-800-544-8892 • Conn. residents call 239-5621 (8 A.M. to 4:30 P.M., Eastern Time, Weekdays)
Be sure to mention gun serial number when ordering parts

| Ill. No. | Part Name | Part No. | Ill. No. | Part Name | Part No. |
|----------|---|----------|----------|---------------------------------|----------|
| 1 | Action Assembly Pin, Front | 316997 | 36 | Magazine Latch Retaining Screw | 316290 |
| 2 | Action Assembly Pin, Rear | 316997 | 37 | Magazine Latch Retaining Spring | 416485 |
| 3 | Barrel | 116120 | 38 | Rear Sight Base | 320241 |
| 4 | Boat Stop | 516363 | 39 | Rear Sight Elevator | 320242 |
| 5 | Boat Stop Spring | 416794 | 40 | Rear Sight Leaf | 216142 |
| 6 | Breach Bolt | 116186 | | Rear Sight Assembly (Not Shown) | 516142 |
| 7 | Breach Bolt Assembly (not shown) | 516186 | | (Above 3 Parts) | |
| 8 | Buffer | 416182 | 41 | Receiver | 516460 |
| 9 | Cartridge Indicator | 316188 | 42 | Recoil Pad | 401202 |
| 10 | Cartridge Indicator Assembly Pin | 416597 | 43 | Recoil Pad Spacer | 416203 |
| 11 | Charging Handle | 216350 | 44 | Recoil Pad Screws (2) | 420590 |
| 12 | Ejector | 316168 | 45 | Recoil Spring | 416194 |
| 13 | Ejector/Magazine Disconnector Pin | 416397 | 46 | Recoil Spring Rod | 316171 |
| 14 | Extractor | 316097 | 47 | Safety Plunger Ball | 316161 |
| 15 | Extractor/Cartridge Indicator Spring (2) | 216189 | 48 | Safety Plunger Spring | 416282 |
| 16 | Extractor Pin | 416894 | 49 | Scope Mount Dummy Screws (4) | 416094 |
| 17 | Feed Ramp | 416894 | 50 | Sear | 320493 |
| 18 | Feed Ramp Spring | 416795 | 51 | Sear Spring | 216151 |
| 19 | Filing Pin | 316297 | 52 | Sideplate, Right Hand | 416394 |
| 20 | Filing Pin Assembly Pin | 416597 | 53 | Sideplate, Left Hand | 516163 |
| 21 | Filing Pin Spring | 416294 | 54 | Stock Complete | 316363 |
| 22 | Front Ramp Sight Base | 201339 | 55 | Takedown Screw, Front | 516213 |
| 23 | Front Ramp Sight Outaway Hood | 316145 | 56 | Takedown Screw, Rear | 316090 |
| 24 | Front Ramp Sight Red Insert | 416144 | 57 | Takedown Screw Bushing, Front | 316100 |
| 25 | Front Ramp Sight Screws | 320190 | 58 | Takedown Screw Bushing, Rear | 416452 |
| | Front Ramp Sight Complete (Above 4 Parts) (Not Shown) | 516135 | 59 | Trigger | 416452 |
| 26 | Hammer | 216173 | 60 | Trigger Guard | 316243 |
| 27 | Hammer Stud | 216179 | 61 | Trigger Guard/Action Assembly | 416358 |
| 28 | Hammer Stud Bridge | 316275 | 62 | Trigger Disconnector Pin | 516343 |
| 29 | Hammer Stud Spring | 316196 | 63 | Trigger Disconnector Pin | 216253 |
| 30 | Hammer Pin Retaining Ring | 416252 | 64 | Trigger Return Spring | 416198 |
| 31 | Magazine, 12-Shot | 416246 | 65 | Trigger Return Spring Pin | 407895 |
| 32 | Magazine, 4-Shot (not shown) | 516246 | 66 | Trigger Return Spring Pin | 416994 |
| 33 | Magazine Disconnector | 316153 | 67 | Trigger Return Spring Pin | 416497 |
| 34 | Magazine Disconnector Trigger Block | 216159 | 68 | Trigger Block | 216159 |
| 35 | Magazine Disconnector Spring | 416395 | 69 | Trigger Block Spring | 416794 |
| | Magazine Latch | 316546 | 70 | Firing Pin Bushing | 316552 |
| | | | 71 | Survival Studs | 420792 |
| | | | 72 | Manual Hold-Open Lever | 516181 |

Printed in U.S.A.

Specifications subject to change without notice.

494 459405

EXHIBIT

27

THE LUGER CARBINE

Manufacturer: DWM—Deutsche Waffen und Munitionsfabriken, Berlin

Frame: Long style, with stock lug and frame extension

Receiver: Long fork, 1900 & 1902, regular fork 1920

Grips: Checkered walnut

Proofs: Early "bug" proofs, nitro proofs on 1920 Model

Barrel: 11 3/4-inch steel, rust blue

Caliber: 7.65mm and 9mm

Serial No. Range: 1900 — 2 digit

1902 — 21000-24900

1920 — 1 through 4 digits

Quantity Manufactured: 1900—only 1 known

1902—approximately 2500

1920—very few, less than 1902 Model

The carbine was Georg Luger's answer to a unique sporting rifle or "bush" gun. The Luger pistol carbine appeared sometime around 1903. It was the first Luger to bear the stock lug. The wooden stock was of fine walnut with a small amount of checkering. The barrels on these pistols were all 11 3/4-inches long. The caliber was the bottle-neck 7.65mm, mainly for the penetrating power; very few were in 9mm. I have examined only one in 9mm. The barrels fitted with a wooden checkered forearm, very similar to all rifles. The forearm is held on by a square cornered pin fitted through the forearm and through a slot in the metal extension secured to the front of the Luger frame. In the forearm there is a spring to help return to battery the heavy barrel when fired. The front sight is also the same ramp type found on sporting rifles, graduated to 300-meters.

Luger carbines are numbered in the commercial style. All Luger carbines were produced in one lot; there

are a few special order exceptions. All were manufactured before World War I, and were of the "old style" topper except the 1920 "parts" carbines. Strange as it may seem, these 1920 "parts" carbines bring more money than the 1902 Model.

About 400 were shipped to the United States for commercial sales. Some have been observed that bear the Great Seal of the U.S. over the chamber. These are quite rare. The price then was about \$50. Fitted cases with stock, extra magazines and cleaning tools were available for \$10 extra.

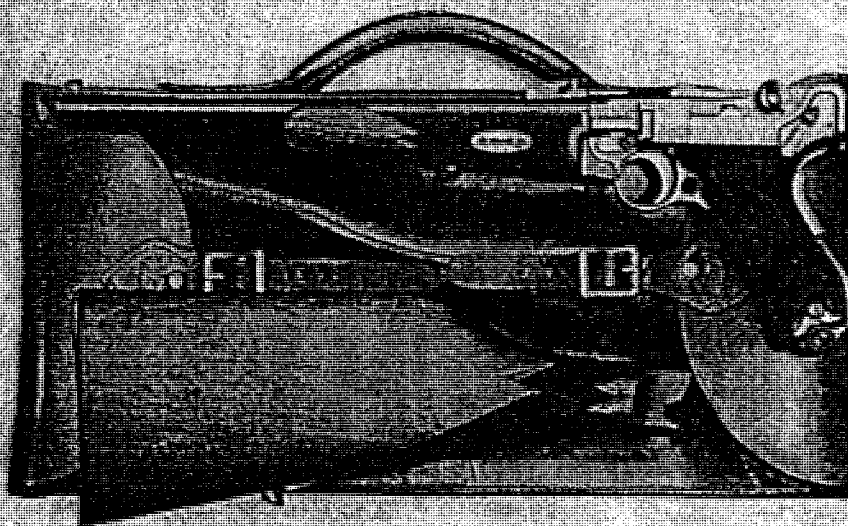
Two most notable Luger carbine owners of history were Kaiser Wilhelm II and President Theodore Roosevelt.

Due to the greater cost factor and limited quantity produced, the Luger carbine is very scarce and highly valuable to the collector.

In 1972, the Treasury Department's Bureau of Alcohol, Tobacco and Firearms classified the Model 1900 Luger carbine with original commercial-type shoulder stock and forearm piece, Model 1900 transitional carbines, prototype and presentation variations of the 1902 carbines and the Model 1920 "parts" carbines as collectors' items exempt from the provisions of the Gun Control Act of 1968. Military versions with flat bottom stocks and non-original altered Lugers are, however, not exempt.



CLOSE-UP OF THE MARKINGS ON THE BARREL OF A 1902 CARBINE REVEALS TYPICAL BRITISH NITRO-PROOFING. THE COMMON CALIBER WAS 7.65MM BUT A FEW 9MMs WERE MADE.



SOME 1920 LUGER CARBINES CAME COMPLETE WITH SPECIAL ABRAHAMSON AND FITCH RIFLE CASES. THESE SPORTING GUNS WERE PRODUCED IN LIMITED QUANTITIES PRIOR TO, AND FOLLOWING, WWI AND ARE VALUABLE COLLECTOR'S ITEMS. CALIBERS WERE 7.65 AND 9MM.

EXHIBIT

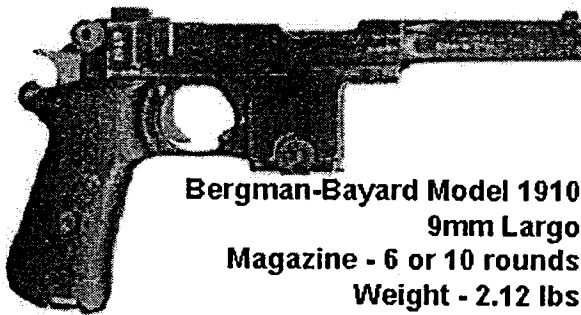
28



Book Reviews of 9mm Largo related references now available.

9mm Largo Firearms

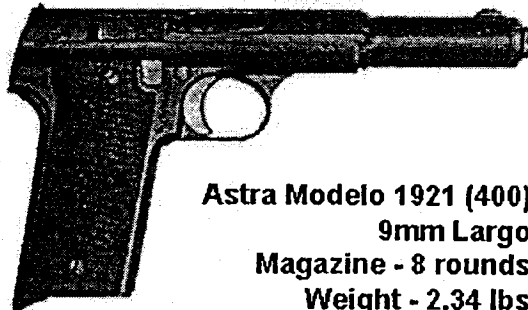
click on the image for information about that firearm



Bergman-Bayard Model 1910
9mm Largo
Magazine - 6 or 10 rounds
Weight - 2.12 lbs



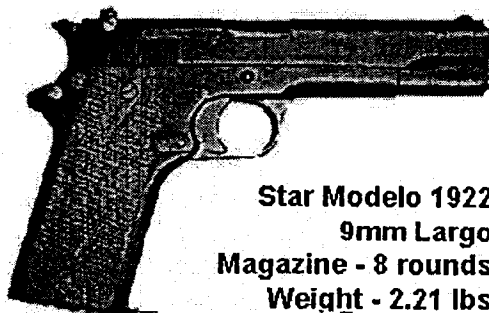
Star Modelo 1920
9mm Largo
Magazine - 8 rounds
Weight - 2.2 lbs



Astra Modelo 1921 (400)
9mm Largo
Magazine - 8 rounds
Weight - 2.34 lbs



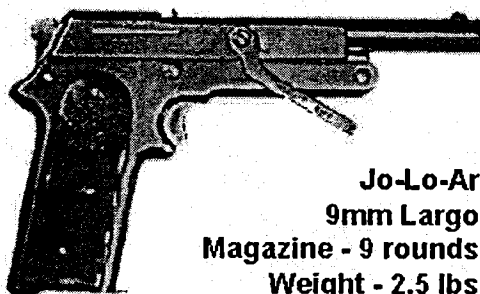
Star Modelo 1921
9mm Largo
Magazine - 8 rounds
Weight - 2.21 lbs



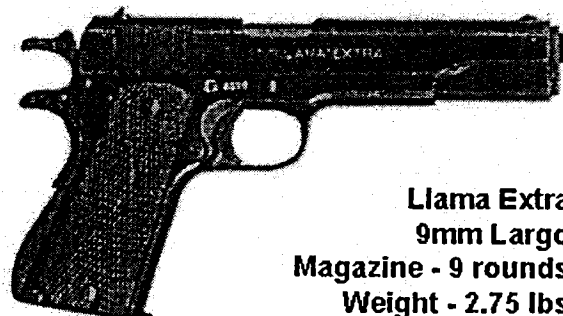
Star Modelo 1922
9mm Largo
Magazine - 8 rounds
Weight - 2.21 lbs



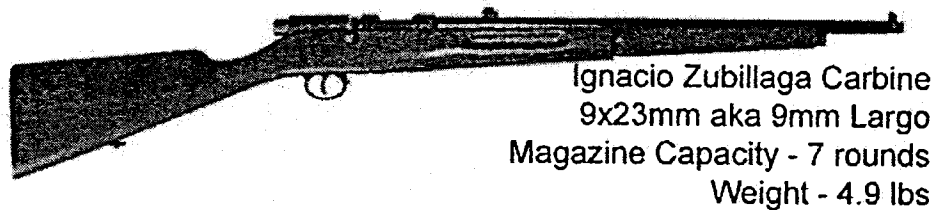
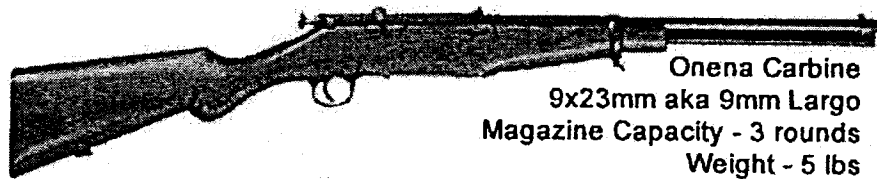
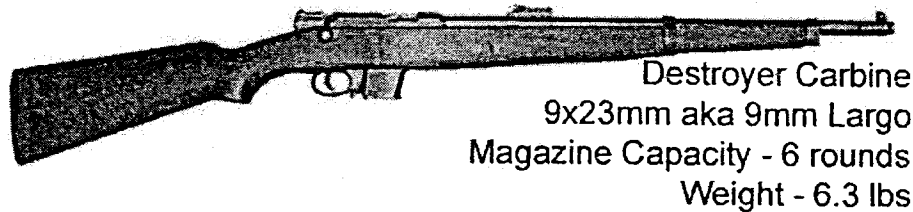
Star Modelo A
9mm Largo
Magazine - 8 rounds
Weight - 2.2 lbs



Jo-Lo-Ar
9mm Largo
Magazine - 9 rounds
Weight - 2.5 lbs



Llama Extra
9mm Largo
Magazine - 9 rounds
Weight - 2.75 lbs



Uncategorized information.

- 9mm Largo cartridge and reloading data: [9mm Largo Ammunition](#)
 - General Data Tables:
 - [Spanish proof marks](#)
 - [Year of Proof Codes](#)
 - Star Pistol [Model Numbers](#)
 - General Internet firearms information: [Firearms Links](#)
 - Home brew bore cleaner: [Ed's Red](#)
 - Lee Enfield FAQ: [zipped text file](#) or an Adobe Acrobat [PDF](#).
 - Old Spanish Steel parts: [Parts Suppliers](#)
 - Spanish firearms terms translated: [Spanish/English Firearms Dictionary](#)
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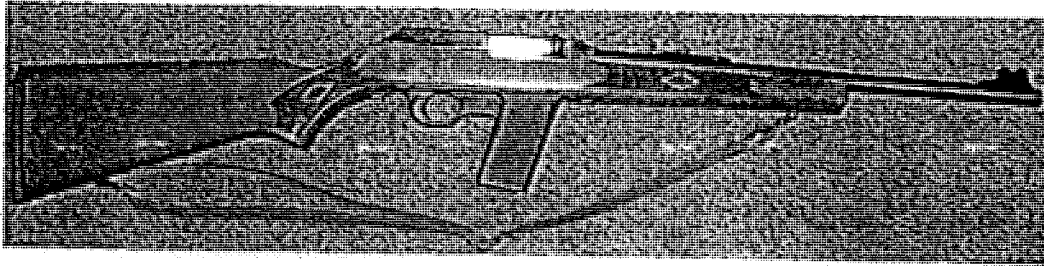
You are listening to the Spanish National Anthem.

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WEB 9mmLargo™

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Marlin

Camp Gun

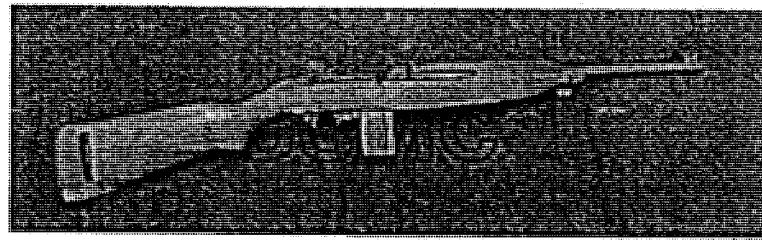
| Length Overall | Barrel Length | Weight | Caliber | Action Type | Magazine Capacity |
|----------------|---------------|---------------|------------|-------------|-------------------|
| 35" | 16" | 6 Pounds 7oz. | .45 A.C.P. | Recoil Semi | 7+1 |

One of my favorite knock-about/ utility guns. It fires my favorite pistol cartridge (.45 A.C.P.) Out of a light handy carbine, and it even takes the same magazine as the classic Colt Government Auto. It is an exceptionally fun gun to shoot as are the equally handy lever action carbines, and the 10/22, the M-1 Carbine, and the almost identical 9mm Camp Gun. The gun is much easier to hit with and far easier to shoot than the .45 pistol, but, sadly, the designers decision to go with an unlocked blowback operation has nullified much of the longer barrels ballistic advantage. The stubby .45 auto cartridge is very efficient when loaded with fast burning powders. In the average 5" pistol barrel, the fast burning powder is almost completely burned when the bullet exits, meaning that in the longer barreled carbine, the bullet can actually be slowed down by barrel friction. The usual cure for this type of thing is to either increase the pressure or go with a slower burning powder, unfortunately an unlocked action does not lend itself to slow powders or higher pressures. This type of action is generally used for low powered pistol cartridges, and .22 rifles. It works in this particular rifle because Marlin has made the bolt rather heavy, depending on inertia rather than a locking action to retard the bolt's rearward motion. This is perfectly fine as long as standard loads are used. In the case of a higher pressure load, the bolt would be slammed back into the receiver very quickly, before the cartridge has left the barrel. In the case of a slower burning powder, the powder will still be burning as the bolt opens. In either case, the result is the same-- a face full of hot propellant gasses and a possible burst case.

Deficiencies aside, this is a great all around gun, and the heavy .45 is no slouch out of a long or short barrel, at close range. If some one had possessed the wit to produce this gun in the forties, the M-1 Carbine, which was designed to replace the .45 auto in issue to non-combatants, would not have been necessary. The .45 carbine that did exist at the time was the famous Thompson. A comparison of the two guns is interesting. The Thompson also fired from an unlocked bolt. The earlier versions used a closed bolt, and firing pin, the later, M-1 versions fired from an open bolt with the firing pin milled right on to the bolt face. The Thompson weighed 11 ½ pounds, and was 42" long. This makes it almost twice the weight, and 7" longer than the Camp Gun. As much as I am a fan of the .45, the Thompson is just too big and heavy for this round. At the same weight you can get a Garand, firing the capable 30-06, or one of the excellent .308 assault rifles. Even the .223 cartridge, which can be had in the six pound M-16, and is very light for a rifle round, greatly exceeds the power of the potent (for a pistol) .45 A.C.P. As with all carbines, the gun is very cheap for the hand loader to shoot. Group size at hand gun ranges is under two inches, at the 100 yard rifle range, a five or six inch group is about the best that this gun can do. In both cases this compares poorly to a regular rifle, but is as good or better than any thing the pistol can shoot. Overall, I like this gun a lot; within it's design range of 50 yards or so, you can comfortably hit anything you aim at. The gun is quick to fire and quick to reload, and there is little perceived recoil.

EXHIBIT

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Fulton Armory Service Grade M1 Carbine

A Pocket History of the M1 Carbine

by Robert Gibson

Someone wanted some info on M1 Carbine....maybe this will help. Much of it is copied from the NRA's booklet "U.S. Caliber .30 Carbine".

Over a span of just 38 months (the first carbines were delivered in June 1942, the last in August 1945) nine primary contractors established manufacturing facilities, tooled up and turned out some six million carbines of all types - M1, M1A1, M2 and T3/M3. The production program was such a success that, excepting Inland and Winchester, the remaining contracts were cancelled in mid-1944. Those two companies completed their carbine production runs in August, 1945.

M1 Carbine Production

| | | |
|--|-----------|-------|
| Inland Manufacturing Division, G.M.C..... | 2,632,097 | 43.0% |
| Winchester Repeating Arms Co..... | 828,059 | 13.5% |
| Underwood-Elliott-Fisher Co..... | 545,616 | 8.9% |
| * Saginaw Steering Gear Div., G.M.C..... | 517,212 | 8.5% |
| ** National Postal Meter Co..... | 413,017 | 6.8% |
| *** Quality Hardware & Machine Co..... | 359,666 | 5.9% |
| International Business Machines Corp (IBM).. | 346,500 | 5.7% |
| Standard Products Co..... | 247,160 | 4.0% |
| Rock-Ola Co..... | 228,500 | 3.7% |
| | ----- | |
| Total: | 6,221,220 | |

* Note that Saginaw had two plants in operation, one in Saginaw, MI and one in Grand Rapids, MI. The Grand Rapids facility assumed a contract that had been originally awarded to Irwin-Pedersen Arms Co. I.P. had assembled only 3,542 guns at the time, none of which were accepted by the government.

**Note that a few early NPM receivers are marked "Rochester", for the Rochester Defence Corp. A very few late receivers are marked "CCC", for Commercial Controls Corp.

***Note that some Quality Hardware carbines were assembled using receivers made by Union Switch & Signal Co, hence the "UN-QUALITY" marked carbines. These are highly prized by some carbine aficionados.

The history of who made what during the brief 38 months of production is a story that can (and does) fill a book. Might I suggest you find a copy of "WAR BABY" or "M1 Carbine Design, Development and Production" by Larry Ruth. Another recommended book is "Guide to Collecting the M1 Carbine" by Robert Gibson (no relation, by the way!)...they're all good books with tons of info. Another excellent reference book is "U.S. M1 Carbines: Wartime Production" by Craig Riesch, a North Cape Publications "For Collectors Only" series.

Which are the most collectable? Depends on what your own personal criteria might be. Rock-Ola's are always desirable, not only because there were fewer made than any other make but because Rock-Ola was a famous juke box maker of the period who's product was quite familiar to the WWII GI's. Others look to the Winchester carbines because of the name on the receiver....I own one these myself. There are all kinds of reasons to own a particular "brand" of carbine...I've worked with IBM mainframe computers systems for some 20 years, I think it would be rather fitting to obtain an IBM carbine sooner or later. 20 carbine owners might give 20 different reasons for owning their particular carbine....you really need to read up on M1 history and decide what YOU want.

Mechanically they were each and every one built to the same design specs as specified in the contracts the maker signed with the U.S. Government. You could strip 25 M1 Carbines down to their component parts, mixed 'em up in a box and then reassemble them at random back into 25 carbines....they would be expected to function within the specified performance parameters.

Finding what you want is another matter. If not available at your local gunshops or gunshows you could get a current issue of Gun List, the indexed firearms paper....many, many M1 Carbines will be found listed in the Military Weapons section. Another source is Fulton Armory....call (301) 490-9485; the current advertised price is \$699.95 for service grade M1 Carbine.

On this subject....at a recent gunshow I attended in Birmingham, Alabama (Jan. 5, 1997) the prices being asked for typical M1 Carbines were running from low of \$450 for Inlands to a high of \$650 for Rock-Olas. The Carbines I examined appeared to contain the usual mixed parts one would expect....a combination of the original mix of parts by the manufacturer, augmented by the various arsenal refurbishment programs following WWII and Korean wars.

As a counterpoint my local gunsmith still has a few Quality Hardware Carbines for sale at \$385....mixed parts so certainly not collectables, but they're quite acceptable "shooters" and would satisfy most who have an itch to own a GI Carbine of their own. On this subject I've heard reports of "shooter" grade M1 Carbines still going for between \$250 to \$300 in scattered locations around the country. They've not been this affordable in my local area since back in late 1994 or early 1995.

Something a Carbine newbie should know....none of the primary contractors made ALL of the parts for these handy firearms. Best among the prime contractors was Underwood-Elliott-Fisher, which made 35 of the M1 Carbine's 55-58 parts in its Hartford and Bridgeport, Conn., plants. At the other end of the spectrum, Quality Hardware made only receivers, depending upon government supplied parts and parts from other contractors and sub-contractors from which its guns were assembled.

Subcontractors involved in the carbine program number in the hundreds, and made everything from pins and springs to receivers and barrels.

The U.S. Cal. .30 Carbine was designed from day one as a true "mixed parts" military firearm....carrying the "any part from any source will fit" philosophy of the U.S. Rifle, Cal. .30, M1....the M1 Garand....one step further.

In my rather humble opinion the design and manufacture of the M1 Carbine by the American Military Industrial Complex of the WWII era would have to be considered a watershed event in the field of military firearms production.

It certainly goes without saying there are no "bad" USGI World War II era M1 Carbines seeing they were all built to the same milspecs and thoroughly inspected before acceptance by Uncle Sam. True, there are many out there now that are in need of large doses of TLC due to their hard travels around the world for the last 50 years. A good service rifle gunsmith can do wonders with one of these rather sad re-imports if someone were so inclined to rescue it, but....supplies of repatriates could be drying up. That WRA carbine I mentioned above was one of these neglected war dogs when I stumbled upon it.

It now rests in the gunsafe with my Garands, M1911 Govt pistols, M1903-A3 Remingtons 'n others from the World War II era...including a German KAR 98k. Quite a sight actually, old cronies...and mortal enemies...resting together with actions gleaming and stocks giving off the odor of fresh linseed oil.

There were also commercial M1 carbine models produced from 1960's to 1980's by Iver Johnson, Plainfield Machine Co., & Universal Sporting Goods. I don't much care for commercial M1 carbines so am not really up on their history, OTOH some do prefer them over GI carbines...different strokes for different folks. I did see a nickel-plated IJ once that was quite striking....well, to be perfectly honest I thought it was somewhat gaudy.

The commercial carbines simply *do not* compare well to a true-blue USGI M1 Carbine that's in good repair....my own biased opinion of course .

ADDENDUM: "Bavarian Carbines"....What Are They?

Following from the "For Collectors Only" edition of "U.S. M1 CARBINES" by Craig Riesch, published by North Cape Publications (revised, 2nd edition)

"After World War II, the United States, as one of the Occupying Powers in Germany, was responsible for providing community policing in the U.S. Zone. As the United States had no intention of either remaining as an Occupation force in Germany any longer than necessary, or in becoming involved in the day-to-day government of the community, local police forces were established to assume standard policing duties ranging from traffic control to criminal investigation to forestry protection. One of the most extensive of these police forces was the Bavarian Rural Police.

"Bavaria is one of the largest German states and included extensive forested and mountainous regions. The U.S. Army made M1 Carbines available to these local police units, many of which remained in service for more than ten years.

"Many can be identified by the stampings, "BAVARIAN RURAL POLICE", "BAVARIAN FORESTRY SERVICE", "BAVARIAN BORDER POLICE" and "BAVARIAN STATE POLICE" on the receiver. Other carbines were furnished to the federal border guard service, the "BUNDESGRENZSHUTZ". A variety of city and state police marks will also be noted. Most also had their component parts stamped with the last three or four digits of the original receiver serial number, as was standard German practice. Many of the carbines were reblued or refinished in "black oxide" which sometimes appears almost "blue/black" in color, depending on the polish of the metal beneath. On others, the issue rear sight was removed and the dovetail filled with a block of steel which was machined with a series of grooves across the top to prevent glare.

"Occasionally, they were rebarreled with new barrels manufactured by the German firm of ERMA Werke. A non-adjustable rear sight with a "Vee" notch was brazed on the front of the receiver behind the handguard. It provided a sight picture very much like that of the Mauser bolt action rifle, familiar to its new users, many of whom had seen previous police or military service during World War II."

Hope this information is of some help.

Robert Gibson

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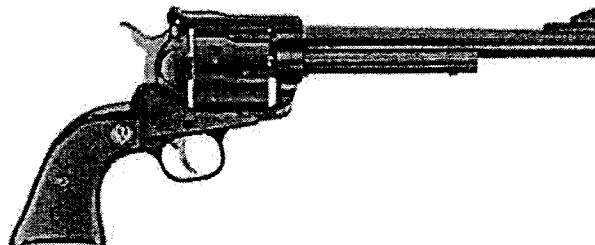
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| Front Sight: | Ramp |
| Rear Sight: | Adjustable |
| Capacity: | 6 |



Model Options:

| Cat. # | Mod. # | Caliber | Barrel Length | Overall Length | Weight | Twist | Grooves | Sug. Retail | Spec Sheet | |
|---------|--------|-------------|---------------|----------------|-----------|----------|---------|-------------|------------|--|
| BN-31L | 10595 | .30 Carbine | 7.50" | 13.38" | 46.00 oz. | 1:20" RH | 6 | \$557.00 | | |
| BN-34L | 10306 | .357 Mag. | 4.62" | 10.50" | 46.00 oz. | 1:16" RH | 8 | \$557.00 | | |
| BN-36L | 10316 | .357 Mag. | 6.50" | 12.38" | 48.00 oz. | 1:16" RH | 8 | \$557.00 | | |
| BN-41L | 10405 | .41 Mag. | 4.62" | 10.50" | 38.00 oz. | 1:20" RH | 6 | \$557.00 | | |
| BN-42L | 10406 | .41 Mag. | 6.50" | 12.38" | 41.00 oz. | 1:20" RH | 6 | \$557.00 | | |
| NVB-444 | 5232 | .44 Special | 4.63" | 10.50" | 45.00 oz. | 1:20" RH | 6 | \$557.00 | | |
| NVB-445 | 5233 | .44 Special | 5.50" | 12.00" | 45.00 oz. | 1:20" RH | 6 | \$557.00 | | |
| BN-44L | 10445 | .45 Colt | 4.62" | 10.50" | 36.00 oz. | 1:16" RH | 6 | \$557.00 | | |
| BN-45L | 10455 | .45 Colt | 7.50" | 13.38" | 40.00 oz. | 1:16" RH | 6 | \$557.00 | | |
| BN-45SL | 10465 | .45 Colt | 5.50" | 11.38" | 39.00 oz. | 1:16" RH | 6 | \$557.00 | | |

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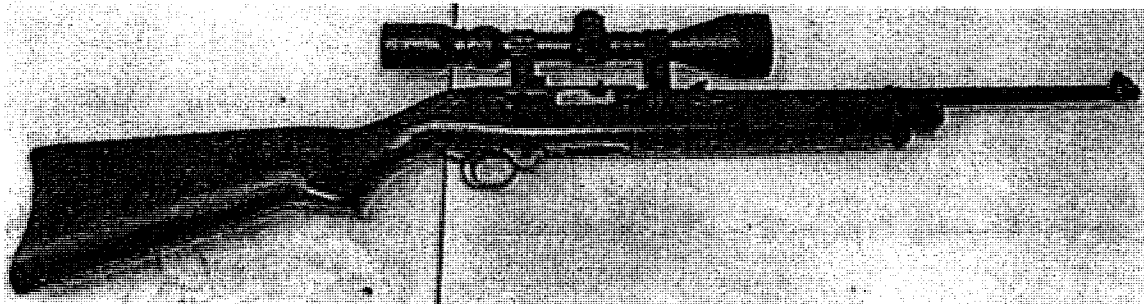
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Shooting With Jim Ruger 44 Magnum Carbine Product Review

Oldie but Goodie Ruger 44 Carbine Hand Loads, Reload Data, Ammo Reloading for Ruger 44 Mag Carbine. Reloading Data For The Ruger 44 Carbine. Hand load Data for the Ruger 44 Magnum Carbine. 44 Ruger Carbine Bullet Loading Data Information.

This one was made in 1963 and still works flawlessly. Shoots pretty good also.

(see targets and loads info below)



1963 Ruger 44 magnum carbine, sporting a new BSA Deerhunter 3-9x50

Sturm, Ruger & Co. has no equal when it comes to the variety of rifles and carbines it has introduced.

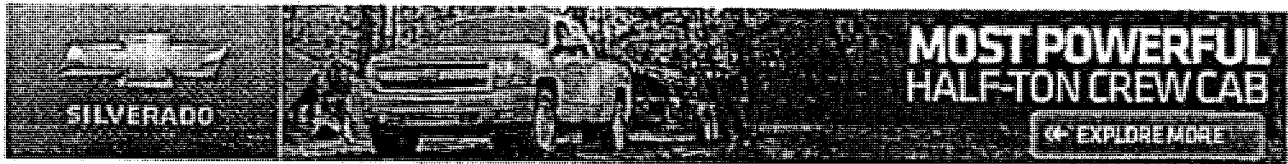
Ruger introduced an auto loading carbine as its first center fire long gun, and it was chambered for a handgun cartridge, the .44 Magnum. The Ruger Deerstalker, whose name was later changed to the .44 Carbine, was and is a very practical choice for hunting whitetail-size game in heavy cover. It is short, lightweight, and has moderate recoil with four magazine-housed rounds available for a few quick follow-up shots. After more than a quarter-million units being produced, the .44 Carbine is no longer made.

Authors Notes

To date, I have shot about 400 rounds through this Carbine both from a Lead Sled and from a standing position and can say this rifle shoots darn good. It is a great little close range medium game hunting rifle with plenty enough knock down power to pursue White Tail Deer, Wild Hogs, Black Bear and possibly some of the larger antlerd game of North America. It is not a long range rifle and shots over 100 yards should only be taken by a skilled shooter with great care in bullet placement. The short barrel and short stock make this a great brush gun and the 44 Magnum cartridge shoots straight to the target even if it glances off of a few small twigs on its way. Loaded with the lighter bullets it also makes a great small game rifle for rabbit size game. Shooting with the use of a scope, red dot or just

EXHIBIT

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The .256 Winchester Magnum

By Chuck Hawks

The .256 Magnum is a varmint and predator cartridge introduced by Winchester in 1960. In 1961 Ruger brought out the Hawkeye single shot pistol for the .256 Magnum. The next year (1962) Marlin chambered their Model 62 Levermatic rifle for the new Winchester cartridge. These were the two principle firearms chambered for the .256 Win. Mag.

Winchester offered factory loaded .256 Magnum ammunition (and brass to reloaders) into the beginning of the 1990's. Winchester .256 factory loads used a 60 grain Open Point Expanding bullet at a MV of 2760 fps and ME of 1015 ft. lbs. from a 24 inch rifle barrel. That is about 500 fps faster than Winchester factory loads for the old .25-20 cartridge. At 200 yards the velocity was 1542 fps and the remaining energy was 317 ft. lbs.

From an 8.5 inch pistol barrel the 60 grain .256 Winchester factory load was advertised as having a MV of 2350 fps and ME of 735 fps. This was 250 fps faster and nearly twice as powerful as the .22 Jet, a varmint cartridge for revolvers that was also based on a necked-down .357 Magnum case.

According to data from the fifth edition of the Hornady Handbook of Cartridge Reloading handloaders with a .256 rifle can approximately duplicate the Winchester factory load using the Hornady 60 grain Flat Point bullet in front of 15.5 grains of H4227 powder for a MV of 2700 fps. The trajectory of that load looks like this: +2.3 inches at 50 yards, +4.4 inches at 100 yards, 0 at 200 yards, and -26.2 inches at 300 yards.

A better option for handloaders would be the 75 grain Hornady V-Max bullet in front of 14.2 grains of H4227 powder for a MV of 2400 fps and ME of 959 ft. lbs. The 200 yard figures are 1855 fps and 573 ft. lbs. The trajectory of that load looks like this: +1.7 inch at 50 yards, +3.2 inches at 100 yards, 0 at 200 yards, and -13.3 inches at 300 yards. This is a deadly 200 yard varmint load, but under no circumstances should it be used on deer or any other North American medium size big game animal.

Note: A full length article about the .256 Winchester Mag. can be found on the *Handgun Cartridge Page*.



Back to the Reloading Page

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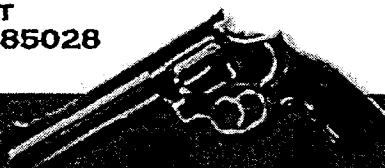
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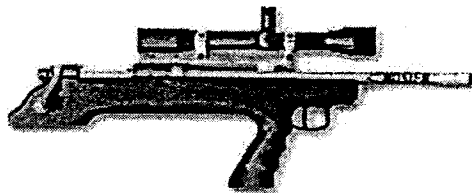
PRICING - Remington XP-100

1911 Style Gun

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Remington XP-100

Masters Conversion Remington XP-100

| | |
|--|--|
| Stock (front grip) \$307 | Pillar bed \$185 |
| Paint stock \$65 | Trigger guard \$30 |
| Stainless Steel Barrel \$475 | Muzzle brake \$175 |
| Recoil lug \$30 | Install new bolt handle \$65 |
| Custom bolt stop \$35 | Aluminum bolt plug, saves 1.5 oz. \$35 |
| Scope base \$98 | Install Base \$55 |
| Scope rings \$35 | Hard Chrome bolt & muzzle break \$85 |
| Hard Chrome receiver \$125 | Glass bead barrel \$50 |
| Sako extractor installed \$95 | AR-15 extractor installed \$100 |
| Extended trigger mech. (14-18 .oz pull weight) \$250 | |
| True receiver & bolt (included in barrel job) \$70 | |
| Lighten receiver (removes 1.3 .oz) \$100 | |
| Blue receiver (included in lightening job) \$40 | |
| Flute bolt 8 flutes .070 deep (removes one .oz) \$85 | |

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DECLARATION OF SERVICE BY OVERNIGHT COURIER

Case Name: **Sheriff Clay Parker, et al. v. State of California, et al.**

No.: **F062490**

I declare:

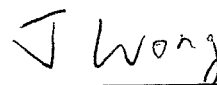
I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004.

On February 22, 2012, I served the attached **JOINT APPENDIX, VOLUME I, Pages JA000001-JA000299** by placing a true copy thereof enclosed in a sealed envelope with the Golden State Overnight, addressed as follows:

Carl Dawson Michel, Esq.
Clinton Barnwell Monfort, Esq.
Michel and Associates, PC
180 East Ocean Blvd., Ste. 200
Long Beach, CA 90802
(Attorneys for Respondents)

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on February 22, 2012, at San Francisco, California.

J. Wong
Declarant


Signature