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8 **IN THE UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **WESTERN DIVISION**

11 MICHELLE FLANAGAN, et al.,

12 Plaintiffs,

13 v.
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15 CALIFORNIA ATTORNEY
GENERAL XAVIER BECERRA, in
16 his official capacity as Attorney
General of the State of California, et
17 al.,

18 Defendants.
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Case No.: 2:16-cv-06164-JAK-AS

**PLAINTIFFS' REQUEST FOR
JUDICIAL NOTICE IN SUPPORT
OF REPLY TO OPPOSITION TO
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT;
DECLARATION OF ANNA M.
BARVIR; EXHIBITS 11 - 12**

Judge: John A. Kronstadt
Hearing Date: November 6, 2017
Hearing Time: 8:30 AM
Courtroom: 10B

Action Filed: August 17, 2016
Trial Date: February 6, 2018

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Please take notice that, under Federal Rules of Evidence, rule 201, Plaintiffs Michelle Flanagan, Samuel Golden, Dominic Nardone, Jacob Perkio, and the California Rifle & Pistol Association (“Plaintiffs”) respectfully request that this Court take judicial notice of the following adjudicative fact and exhibits. This request is made in support of Plaintiffs’ Motion for Summary Judgment and is based on the attached declaration of Anna M. Barvir and the exhibits attached thereto.

Plaintiffs request that this Court judicially notice the fact that, on October 13, 2017, California Governor Edmund G. Brown, Jr., signed Assembly Bill No. 7 (2017-2018 Reg. Sess.) into law, which prohibits the carrying of an unloaded firearm that is not a handgun when carried on the person and outside a vehicle while in a public place or a public street in a prohibited area of an unincorporated area of a county. A copy of Governor Brown’s signing statement to the state legislature and a copy of Assembly Bill No. 7 are attached hereto as Exhibits 11 and 12, respectively.

This item is a proper subject for judicial notice under Federal Rules of Evidence, rule 201(b), because it is a fact that is “generally known within the trial court’s jurisdiction” or “can be accurately and readily determined from sources whose accuracy cannot be reasonably questioned.” More specifically, Plaintiffs’ request pertains to a recent legislative enactment, which courts can and should judicially notice. *See Rabkin v. Dean*, 856 F. Supp. 543, 546 (N.D. Cal. 1994); *see also Newcomb v. Brennan*, 558 F.2d 825, 829 (7th Cir. 1977), *cert. denied*, 434 U.S. 968 (1977); *GIC Indemnity Corp. v. Weisman*, 803 F.2d 500, 504 (9th Cir. 1986) (court may take judicial notice of official records and reports).

Dated: October 16, 2017

MICHEL & ASSOCIATES, P.C.

/s/ Sean A. Brady
Sean A. Brady
Attorneys for Plaintiffs

DECLARATION OF ANNA M. BARVIR

I, Anna M. Barvir, declare as follows:

1. I am an attorney licensed to practice law in the state of California and before the United States District Court for the Central District of California. I have personal knowledge of all facts set forth herein and could and would testify to the accuracy thereof if called to do so.

2. Attached hereto as Exhibit 11 is a copy of California Governor Edmund G. Brown Jr.'s letter to the California State Assembly regarding his signing of AB 7. This was retrieved from the official website of Governor Edmund G. Brown, Jr. at <https://www.gov.ca.gov/home.php>. From there, I visited https://www.gov.ca.gov/docs/AB_7_Signing_Message_2017.pdf and printed the attached page. The attached page truly and accurately reflects the web pages displayed.

3. Attached hereto as Exhibit 12 is a true and correct copy of Assembly Bill No. 7, which amends California Penal Code section 26400 to prohibit the carrying of an unloaded firearm that is not a handgun when carried on the person and outside a vehicle while in a public place or on a public street in a prohibited area of an unincorporated area of a county. This was retrieved from the official California Legislative Information website at <https://leginfo.legislature.ca.gov/faces/home.xhtml>. From there, I visited https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB7 and printed the attached pages. The attached pages were downloaded from this website and truly and accurately reflect the web pages displayed.

I declare under penalty of perjury that the foregoing is true and correct.
Executed this 16th day of October 2017 in Long Beach, CA.



Anna M. Barvir
Declarant

EXHIBIT 11



OFFICE OF THE GOVERNOR

OCT 13 2017

To the Members of the California State Assembly:

I am signing Assembly Bill 7 which bans the open carry of long guns in unincorporated areas where it is illegal to discharge a firearm.

In effect, this bill closes a narrow loophole in California's existing open-carry prohibitions.

This action does not in any way alter the dozens of current provisions of law that allow gun-owners to openly carry long guns in common everyday situations. Nor does the bill prevent local cities and counties from determining via ordinance where discharge of a firearm is permissible.

Sincerely,



Edmund G. Brown Jr.

EXHIBIT 12



Assembly Bill No. 7

CHAPTER 734

An act to amend Section 26400 of, to amend the heading of Article 1 (commencing with Section 26400) of Chapter 7 of Division 5 of Title 4 of Part 6 of, and to amend the heading of Chapter 7 (commencing with Section 26400) of Division 5 of Title 4 of Part 6 of, the Penal Code, relating to firearms.

[Approved by Governor October 13, 2017. Filed with
Secretary of State October 13, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 7, Gipson. Firearms: open carry.

Existing law prohibits, with certain exceptions, openly carrying an unloaded handgun outside a vehicle while in or upon a public place or public street of an incorporated city or city and county or while in or upon a public place or public street within a prohibited area, being defined as any area in which it is unlawful to discharge a firearm.

Existing law also prohibits, with certain exceptions, carrying an unloaded firearm that is not a handgun, such as a shotgun or rifle, while in an incorporated city or city and county but does not prohibit the carrying of an unloaded firearm other than a handgun in unincorporated areas of a county.

This bill would prohibit the carrying of, and make it a crime to carry, an unloaded firearm other than a handgun while in or upon a public place or public street within a prohibited area located within the unincorporated area of a county.

By expanding the scope of an existing crime, 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. The heading of Chapter 7 (commencing with Section 26400) of Division 5 of Title 4 of Part 6 of the Penal Code is amended to read:

CHAPTER 7. CARRYING AN UNLOADED FIREARM THAT IS NOT A HANDGUN

Ch. 734

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SEC. 2. The heading of Article 1 (commencing with Section 26400) of Chapter 7 of Division 5 of Title 4 of Part 6 of the Penal Code is amended to read:

Article 1. Crime of Carrying an Unloaded Firearm that is not a Handgun

SEC. 3. Section 26400 of the Penal Code is amended to read:

26400. (a) A person is guilty of carrying an unloaded firearm that is not a handgun when that person carries upon his or her person an unloaded firearm that is not a handgun outside a vehicle while in any of the following areas:

(1) An incorporated city or city and county.

(2) A public place or a public street in a prohibited area of an unincorporated area of a county.

(b) (1) Except as specified in paragraph (2), a violation of this section is a misdemeanor.

(2) A violation of subdivision (a) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment, if the firearm and unexpended ammunition capable of being discharged from that firearm are in the immediate possession of the person and the person is not in lawful possession of that firearm.

(c) (1) Nothing in this section shall preclude prosecution under Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9, Section 8100 or 8103 of the Welfare and Institutions Code, or any other law with a penalty greater than is set forth in this section.

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

(d) Notwithstanding the fact that the term “an unloaded firearm that is not a handgun” is used in this section, each individual firearm shall constitute a distinct and separate offense under this section.

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.

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CERTIFICATE OF SERVICE
IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

Case Name: *Flanagan, et al. v. California Attorney General Xavier Becerra, et al.*
Case No.: 2:16-cv-06164-JAK-AS

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

**PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF
REPLY TO OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY
JUDGMENT; DECLARATION OF ANNA M. BARVIR; EXHIBITS 11 - 12**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Xavier Becerra, Attorney General of California	<i>Attorneys for Attorney</i>
P. Patty Li, Deputy Attorney General	<i>General of the State of</i>
E-mail: Patty.Li@doj.ca.gov	<i>California</i>
Jonathan M. Eisenberg, Deputy Attorney General	
E-mail: Jonathan.Eisenberg@doj.ca.gov	
300 South Spring Street, Suite 1702	
Los Angeles, CA 90013	

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

Executed October 16, 2017.

/s/ Laura Palmerin

Laura Palmerin