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8 *Stephen J. Lindley*

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SACRAMENTO
12

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14 ALVIN DOE and PAUL A. GLADDEN,

15 Plaintiffs,

16 v.

17 KAMALA D. HARRIS, in her official
18 capacity as Attorney General of California;
and STEPHEN J. LINDLEY, in his official
19 capacity as Chief of the California
Department of Justice Bureau of Firearms,

20 Defendants.
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Case No. 34-2014-00163821

**DECLARATION OF JEFFREY A. RICH
IN SUPPORT OF OPPOSITION TO
MOTION FOR PRELIMINARY
INJUNCTION**

Date: July 8, 2014
Time: 2:00 p.m.
Dept: 53
Judge: The Honorable David I. Brown
Trial Date: None
Action Filed: May 20, 2014

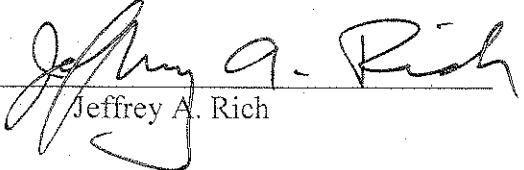
1 I, Jeffrey A. Rich, declare as follows:

2 1. I am an attorney licensed to practice before all of the courts of the State of California
3 and am a Deputy Attorney General with the Office of the Attorney General, attorneys of record
4 for defendants Kamala D. Harris, in her official capacity as the California Attorney General and
5 Stephen J. Lindley, in his official capacity as Bureau Chief, Bureau of Firearms, California
6 Department of Justice. I make this declaration in support of defendants' request for judicial
7 notice submitted herewith. I have personal knowledge of the following facts, and if called as a
8 witness, I could and would testify competently thereto.

9 2. Attached hereto as Exhibit 1 is a true and correct copy of Assembly Committee on
10 Public Safety, Analysis of AB 202 (2009-2010 Reg. Sess.), March 10, 1999 which I obtained
11 utilizing Westlaw.com.

12 I declare under penalty of perjury under the laws of the State of California that the
13 foregoing is true and correct.

14 Executed this 24th day of June, 2014, at Sacramento, California.

15 
16 Jeffrey A. Rich
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EXHIBIT 1

California Bill Analysis, A.B. 202 Assem., 3/16/1999

California Bill Analysis, Assembly Committee, 1999-2000 Regular Session, Assembly Bill 202

March 16, 1999
California Assembly
1999-2000 Regular Session

Date of Hearing: March 16, 1999

Chief Counsel: Harry M. Dorfman

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Mike Honda, Chairman

AB 202 (Knox) - As Amended: March 10, 1999

SUMMARY : Prohibits any person from applying for more than one concealable firearm within a 30-day period, and no delivery shall be made to any person who has made an application to purchase more than one concealable firearm within 30 days. Specifically, this bill :

- 1) Prohibits making an application to purchase more than one pistol, revolver, or other firearm capable of being concealed on the person within any 30-day period.
- 2) Prohibits delivery to any person who has made an application to purchase more than one pistol, revolver, or other firearm capable of being concealed on the person within any 30-day period.
- 3) Provides that no person can make an application to purchase a pistol, revolver or other firearm capable of being concealed on the person within any 30-day period. Exempts law enforcement, entertainment/theatrical companies, licensed collectors, and the exchange, replacement or return of a concealable firearm under specified conditions.
- 4) Provides penalties for making an application for more than one concealable firearm in any 30-day period:
 - a) A first violation is an infraction punishable by a fine of \$50;
 - b) A second violation is an infraction punishable by a fine of \$100; and,
 - c) A third or subsequent violation is a misdemeanor (punishable in the county jail up to six months, or by a fine not greater than \$1,000, or both, pursuant to Penal Code Section 19).
- 5) Provides that each application to purchase a concealable firearm shall be deemed a separate offense.

EXISTING LAW :

- 1) Prohibits the sale, lease, or transfer of firearms without a state firearms dealer's license. (Penal Code Section 12070(a).) Violation is a misdemeanor, punishable by six months in the county jail; a \$1,000 fine; or both. (Penal Code Section 12070(a) and Penal Code Section 19.)
- 2) Provides that the duly constituted licensing authority of a city, county, or city and county shall accept applications for, and may grant, licenses permitting, licensees to sell firearms at retail. The authority shall inform applicants who are denied licenses the reasons for the denial in writing. (Penal Code Section 12071(a)(2).)
- 3) Prohibits the supply, delivery, sale, giving possession or control of a firearm to any person within the classes of prohibition described in Penal Code Sections 12021 or 12021.1 (Penal Code Section 12072(a)(1).) Violation is a felony, punishable by two, three, or four years in state prison. (Penal Code Section 12072(g)(2)(A).)
- 4) Prohibits the sale, loan, or transfer of a firearm to a minor. (Penal Code Section 12072(a)(3)(A).) Violation is an alternate misdemeanor/felony, punishable as a misdemeanor by imprisonment up to one year in county jail; a fine of \$1,000; or both; or as a felony, by imprisonment for 16 months, 2 or 3 years in state prison; a fine of \$1,000; or both. (Penal Code Section 12072(g)(3)(B).)
- 5) Prohibits the sale, loan, or transfer of a firearm to any person who is not the actual purchaser or transferee if the intent is to avoid the statutory requirements for lawful transfer. (Penal Code Section 12072(a)(4).) Violation is an alternate misdemeanor/felony, punishable the same as #4 above. (Penal Code Section 12072(g)(3)(A).)
- 6) Prohibits the supplying, selling, delivering, or giving possession or control of a pistol, revolver, or firearm capable of being concealed to any person under 21 years of age, or any other firearm to any person under 18 years of age. (Penal Code Section 12072(b).) Violation is a felony, punishable by two, three, or four years in state prison. (Penal Code Section 12072(g)(2)(D).)
- 7) Prohibits the delivery of a firearm to a person within 10 days of the application to purchase. (Penal Code Section 12072(c)(1).) Violation is an alternate misdemeanor/felony, punishable the same as #4 above. (Penal Code Section 12072(g)(3)(D).)
- 8) Exempts certain persons and entities from the prohibitions of Penal Code Section 12072 such as peace officers, lawful importers, inter-family sales or bequests, auctions, etc. (Penal Code Section 12078)
- 9) Provides Penal Code Section 12072 violations are misdemeanors (Penal Code Section 12072(g)(1), except for specified felonies such as transferring a firearm to a person previously convicted of a felony (Penal Code Section 12072(g)(2)(A)), or except for specified "wobblers" (which may be charged either as a misdemeanor or a felony at the prosecutor's discretion) such as selling, loaning or transferring a firearm to a minor (Penal Code Section 12072(g)(3)(B)).

FISCAL EFFECT : Unknown

COMMENTS :

1) Author's Statement . According to the author, "There is no limit on the number of handguns that may be purchased from a dealer. This makes it easy for straw purchasers to acquire guns for another person or for street dealers to acquire guns legitimately. Handguns make up an overwhelming share of crime guns and a significant number are traceable to dealer transactions. AB 202 will curtail the illegal gun market, disarm criminals, and save lives by preventing multiple purchases of handguns through legitimate channels. Preventing multiple purchases takes the profit out of black market sales and puts gun traffickers and straw purchasers out of business."

2) Limiting Bulk Purchases to Cut Down on Straw Transactions . The goal of this bill is to stop one gun purchaser from buying several firearms and transferring a firearm to another person who does not have the legal ability to buy a gun him/herself. Such a transfer is referred to as a "straw transaction." Typically, straw transactions involve a third party

who is under 21 years of age, has a disqualifying prior conviction, has a mental disorder, or is not a resident.

3)Straw Transactions Violate Federal Law. The Federal Gun Control Act forbids straw transactions. Federal law prevents a person from purchasing guns in a state with lax laws and then returning to his or her state of residency. If a gun has been transported across state lines, a licensed federal firearms dealer must process the transaction. Additionally, a person who is not a federal firearms licensee cannot deliver a firearm to a resident of another state who is not federally licensed. The only way that such a transaction can occur is if the transaction is brokered through a federal firearms licensee in the recipient's state of residence. Federal law criminalizes acquisition of firearms in one state, the return to a different state and sale of those firearms.

4)South Carolina and Virginia. In 1975, South Carolina banned gun dealers from selling more than one handgun in a 30-day period to the same person. In 1993, Virginia passed a "one gun a month" law with some exemptions. Neither state has a waiting period; both use a "quick check" system. Nor do those states regulate private transactions, as does California.

5)Do the Proposed Exemptions to Penal Code Section 12072(a)(9)(A) Effectively Gut the Bill? No. This bill amends Penal Code Section 12072 to prohibit more than one application for a concealable firearm in a 30-day period. The bill also provides numerous exemptions which are salutary because they encourage a person who may be involved lawfully in multi-gun exchanges to go to a licensed dealer, or to the local sheriff, in order to facilitate the exchange. Those exempt institutions, persons and situations include:

- a) Any law enforcement agency;
- b) Any agency authorized to perform law enforcement duties;
- c) Any state or local correctional facility;
- d) Any private security business licensed to conduct business in state;
- e) Any peace officer;
- f) Any motion picture, television, or video production company whose production involves a firearm;
- g) Any person who may claim a waiting-period exemption pursuant to Penal Code Section 12078;
- h) Any transaction conducted through a dealer pursuant to Penal Code Section 12082;
- i) Any transaction conducted through a law enforcement agency pursuant to Penal Code Section 12084;
- j) Any licensed collector;
- k) The exchange of a concealable firearm where the purchase occurred within 30 days of the exchange;
- l) The replacement of a concealable firearm where the gun was reported lost or stolen before the completion of the new application; and,
- m) The return of any concealable firearm to its owner.

Despite the exemptions, the bill still hinders bulk purchase straw transactions by limiting applications for concealable firearms to one application per 30-day period.

6)Limiting Applications Will Not Stop Straw Transactions Entirely. This bill will not stop bulk purchases to facilitate straw transactions. Those persons determined to violate the law are still able to do so. For example, assume six friends all want concealable guns. Assume further that three of those friends own guns currently and the other three friends are legally disqualified due to prior felony convictions. The three friends who can legally buy guns can go to a store and fill out individual applications to purchase one new handgun each. They receive the guns and turn them over to their friends. Or, assume one person wants to obtain a gun for each of his or her four friends who cannot legally purchase themselves. With a little patience, he or she makes a new application every 31st day and then turns over a gun to each friend in a few months.

7)Prior Legislation. AB 532 (Knox), of the 1997-98 Legislative Session, was substantially similar to this bill and would have made it a misdemeanor to take title to more than one concealable firearm in a 30-day period. In addition,

AB 532 would have made it an alternate felony/misdemeanor for a dealer to deliver a handgun after being notified that a person was attempting to take title to more than one handgun in a 30-day period. AB 532 failed passage on the Assembly floor, was granted reconsideration, and died on the Assembly Inactive File.

SB 513 (Hayden), of the 1997-98 Legislative Session, was substantially similar to this bill and would have made it a misdemeanor to purchase more than one concealable firearm in a 30-day period. In addition, SB 513 would have made it a misdemeanor for a dealer to deliver a handgun after being notified that a purchaser had applied to purchase a gun within the last 30 days. SB 513 was gutted on the Assembly floor and became a bill relating to California Habeas Resource Center.

REGISTERED SUPPORT / OPPOSITION :

Support

American Civil Liberties Union

California Nurses Association

California Peace Officers' Association

California Police Chiefs' Association

City of Los Angeles

Handgun Control, Inc.

Legal Community Against Violence

Los Angeles County District Attorney's Office

Los Angeles Police Department

Trauma Foundation

Women Against Gun Violence

Opposition

California Rifle and Pistol Association

Peace Officers Research Association of California

One Private Citizen

Analysis Prepared by : Harry Dorfman / PUB. S. / (916) 319-3744

CA B. An., A.B. 202 Assem., 3/16/1999

END OF DOCUMENT