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13  
14 IN THE UNITED STATES DISTRICT COURT  
15 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

16 B&L PRODUCTIONS, INC., d/b/a  
CROSSROADS OF THE WEST, et al.,

17 Plaintiffs,

18 v.

19 GAVIN NEWSOM, in his official  
20 capacity as Governor of the State of  
California and in his personal capacity, et  
21 al.,

22 Defendants.

CASE NO: 21CV1718 AJB KSC

**PLAINTIFFS’ JOINT OPPOSITION  
TO DEFENDANTS GOVERNOR  
GAVIN NEWSOM, ATTORNEY  
GENERAL ROB BONTA,  
SECRETARY KAREN ROSS, AND  
22ND DISTRICT AGRICULTURAL  
ASSOCIATION’S MOTION TO  
DISMISS COMPLAINT AND  
DEFENDANTS STEPHAN AND  
ELDRIDGE’S MOTION TO  
DISMISS**

[Filed concurrently with Request for  
Judicial Notice]

Hearing Date: April 7, 2022  
Hearing Time: 2:00 p.m.  
Courtroom: 4A  
Judge: Hon. Anthony J. Battaglia

Action Filed: October 4, 2021

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**TABLE OF AUTHORITIES**

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**Cases**

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*City of Pasadena v. Super. Ct. of L.A. Cnty.*,  
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13 *Nordyke v. Santa Clara Cnty.*,  
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 14 *United States v. Playboy Entm’t Grp., Inc.*,  
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 20 *Ward v. Rock Against Racism*,  
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 21 *Will. v. Mich. Dep’t. of State Police*,  
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 26 Cal. Food & Agric. Code § 3960.....16  
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10 Cal. Pen. Code § 27310 .....2

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12 Cal. Pen. Code § 27545 .....2

13 **Other Authorities**

14 Fed. R. Civ. P. 8.....4

15 Fed. R. Civ. P. 12.....4

16 Streisand Effect, *Wikipedia*, Wikimedia Found. (last updated Feb. 19, 2022),

17 [https://en.wikipedia.org/wiki/Streisand\\_effect#In\\_politics](https://en.wikipedia.org/wiki/Streisand_effect#In_politics) .....5

18 U.S. Const. amend. I..... *passim*

19 U.S. Const. amend. II.....1, 3, 5

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21 U.S. Const. amend. XI.....17

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## INTRODUCTION

1  
2 A gun show is a public gathering. There are no membership requirements, no  
3 VIP sections, no special invitations. Anyone can attend. Thousands of these shows  
4 take place in towns throughout the United States, in places ranging from flea  
5 markets to vacant commercial discount stores. Licensed retailers display and sell  
6 firearms and related products, but vendors also sell historical pieces, jewelry, home  
7 décor, and even homemade fudge and tattered romance novels. Second Amendment  
8 supporters attend not only to purchase firearms, but also to engage in speech about  
9 the lawful uses of firearms and preservation of their rights.

10 After the 22nd District Agricultural Association enacted a moratorium on  
11 these inherently expressive events at the Del Mar Fairgrounds in 2018, several  
12 plaintiffs in this case sued, claiming the ban violated their rights to free speech, free  
13 assembly, and equal protection. The DAA moved to dismiss—a request this Court  
14 rejected, opting instead to preliminarily enjoin the moratorium because plaintiffs  
15 were likely to succeed on the merits. The parties promptly settled, and the DAA  
16 revoked its unconstitutional gun show ban.

17 In response, state legislators vowed to do something to put an end to these  
18 constitutionally protected events. Enter Assembly Bill 893, which prohibits the sale  
19 (and offer for sale) of firearms and ammunition at the Del Mar Fairgrounds. The  
20 State does not claim that its ban is necessary to stop a known, measurable, or serious  
21 problem. Nor have they identified any other compelling interest that might justify its  
22 ban on this otherwise lawful speech. Instead, as the bill’s authors candidly declared,  
23 the State’s only real justification is a “belief[] that the state should not profit from  
24 sales of firearms and ammunition.” Compl. ¶ 110. But that “interest” alone proves  
25 the State lacked any legitimate interest when it adopted AB 893. And the bill’s  
26 legislative history shows that it was really animus for gun culture and pro-gun  
27 speech. Plaintiffs thus seek to enjoin enforcement of AB 893 because it is a de facto  
28 ban on First Amendment activity in a public forum, and because it violates their

1 rights to equal protection under the law.

2 For the reasons discussed below, Plaintiffs ask the Court to deny Defendants’  
3 motions to dismiss in their entirety. If, however, this Court upholds any aspect of  
4 Defendants’ motions to dismiss, Plaintiffs request leave to amend.<sup>1</sup>

5 **STATEMENT OF FACTS**

6 **I. REGULATION OF GUN SHOWS IN CALIFORNIA**

7 California has the most rigorous regulatory regime for commerce in firearms  
8 and ammunition in the United States. Compl. ¶ 30. That is, perhaps, most true for  
9 the sale of firearms and ammunition at gun shows, where laws regulating commerce  
10 in firearms is, in many ways at their strictest. *See id.* ¶¶ 30-42. From requiring that  
11 event promoters provide law enforcement with a complete list of all firearm retailer  
12 vendors, Cal. Penal Code § 27205, to mandating that they maintain an insurance  
13 policy with at least \$1,000,000 coverage, *id.* § 27200, and dictating what warnings  
14 must be posted throughout the venue, *id.* § 27240, California law covers all manner  
15 of conduct at gun shows. *See App’x A* (for a more complete list of the myriad state  
16 laws regulating gun shows). But, perhaps most importantly, no firearm transfers  
17 may lawfully take place at any gun show absent narrow exceptions applicable only  
18 to law enforcement. Vendors may begin the process onsite, but purchasers must pick  
19 up their firearm after a 10-day waiting period and background check from licensed  
20 firearm retailer at a licensed location.<sup>2</sup> There is no “gun show loophole.”

21 **II. THE DEL MAR FAIRGROUNDS & THE B&L GUN SHOW**

22 The state of California owns the Del Mar Fairgrounds (“the Venue”). Compl.  
23 ¶ 61, Ex. 1. The state vests authority to manage the Venue with Defendant DAA. *Id.*

24 \_\_\_\_\_  
25 <sup>1</sup> State Defendants Newsom, Bona, Ross, and DAA moved to dismiss. County  
26 Defendants Stephan and Eldridge filed a separate motion joining the State’s  
27 arguments. Plaintiffs respond to both motions here.

28 <sup>2</sup> Cal. Penal Code § 27310 (requiring all firearm transfers at gun shows to  
comply with state and federal law); *id.* § 26805 (prohibiting the sale and transfer of  
a firearm by a licensed dealer at any location other than the dealer’s licensed  
premises but allowing dealer to prepare documents at a gun show); *id.* § 27545  
(requiring all transactions to be processed through a licensed dealer).

1 ¶ 62. Defendant Karen Ross, the Secretary of the Department of Food &  
 2 Agriculture, directly oversees the operation of California’s agricultural districts. *Id.*  
 3 ¶ 63. The Department maintains policies for the operation of all DAAs in the state,  
 4 including the use of the Venue. *Id.* ¶¶ 63-65. Because of its size and location, the  
 5 Venue is a unique facility—there being no other comparable venue in the area. *Id.* ¶  
 6 66. Many public groups thus use the Venue to host large, expressive events,  
 7 including concerts, festivals, and trade shows. *Id.* ¶¶ 68-70. The DAA promotes  
 8 such use by the public. *Id.* ¶ 69. Indeed, its mission is “[t]o manage and promote a  
 9 world-class, multi-use, public assembly facility with an emphasis on agriculture,  
 10 education, entertainment, and recreation ... for the benefit of all.” *Id.* ¶ 71.

11 Plaintiff B&L Productions has operated popular, safe, legal, and family-  
 12 friendly gun show events as a business in California for over 30 years. Compl. ¶¶ 1,  
 13 11. It has long produced events at the Venue where like-minded people, including  
 14 the individual and vendor plaintiffs, gather to engage in lawful speech and  
 15 commerce necessary for the exercise of the Second Amendment, as well as other  
 16 forms of political, educational, and commercial speech. *Id.* ¶¶ 1-4. Gun show  
 17 vendors are often the same licensed vendors that have brick-and-mortar stores in the  
 18 community, operate legally over the internet, and are registered with the state as  
 19 lawful businesses. *Id.* ¶¶ 17, 19, 44. They sell legal products and enjoy attending  
 20 gun shows so they can interact with customers in a meaningful way. *Id.* ¶¶ 44-45.

21 **III. ASSEMBLY BILL 893**

22 On October 11, 2019, Defendant Governor Gavin Newsom signed AB 893,  
 23 amending the California Food & Agricultural Code to add section 4158,<sup>3</sup> which  
 24 states that “[n]otwithstanding any other law, an officer, employee, operator, lessee,  
 25 or licensee of the 22nd District Agricultural Association, as defined in Section 3873,  
 26 shall not contract for, authorize, or allow the sale of any firearm or ammunition on  
 27

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28 <sup>3</sup> Plaintiffs refer to both AB 893 and section 4158 as “AB 893” throughout.

1 the property or in the buildings that comprise the ... [Venue].” *Id.*, Ex. 6 at 53-55.  
2 The law took effect on January 1, 2021. *Id.* While the law was intended to end gun  
3 shows at the Venue, as the legislative history of AB 893 makes clear, the law’s  
4 express target is the buying and selling of firearms and ammunition on the state-  
5 owned property of the fairgrounds. *Id.* ¶¶ 89-90, 120, 123-130, Ex. 7 at 57-64. The  
6 banning of gun shows, however, has long been the goal of politicians and lobbyists  
7 who dubiously claim they believe it is wrong for the state to benefit from the sale of  
8 firearms. *Id.* ¶¶113-115. Essentially, even though AB 893 does not expressly state  
9 that it “bans” gun shows, that is exactly what the bill does.

10 **LEGAL STANDARD**

11 “To survive a motion to dismiss for failure to state a claim under Rule  
12 12(b)(6), a complaint generally must satisfy only the minimal notice pleading  
13 requirements of Rule 8(a)(2).” *Porter v. Jones*, 319 F.3d 483, 494 (9th Cir. 2003).  
14 That is, Plaintiffs need provide just a short and plain statement showing they are  
15 entitled to relief. Fed. R. Civ. P. 8(a)(2). At this stage, courts must view the  
16 complaint “in the light most favorable to Plaintiffs, taking all allegations as true, and  
17 drawing all reasonable inferences from the complaint in [plaintiffs’] favor.” *Doe v.*  
18 *United States*, 419 F.3d 1058, 1062 (9th Cir. 2005).

19 **ARGUMENT**

20 **I. PLAINTIFFS HAVE PLEADED VIABLE FIRST AMENDMENT AND EQUAL**  
21 **PROTECTION CLAIMS**

22 There are essentially four components to Plaintiffs’ First Amendment claims:  
23 (1)-(2) Political and commercial speech at gun shows, (3) prior restraint, and (4)  
24 freedom of association. Plaintiffs’ equal protection claim is based on the State’s  
25 denial of the exercise of these rights in a public forum in a way that treats similarly  
26 situated persons differently. In the aggregate, the violation of these rights highlights  
27 the cultural warfare embodied by AB 893. Indeed, the State’s denial of equal access  
28 to public venues for expressive and associative conduct is part and parcel of the

1 State’s animus toward “gun culture” and those who participate in it.

2 California’s incessant hostility to all things related to the Second Amendment  
3 produces the nexus between plaintiffs’ First Amendment and equal protection  
4 claims and the viewpoint-based culture war launched by defendants. AB 893 is the  
5 legislative equivalent of psychological reactance known in popular culture as the  
6 “Streisand Effect.”<sup>4</sup> In other words, California’s attempt to suppress the common  
7 and ordinary activities that take place at gun shows heightens the public’s perception  
8 of their importance—precisely because the government is seeking to suppress those  
9 activities. Plaintiffs have alleged, and are prepared to prove at trial, that gun shows  
10 held in the public commons convey a particularized message, and that the intended  
11 audience understands that message. *Texas v. Johnson*, 491 U.S. 397 (1989). That  
12 message, in the face of California’s droning assertions in AB 893 that guns are bad,  
13 is that *guns really are good*. They facilitate the exercise of a fundamental right to  
14 self-defense. *District of Columbia v. Heller*, 554 U.S. 570 (2008). And that just like  
15 bibles, books, religious symbols, printing presses, legal services, and fellowship  
16 with like-minded Americans, gun shows are entitled to the First Amendment  
17 protections that book fairs and revival meetings enjoy at the Venue.

18 This Court need not take Plaintiffs’ assertion of expressive conduct at gun  
19 shows at face value. The State’s relentless pursuit to ban them, without offering any  
20 evidence that Plaintiffs’ gun shows are a direct source of evil, is itself an inference  
21 that they are imbued with symbolic value by the State. Couple this with the public  
22 statements by some defendants (and other state actors),<sup>5</sup> and the gun show’s  
23  
24

25 <sup>4</sup> “Streisand Effect,” *Wikipedia*, Wikimedia Found. (last updated Feb. 19,  
26 2022), [https://en.wikipedia.org/wiki/Streisand\\_effect#In\\_politics](https://en.wikipedia.org/wiki/Streisand_effect#In_politics).

27 <sup>5</sup> Many statements in AB 893 referring to alleged criminal activity at  
28 Plaintiffs’ events might actually be false and libelous, were it not for the First  
Amendment protections afforded the Defendants on issues of public interest. In the  
context of a motion to dismiss, Plaintiffs are entitled to the inference that the State’s  
factual claims are false because Plaintiffs challenge them in their complaint.

1 symbolic value evolves from inference<sup>6</sup> to admission.<sup>7</sup> AB 893 is hardly the first  
2 time that a state actor has tried to ban gun shows in California, provoking a legal  
3 challenge and a court-ordered or voluntary retreat from the ban. Indeed, examples  
4 abound, as Plaintiffs will show. *See, e.g., Nordyke v. Santa Clara Cnty.*, 110 F.3d  
5 707 (9th Cir. 1997); *Nordyke v. King*, 681 F.3d 1041 (9th Cir. 2012) (en banc); *B&L*  
6 *Prods. v. 22nd Dist. Agric. Ass’n*, 394 F. Supp. 3d 1226 (S.D. Cal. 2019) (*B&L I*).

7 For all the State’s caterwauling that AB 893 is a legitimate “regulation” on  
8 the commercial sale of firearms, Mot. 17-18, this is simply not the case. AB 893  
9 directly bans—it does not merely regulate—otherwise lawful speech related to the  
10 sale of legal firearms and ammunition to “terminate the possible for future gun  
11 shows at the Venue.” Compl., Ex. 7 at 60; *see also id.* ¶¶ 113-114, 125-130, 120. In  
12 contrast, the complaint is filled with examples of the laws that do “regulate” the  
13 commercial sale of firearms and ammunition at brick-and-mortar stores and gun  
14 shows alike. *Id.* ¶¶ 30-42; *see also App’x A*. Is the State prepared to admit that its  
15 full set of laws, presumed to be enforced at all gun shows, do not actually curb  
16 crimes and the only policy choice left is to ban the sale (offers to buy and sell) of  
17 firearms and ammunition altogether?

18 Nor does AB 893 serve any purported interest in public safety. Mot. 18-19.  
19 The bill cites no peer reviewed studies for its public safety pretexts. Compl. ¶¶ 107-  
20 112, 115-119, Ex. 6. It puts forth no admissible evidence that Plaintiffs’ gun shows  
21 are the source of “grave danger to the community.” Rather, the monster of its  
22 imagination appears to be a theory that commercial activities associated with gun  
23 shows have a “bad tendency” to promote lawless conduct. *See, e.g., Schenck v.*  
24 *United States*, 249 U.S. 47 (1919); *Frohwerk v. United States*, 249 U.S. 204 (1919);  
25 *Debs v. United States*, 249 U.S. 211 (1919). But the theory that fundamental rights

26 \_\_\_\_\_  
27 <sup>6</sup> *See, e.g.,* Compl., Ex. 2 (Newsom’s letter decrying the sale of firearms as  
perpetuating the gun culture).

28 <sup>7</sup> *See, e.g.,* Compl., Ex. 3 (Gloria’s letter articulating a social theory that the  
right to buy and sell guns tends to promote gun violence).

1 can be squelched based on speculative conjecture about motives and bad tendencies  
 2 began losing traction over 100 years ago in *Abrams v. United States*, 250 U.S. 616  
 3 (1919). Modern doctrine now requires incitement to immediate unlawful conduct  
 4 before fundamental rights must yield to any state interest. *Brandenburg v. Ohio*, 395  
 5 U.S. 444, 447 (1969). Even assuming it were still a live doctrine, there are no  
 6 reported cases that the ancient “bad tendencies” dogma applies to modern  
 7 commercial speech jurisprudence.

8 In short, heightened scrutiny of the facts (read in the light most favorable to  
 9 Plaintiffs) requires denial of the Defendants’ motions to dismiss.

10  
 11 **A. AB 893 Targets Plaintiffs’ First Amendment Rights to Free  
 Speech and Free Association**

12 The First Amendment protects speech. It also protects freedom of the press,  
 13 religion, and “the right of the people peaceably to assemble, and to petition the  
 14 Government for a redress of grievances.” U.S. Const. amend. I. “Effective advocacy  
 15 of both public and private points of view, particularly controversial ones, is  
 16 undeniably enhanced by groups association, as the [Supreme] Court has more than  
 17 once recognized by remarking upon the close nexus between the freedoms of speech  
 18 and assembly.” *NAACP v. Alabama*, 357 U.S. 449, 460 (1959). Thus, modern First  
 19 Amendment jurisprudence often merges the analysis for free speech with the rights  
 20 of assembly and free association, when those activities are at issue in a “public  
 21 forum” case like this one.<sup>8</sup> In such cases, the doctrines employed mimic the  
 22 doctrines applied in free speech cases, where courts borrow from strict scrutiny or  
 23 the clear-and-present danger analysis that governs content-based speech regulations.

24  
 25 <sup>8</sup> The Venue is, at minimum, a “designated public forum,” having been  
 26 “opened [by the State] for use by the public as a place for expressive activity.” *Perry*  
 27 *Educ. Ass’n v. Perry Loc. Educ.’ Ass’n*, 460 U.S. 37, 45 (1983); see also *B&L I*,  
 28 394 F. Supp. 3d at 1246 (holding that the Venue is a public forum). In these forums,  
 the government “is bound by the same standards as apply in a traditional public  
 forum.” *Perry*, 460 U.S. at 46. That is, any content-based prohibition on expressive  
 conduct must survive strict scrutiny. *Id.*

1 Analysis of the First Amendment issues here must start with a determination  
2 of whether AB 893 can be justified without reference to the purpose of gun shows  
3 *qua* gun shows. “[A]s with speaker-based laws, the fact that a distinction is event-  
4 based does not render it content neutral.” *Reed v. Town of Gilbert*, 135 S. Ct. 2218,  
5 2231 (2015). But “a clear and firm rule governing content neutrality is an essential  
6 means of protecting freedom of speech, even if laws that might seem ‘entirely  
7 reasonable’ will sometimes be ‘struck down because of their content-based nature.’”  
8 *Id.* (quoting *City of Ladue v. Gilleo*, 512 U.S. 43, 60 (1994) (O’Connor, J.,  
9 concurring). For, “above all else, the First Amendment means that the government  
10 has no power to restrict expression because of its message, its ideas, its subject  
11 matter, or its content.” *Police Dep’t of Chic. v. Mosley*, 408 U.S. 92, 95 (1972).

12 Government restrictions that selectively ban speech based on its subject  
13 matter are content-based regulations. They regulate speech “by particular subject  
14 matter” or “by its function or purpose.” *Reed*, 135 S. Ct. at 2227. The Constitution  
15 demands that such restrictions “be presumed invalid, and that the Government bear  
16 the burden of showing their constitutionality.” *Ashcroft v. Am. Civ. Libs. Union*, 542  
17 U.S. 656, 660 (2004); *Reed*, 135 S. Ct. at 2226 (holding that content-based  
18 restrictions are subject to strict scrutiny). Indeed, holding that a government  
19 restriction on speech is content-based is often determinative. *See, e.g., Ark. Writers’*  
20 *Project v. Ragland*, 481 U.S. 221, 231-32 (1987).

21 AB 893 is plainly a content-based restriction. As noted above, we have been  
22 here before. In *Nordyke v. Santa Clara County*, the Ninth Circuit held that a county  
23 ban on the “sale” of firearms on county-owned fairgrounds was overbroad because  
24 it abridged commercial speech associated with the sale of lawful products. 110 F.3d  
25 at 713. Firearms are still lawful (constitutionally protected) products in California  
26 25 years after that decision. Thus, the analysis of AB 893 begins and ends with  
27 what is already settled law in this circuit: the State may not ban the sale or  
28 possession of firearms at gun shows at government-owned fairgrounds open for



1 public use. *Id.* at 710 (commercial speech necessary for sale); *Nordyke v. King*, 681  
 2 F.3d at 1045-46 (possession for sale at gun shows). Now, AB 893 did not outlaw  
 3 “possession” of firearms at the Venue. Thus, it avoided repeating the futility of that  
 4 policy when it was advanced by Alameda County in *Nordyke v. King*. But by  
 5 decreeing that no person may “contract for, authorize, or allow *the sale of any*  
 6 *firearm or ammunition*” at the Venue, AB 893—a restriction applicable only to  
 7 commercial speech related to guns and ammunition—is virtually identical to the  
 8 actions taken by the government in *Nordyke v. County of Santa Clara*.<sup>9</sup>

9 And once the sale and possession of firearms is subtracted from all the other  
 10 activities at gun shows, the remainder is the purely expressive speech and assembly  
 11 rights of attendees and vendors celebrating “gun culture.” The First Amendment no  
 12 doubt protects that intended expression. It is not obscene, defamatory, or  
 13 fraudulent. It does not advocate for imminent lawless action or solicit others to  
 14 commit crimes. Nor does it constitute fighting words or true threats. Plaintiffs’  
 15 lawful speech ranges from purely political to commercial—and it all pertains to the  
 16 exercise and preservation of the right to arms. What’s more, and seemingly  
 17 dispositive on the core issues here, when “[t]he sale of merchandise [is]  
 18 inextricably intertwined with a religious, political, ideological, or philosophical  
 19 message, [it] is fully protected by the First Amendment.” *Hunt v. City of Los*  
 20 *Angeles*, 601 F. Supp. 2d 1158 (C.D. Cal. 2009), *aff’d*, 638 F.3d 703 (9th Cir.  
 21 2011). This is the business model of guns shows.

22 Even so, AB 893 targets gun shows and the protected speech and association  
 23

---

24 <sup>9</sup> This invites the question: Does AB 893’s ban on buying and selling guns at  
 25 the Venue merely require that status quo gun shows display firearms and  
 26 ammunition with labels that say, “No contract for the sale of this item can occur  
 27 here—but call this number to enter into that transaction after buyer and seller both  
 28 leave the fairgrounds”? Would such conduct violate AB 893 as an offer that invites  
 an offer for sale? It is unclear. Stated another way: If AB 893 does not facially  
 violate the First Amendment, especially its commercial speech doctrine, then on  
 these facts, it would seem the law is void for vagueness and overbreadth. *See*  
*generally, NAACP v. Button*, 371 U.S. 415 (1963).

1 that takes place at such events for banishment, while leaving virtually all other  
 2 manner of expressive conduct untouched. Indeed, AB 893 treats gun shows  
 3 differently from car shows, home shows, and beer and wine shows, despite data  
 4 attesting to the public safety risks incident to them. For instance, auto accidents  
 5 killed more than nearly 4,000 people on California’s highways in 2019 alone. Pls.’  
 6 Req. Jud. Ntc., Ex. 2. That same year, another 178 people drowned in pools and  
 7 tubs. *Id.* And abuse of alcohol, regularly sold at the Venue, poses a well-known  
 8 threat to public health and safety. Though the State has not tried to ban sales of cars  
 9 or hot tubs or alcohol at the Venue. This strongly suggests that AB 893 is about  
 10 animus for “gun culture” and not a genuine concern for public safety.

11 Worse yet, the State, through AB 893, has targeted gun shows *because of*  
 12 who Plaintiffs are and what they represent—the “gun culture.” *See* Compl. ¶¶ 89-90,  
 13 102, 113-114, 120, 122-123, 129, Ex. 2, Ex. 7 at 61, Ex. 13 at 215, 291-92. By  
 14 singling out the “gun culture” for banishment from the Venue, based on the  
 15 viewpoint of the expressive activities that take place at gun shows, the State engaged  
 16 in viewpoint-based discrimination, a most “egregious form of content  
 17 discrimination.” *Reed*, 135 S. Ct. at 2226.<sup>10</sup>

18 For these reasons, AB 893 can only stand if it satisfies the most exacting  
 19 standard of judicial review. But no matter what level of scrutiny applies, the result  
 20 is the same—the State cannot “prov[e] the constitutionality of its actions.” *United*  
 21 *States v. Playboy Entm’t Grp., Inc.*, 529 U.S. 803, 816 (2000).

### 22 C. AB 893 Targets Plaintiffs’ Right to Equal Protection

23 Closely related to viewpoint discrimination discuss above, is the violation of  
 24

25 <sup>10</sup> Similarly, when a government refuses to allow some groups to use a  
 26 designated public forum based on disapproval of the message, courts often consider  
 27 the government action a “prior restraint” on free speech. *Se. Promos., Ltd. v.*  
 28 *Conrad*, 420 U.S. 546 (1975). “Prior restraints” naturally abridge the freedom of  
 speech and are thus particularly suspect.” *Bantam Books, Inc. v. Sullivan*, 372 U.S.  
 58, 70 (1963). Only in the face of an acute government interest, and only when the  
 limitation is no broader than necessary to achieve that interest, should the Court  
 uphold a prior restraint. *Cal. Med. Ass’n v. FEC*, 453 U.S. 182, 203 (1981).

1 Plaintiffs’ fundamental rights under the Fourteenth Amendment’s Equal Protection  
 2 clause. When the unequal treatment stems from the exercise of a fundamental right  
 3 or the government’s regulation of a right is motivated by animus toward a particular  
 4 group, courts must apply heightened scrutiny. *See generally, Grosjean v. Am. Press*  
 5 *Co.*, 297 U.S. 233 (1936); *Minneapolis Star & Trib. Co. v. Minn. Comm’r of*  
 6 *Revenue*, 460 U.S. 575 (1983). Even seemingly neutral justifications offered by  
 7 government actors for regulations that discriminate among similarly situated  
 8 individuals claiming violations of fundamental rights, should not discourage courts  
 9 from probing beneath the surface of those justifications when there are statements  
 10 by government officials implicating improper motive. *Ridley v. Mass. Bay Transp.*  
 11 *Auth.*, 390 F.3d 65, 85 (1st Cir. 2004) (citing *Vill. of Arlington Heights v. Metro.*  
 12 *Hous. Dev. Corp.*, 429 U.S. 252, 268 (1977)).

13 Although the Supreme Court ultimately rejected a challenge to President  
 14 Trump’s animus-based travel ban in *Trump v. Hawaii*, 138 S. Ct. 2392 (2018), the  
 15 Court took that occasion to restate that, *even under rational basis review*, laws may  
 16 violate the Constitution when they lack any purpose other than a “bare [...] desire  
 17 to harm a politically unpopular group.” *Dep’t of Agric. v. Moreno*, 413 U.S. 528,  
 18 534 (1973). The Court continued:

19 In one case, we invalidated a local zoning ordinance that required a  
 20 special permit for group homes for the intellectually disabled, but  
 21 not for other facilities such as fraternity houses or hospitals. We did  
 22 so on the ground that the city’s stated concerns about . . . “legal  
 23 responsibility” and “crowded conditions” rested on “an irrational  
 24 prejudice” against the intellectually disabled. [Citation.] And in  
 25 another case, this Court overturned a state constitutional amendment  
 26 that denied gays and lesbians access to the protection of  
 27 antidiscrimination laws. The amendment, we held, was “divorced  
 28 from any factual context from which we could discern a relationship  
 to legitimate state interests,” and “its sheer breadth [was] so  
 discontinuous with the reasons offered for it” that the initiative  
 seemed “inexplicable by anything but animus.” [Citation.]

26 *Id.* at 2420 (quoting *Cleburne v. Cleburne Living Ctr., Inc.*, 473 U.S. 432, 448-450  
 27 (1985); *Romer v. Evans*, 517 U.S. 620, 632, 635 (1996)).

28 AB 893’s ban on the commerce associated with gun shows—a de facto ban

1 on gun shows—is a barely-veiled targeting of members of the “gun culture” and  
2 those who attend B&L’s gun shows. AB 893 is undeniably infused with the State’s  
3 desire to harm this politically unpopular group. No matter which level of scrutiny  
4 applies, the law must fall.

5 **D. AB 893 Is Subject to Heightened Scrutiny Under Either the First**  
6 **Amendment Claims or the Equal Protection Claim, and It**  
7 **Necessarily Fails It**

8 Because, as Plaintiffs have shown, AB 893 is a content-based restriction (and  
9 prior restraint) on protected speech in a public forum, strict scrutiny applies. But  
10 even if the Court applies the more-forgiving intermediate scrutiny, the law cannot  
11 stand. Under either form of heightened scrutiny, the law is *presumed* invalid, and the  
12 government bears the burden of justifying it. *See, e.g., R.A.V. v. City of St. Paul*, 505  
13 U.S. 377, 382 (1992). Under strict scrutiny, this requires the state to prove its  
14 restriction is narrowly tailored to further a compelling interest. *Reed*, 135 S. Ct. at  
15 2231. Under intermediate scrutiny, the government must prove its restriction is  
16 “narrowly tailored to serve a significant government interest.” *Madsen v. Women’s*  
17 *Health Ctr. Inc.*, 512 U.S. 753, 764 (1994). It “need not be the least restrictive or  
18 least intrusive means’ of serving the government’s interests.” *McCullen v. Coakley*,  
19 573 U.S. 464, 486 (2014) (quoting *Ward v. Rock Against Racism*, 491 U.S. 781, 798  
20 (1989)). But it must be “closely drawn” to avoid “unnecessary abridgment” of  
21 protected conduct. *McCutcheon v. FEC*, 572 U.S. 185, 199 (2014). AB 893 is not  
22 “closely drawn” to any legitimate government interest. To the contrary, it paints in  
23 the broadest of strokes, banning all speech related to the sale of firearms and  
24 ammunition in a public forum. It is unconstitutional.

25 First, the State has no sufficient interest in restricting gun shows and the  
26 expressive conduct and association that takes place at such event. A “compelling  
27 government interest” is an *actual interest* in addressing an *actual problem*. *See*  
28 *Grutter v. Bollinger*, 539 U.S. 306, 331-36 (2003). The State claims AB 893 is  
necessary to address public safety concerns related to gun violence. Mot. 20. While

1 the government generally has a compelling interest in public safety, that interest is  
2 just a pretext here—a ruse to cover up the State’s animus for “gun culture” and  
3 those who participate in it. That much is clear from the allegations of Plaintiffs’  
4 complaint.

5 Even before the State enacted AB 893, when activists set their sights on  
6 enacting a moratorium on gun shows at the Venue, Defendant DAA appointed a  
7 two-person committee to “investigate” the gun show events at the Venue. Compl. ¶  
8 88. The DAA communicated with other agencies to determine whether gun shows  
9 were operated in full compliance with state and federal law, and if the events pose  
10 any real danger to the community. *Id.* ¶ 87. The Venue’s Public Safety Director  
11 reported that the B&L gun show “is in complete compliance with all the local, State  
12 and Federal law that govern gun shows and that there have not been any violations  
13 of the law.” *Id.* ¶¶ 92-94, Ex. 14 at 17. In short, the DAA’s lengthy process “resulted  
14 in no finding that allowing the (already heavily regulated) gun show events to  
15 continue at the [Venue] posed a definite or unique risk to public safety.” *Id.* ¶ 95.

16 Yet AB 893 claims, without support, that “[g]un shows bring grave danger to  
17 a community” and that “dangerous incidents” have taken place at guns shows at the  
18 Venue, including “an official vendor accused of trafficking illegal firearms, sales of  
19 firearms to individuals registered in the Department of Justice Bureau of Firearms  
20 Armed Prohibited Persons System, and illegal importation of large-capacity  
21 magazines.” *Id.* ¶ 108. But AB 893 makes no effort to show that these incidents are  
22 any more likely to occur at gun shows in California, which are regulated at least as  
23 heavily as retailers operating out of brick-and-mortar stores.

24 AB 893 also claims that “between the years 2013 and 2017, the San Diego  
25 County Sheriff recorded 14 crimes” at gun shows at the Fairgrounds. *Id.*, Ex. 6. But  
26 even if the State had proof of these crimes, AB 893 makes no attempt to compare  
27 this to the number of crimes recorded at other similarly sized events at the Venue  
28 during that period. *Id.* ¶ 109. Nor does it distinguish between the type of crimes this

1 bill purports to target (e.g., illegal transfers, straw purchases, sales of illegal firearms  
2 or accessories) and run-of-the-mill crimes likely to occur whenever thousands of  
3 people descend on one venue for a trade show or fair (e.g., petty thefts, parking or  
4 traffic violations, public drunkenness, simple assault). *Id.*

5 Instead, AB 893’s legislative history reveals only general concerns about gun  
6 violence occurring all over the country and legislators’ beliefs that the state should  
7 not profit from sales of firearms and ammunition. *Id.* ¶ 110, Ex. 7. Indeed, AB 893  
8 opens with a list of tragedies—none of which were carried out with firearms traced  
9 to gun show events at the Venue. *Id.* ¶ 111, Ex. 6. What’s more, a bill analysis cited  
10 a decade-old study from the Violence Prevention Research Program, identifying gun  
11 shows as a source of illegally trafficked firearms. *Id.*, Ex. 7 at 3. But neither the  
12 VPRP study nor AB 893’s legislative history links any illegally trafficked firearm or  
13 gun used in crime to gun shows at the Venue (or any gun show in California). This  
14 is unsurprising because, as the study itself finds, “[m]uch of the concern about gun  
15 shows as a source of crime guns focuses on private party gun sales, *since no*  
16 *background checks are conducted and no records are kept.*” *Id.* ¶ 115, Ex. 8 at 32.  
17 But such concerns are irrelevant in California where all private party transfers—  
18 even those started at gun shows—must be processed by a licensed firearm dealer  
19 and are subject to background checks and registration under state law. *Id.* ¶ 115.

20 The same VPRP study attempts to implicate licensed retailers operating at  
21 gun shows as sources of crime guns in America, claiming that “30% of dealers with  
22 gun show sales, but 22% of all dealers, had previously had a crime gun traced to  
23 them.” *Id.* ¶ 116, Ex. 8 at 33. But it expressly recognizes that “in California, where  
24 both gun shows themselves and gun commerce generally are regulated, ***sales at gun***  
25 ***shows are not a risk factor among licensed retailers for disproportionate sales of***  
26 ***crime guns.***” *Id.* (double emphasis added). Plaintiffs could go on for pages  
27 establishing that the State’s “evidence” that AB 893 serves some public safety  
28 interest is mere window dressing. *Id.* ¶¶ 113-114, 117-119.

1 The State’s “actual interest” was a politically motivated, animus-driven one.  
2 This is perhaps best evidenced by Newsom’s 2018 letter encouraging the DAA to  
3 ban gun shows. He wrote: “Permitting the sale of firearms and ammunition on state-  
4 owned property *only perpetuates America’s gun culture* at a time when 73% of  
5 Californians support gun reform measures and 73% of California [sic] cite concern  
6 about the threat of mass shootings in our schools.” *Id.* ¶ 123 (emphasis added). Or  
7 by Assemblymember Gloria’s lament that “the State of California should not be  
8 profiting or benefitting from the sale of firearms” because it is “fundamentally  
9 wrong.” *Id.* ¶ 113. Or by claims that Del Mar “unanimously” supported AB 893  
10 because the city believes “the *promotion and glorification of guns at the gun show*  
11 *are not consistent with our community values*”? *Id.* ¶ 120 (emphasis added). The  
12 allegations of the complaint are clear: the State’s “actual interest” was simply in  
13 banning gun shows—and the expressive activities that take place at them. This is not  
14 a legitimate public interest, let alone a compelling or significant one.

15 But even if the State could point to some sufficient interest in public safety, it  
16 cannot prove that AB 893 is sufficiently tailored to that end. To meet the  
17 requirement of narrow tailoring, the government must target the exact wrong it  
18 seeks to remedy, and no more. *Frisby v. Schultz*, 487 U.S. 474, 485 (1988). In  
19 analyzing public safety regulations designed to mitigate concrete public safety  
20 concerns, *a ban is necessarily overbroad*. *Edwards v. City of Coeur D’Alene*, 262  
21 F.3d 856, 863 (9th Cir. 2001). The ban at issue is particularly so. For B&L has  
22 operated safe and legal gun shows at the Venue for decades. Compl. ¶¶ 1, 11, 43.  
23 The events are largely incident-free, and there is no evidence that they create a  
24 unique risk to public safety. *Id.* ¶¶ 93-96, Ex. 14. The State can give no reason,  
25 except for one steeped in animus, that all sales of legal firearms and ammunition—  
26 and by extension, gun shows—at the Venue must cease.

27 Because the State cannot meet its burden under any level of scrutiny, AB 893  
28 unconstitutionally restricts Plaintiffs’ rights to free speech, free association, and

1 equal protection. Plaintiffs have thus alleged viable constitutional claims, and the  
2 motions to dismiss should be denied.

3 **II. DEFENDANTS’ VARIOUS AFFIRMATIVE DEFENSES ARE UNAVAILING**

4 **A. Governor Newsom Is Not Entitled to Legislative Immunity**

5 The State argues that Plaintiffs’ claims against Defendant Newsom fail as a  
6 matter of law because he is entitled to absolute legislative immunity. Mot. 7. The  
7 essence of the State’s argument is that signing AB 893 is a recognized legislative  
8 activity entitling him to absolute legislative immunity despite his position as an  
9 executive official. Mot. 7. To be sure, the rationale for extending such powerful  
10 immunity to legislators themselves makes sense. The Supreme Court recognizes  
11 that the tradition is hundreds of years old, precedes the founding, and is a practical  
12 necessity of the democratic process. *Tenney v. Brandhove*, 341 U.S. 367 (1951).  
13 Indeed, requiring legislators to defend against claims arising from their legislative  
14 role would delay and disrupt the legislative process. *Sup. Ct. v. Consumers Union of*  
15 *U.S.*, 446 U.S. 733 (1980). But those concerns do not apply in the nominally  
16 “legislative” context where an executive officer signs legislation into law. Although  
17 a governor exerts pressure over the legislative process to some degree, and while  
18 the legislature often delegates discrete policy formulation tasks to the executive, the  
19 executive branch’s legislative activities are subordinate to the legislature. Extending  
20 the immensely powerful *legislative* immunity to the executive does not make sense.

21 This is especially true given the unique relationship in California between the  
22 governor and California’s agricultural districts. Although agricultural associations  
23 are not an arm of the state, *ITSI TV Prods., Inc. v. Agric. Ass’ns*, 3 F.3d 1289, 1294  
24 (9th Cir. 1993), the governor has the authority to appoint and remove the members  
25 of a DAA’s board at will. Cal. Food & Agric. Code §§ 3959, 3960. To extend the  
26 legislative immunity to the governor, when the governor retains a quintessentially  
27 executive degree of control and influence, is unseemly because it enables the  
28 governor to essentially have his cake and eat it too. He gets to exercise the *executive*



1 appointment and removal power but reap the benefit of *legislative* immunity. This  
2 pushes the rationale for why legislators themselves should be immune far beyond  
3 what should be its logical limit.

4 **B. Governor Newsom and Secretary Ross Are Not Entitled to**  
5 **Sovereign Immunity for the Direct Role They Play in the**  
6 **Enforcement of AB 893**

7 Defendants Newsom and Ross argue that they are entitled to sovereign  
8 immunity because they are not sufficiently involved with enforcing AB 893 to  
9 warrant liability under the *Ex Parte Young* exception to sovereign immunity. Mot.  
10 8. Defendants are correct that for the *Ex Parte Young* exception to apply, the  
11 official must have more than a “generalized duty to enforce state law or general  
12 supervisory power over the persons responsible for enforcing the challenged  
13 provision.” Mot. 8. This is inconsequential, however, because the “specific  
14 connection” requirement applies only in *Ex Parte Young* cases, where plaintiffs rely  
15 on the limited exception to Eleventh Amendment immunity developed in that case.  
16 But Plaintiffs’ suit is not based on *Ex Parte Young*. DAAs are *local* (not state)  
17 actors. So the DAA and its officials have *no* right to Eleventh Amendment  
18 immunity. *ITSI*, 3 F.3d at 1292. Similarly, when Newsom or Ross act as supervisor  
19 of and delegates authority to the DAA, they are not acting in their capacity as a  
20 state actor and would not be entitled to Eleventh Amendment immunity. No other  
21 conclusion makes sense.

22 Even if *Ex Parte Young* applies, Newsom and Ross are proper defendants  
23 because their involvement goes beyond a “generalized duty” and “general  
24 supervisory power.” As explained above, Newsom’s relationship to the operations  
25 of Defendant DAA (and all agricultural associations) far exceeds mere supervision.  
26 To the contrary, he exercises a statutory degree of control over DAAs (appointment  
27 and removal of board members) that makes them unusually susceptible to his  
28 pressure. This control over agricultural associations was made evident last fall,  
when the 31st DAA voted to postpone its decision on whether to ban gun shows till

1 they could seek counsel from Newsom. Pls.’ Req. Jud. Ntc., Ex. 3. Indeed, one  
2 board member proposed contacting Newsom because fair board members are  
3 appointed by the governor. “I think we should also seek the advice of the governor,  
4 *ask him what he wants his fair board members to do,*” the member said. *Id.*  
5 (emphases added). It’s hardly surprising they’d seek Newsom’s blessing: Just  
6 “weeks after he cast the lone no-vote on the [DAA’s 2018] gun show [moratorium],  
7 Russ Penniman, a retired rear admiral, lost his spot. Newsom replaced Penniman  
8 but kept two other board members alone.” Compl., Ex. 13 at 292.

9 Defendant Ross also has sufficient control over the agricultural districts to  
10 justify application of the *Ex Parte Young* exception. In communications she  
11 authored to activists opposing gun shows at the Ventura County fairgrounds in  
12 2019, she took a particular interest in the gun show issue. *Id.*, Exs. 4-5. Sure, Ross  
13 claims that her department does not “require DAAs to hold or prohibit certain  
14 activities on fairgrounds.” *Id.* at Exs. 4-5. But she also describes that “[a]s part of its  
15 oversight, the Department provides services to DAAs, including legal counsel.” *Id.*,  
16 Ex. 4. Specific to the gun-show-ban issue, her office “put together a report for the  
17 Board to gather information and provide policy recommendations.” *Id.* The  
18 importance of the legal analysis her office provides cannot be overstated. For it  
19 would be unusual, to say the least, for board members with a fiduciary duty to act in  
20 the public’s best interest to remain unswayed by the advice of their legal counsel.

21 What’s more, the Department “has its own Legislative Coordinator  
22 responsible for developing ... recommended positions on legislative activity  
23 affecting the 54 DAAs.” Compl., Ex. 12 at 180. “DAAs are not authorized to take  
24 independent positions on legislation.” *Id.* This limit was used as a sword against the  
25 32nd DAA when it dared consider opposing Assemblymember Dave Min’s related  
26 efforts to ban sales of firearms and ammunition at the fairgrounds in Orange  
27 County. *Id.* In short, the Department has reserved to itself the sole authority to  
28 dictate policy positions affecting the operations of the DAA, silencing any

1 opposition the DAAs might have to legislative attempts to ban gun shows from the  
2 properties they manage. But, at the same time, Ross disclaims any real authority  
3 over the operations of the districts. How can that be so?

4 Plaintiffs maintain that it cannot. Indeed, the direct oversight of the DAAs  
5 by Ross is clear. For, unlike Ross' claims that her department stays out of district  
6 decisions on what events take place at fairgrounds, it squares with Food &  
7 Agriculture Code section 3965.1, which prohibits DAAs from arranging for any  
8 "[r]evenue-generating contracts involving hazardous activities" "without prior  
9 approval from the department." Through AB 893, California has essentially  
10 determined that gun shows are a hazardous activity. So, it seems, any determination  
11 about whether the DAA may contract to host gun shows at the Venue must be made  
12 by the Department, over which Ross presides. This amounts to directing, "in a  
13 binding fashion," the DAA's activities. *Planned Parenthood of Idaho, Inc. v.*  
14 *Wasden*, 376 F.3d 908, 919 (9th Cir. 2004).

15 **C. Governor Newsom, Attorney General Bonta, and Secretary Ross**  
16 **Are Not Entitled to Qualified Immunity Because the**  
17 **Constitutional Rights at Issue Are Clearly Established**

18 The State next argues that Defendants Newsom, Bonta, and Ross are entitled  
19 to qualified immunity because there is no clearly established precedent that AB 893  
20 violates Plaintiffs' constitutional rights. Mot. 10-11. The State is mistaken; AB 893  
21 plainly violates clearly established constitutional rights.

22 First, in June 2019, Judge Cathy Ann Bencivengo effectively struck down  
23 the DAA's earlier attempt to banish gun shows from the Venue when she  
24 preliminarily enjoined the DAA (sua sponte) from enforcing its gun show  
25 moratorium, holding that the plaintiffs were indeed likely to succeed on the merits  
26 of their claims (the very same claims raised by many of the same plaintiffs and  
27 involving the same property at issue here). *B&L I*, 394 F. Supp. 3d at 1250. She held  
28 that the moratorium was a content-based—likely even viewpoint based—restriction  
of free speech and assembly meant to discriminate against the pro-gun rights nature

1 of events. *Id.* at 1244-47. Judge Bencivengo had no trouble reaching that conclusion  
2 because the First Amendment rights implicated when the state imposes a content-  
3 based restriction on expression and assembly are well settled and clearly established.  
4 Here, the State seeks (by its own admissions) to eradicate gun shows by threading a  
5 legal needle. By banning the commercial lynchpin of the gun-show experience, the  
6 State undermines the gun-show business model, making it practically impossible for  
7 such events to endure. Then it tries to shield itself from liability because the law  
8 does not expressly ban gun shows from the Venue and so—not uncoincidentally—  
9 does not commit the exact sin Judge Bencivengo enjoined just a few years ago in  
10 *B&L I*. The State’s gambit is unseemly to say the very least.

11 But even casting Judge Bencivengo’s well-reasoned decision aside, well-  
12 established commercial speech precedent should have alerted the State that its ploy  
13 could fare no better than the DAA’s moratorium. Indeed, commercial speech that  
14 concerns lawful activity that is not misleading is fully protected. And it is subject to  
15 heightened scrutiny, demanding that the government prove that its regulation  
16 directly advances a *substantial interest* and is no more extensive than necessary to  
17 serve that interest. *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n*, 447  
18 U.S. 557 (1980). What’s more, the Ninth Circuit long ago held that offering legal  
19 firearms for sale is protected commercial speech. *Nordyke*, 110 F.3d at 713. At  
20 issue there was the enforceability of a contractual provision preventing the  
21 administrator of a public fairground from allowing the sale of firearms and  
22 ammunition at the facility. *Id.* The court easily found that because gun sales were  
23 legal, an offer to sell firearms proposes the sort of lawful transaction entitled to  
24 First Amendment protection under *Central Hudson*. *Id.* at 710-11. The county’s  
25 conduct in *Nordyke* differs in no meaningful way from the State’s conduct here.

26 The State was also on notice that AB 893 violates Plaintiffs’ right of  
27 assembly. The First Amendment protects not only free speech, but also “the right of  
28 the people peaceably to assemble.” U.S. Const. amend. I. This right often merges

1 with freedom of expression. For “[e]ffective advocacy of both public and private  
2 points of view, particularly controversial ones, is undeniably enhanced by group  
3 association, as the [Supreme] Court has more than once recognized.” *NAACP*, 357  
4 U.S. at 460. “Governmental action which may have the effect of curtailing the  
5 freedom to associate is subject to the *closest* scrutiny.” *Id.* at 461-62.

6 Further, singling out Plaintiffs because of the content of their speech violates  
7 their right to equal protection. The Supreme Court long ago recognized that *both*  
8 the Equal Protection Clause *and* the First Amendment forbid the government from  
9 granting “the use of a forum to people whose views it finds acceptable, but  
10 deny[ing] use to those wishing to express less favored or more controversial  
11 views.” *Mosley*, 408 U.S. at 96. No, the government “may not select which issues  
12 are worth discussing or debating in public facilities.” *Id.* “Once a forum is opened  
13 up to assembly or speaking by some groups, government may not prohibit others  
14 from assembling or speaking on the basis of what they intend to say.” *Id.*

15 Here, the legislative history shows that the State’s intent was to “terminate  
16 the possibility for future gun shows at the [Venue],” while leaving all manner of  
17 other expressive activities untouched. Compl. ¶ 127. It also confirms that bare  
18 animus for those who participate in gun culture and the content of their message  
19 prompted the expulsion of their speech from the public square. *See id.* ¶¶ 113-114  
20 (recalling the bill’s authors’ beliefs that is “wrong” for the state to host these  
21 events), 122-23 (discussing Newsom’s long-held animus toward gun owners and  
22 “gun culture”). It could hardly be more “clearly established” that such conduct  
23 violates both the First Amendment and equal protection.

#### 24 **D. Plaintiffs Are Entitled to Damages Under 42 U.S.C § 1983**

25 Section 1983 authorizes damages claims against individual defendants who,  
26 under color of law, deprive any citizen of their rights. To be sure, the circumstances  
27 under which a state official is liable for damages under § 1983 are limited. *Will v.*  
28 *Mich. Dep’t. of State Police*, 491 U.S. 58 (1989). But state officials do not enjoy

1 such broad protection from liability where the violation of a constitutional right was  
2 so clearly established that a reasonable person would have known that their actions  
3 would violate said right. *Harlow v. Fitzgerald*, 457 U.S. 800 (1982). For the reasons  
4 described above, the rights at issue are clearly established.

5 Punitive damages are also available under § 1983 if the state actor’s conduct  
6 is motivated by “callous indifference” to a federally protected right of others. *Smith*  
7 *v. Wade*, 461 U.S. 30 (1983). When AB 893 was enacted, this Court had ruled just  
8 months before in no uncertain terms that government action banishing gun shows  
9 from the Venue violated the rights of free expression and association, as well as the  
10 right to equal protection under the law. *B&L I*, 394 F. Supp. 3d at 1244-50. The  
11 legislative history of AB 893 reflects that the State knew the status of that lawsuit.  
12 *See e.g.*, Compl., Ex. 7 at 60; Pls.’ Req. Jud. Ntc., Ex. 6. And given Newsom’s and  
13 Ross’ unique roles related to the oversight of the DAA, discovery will likely show  
14 that both were directly briefed on *B&L I* and the constitutional issues decided there,  
15 and should have recognized that AB 893 would similarly bring up the same  
16 violations. *See, e.g.*, Pls.’ Req. Jud. Ntc., Ex. 6. Defendants pressed on, even though  
17 it was clear that the law violates the rights of Californians.

18 Yet Defendants argue that Newsom, Bonta, and Ross cannot be considered  
19 “persons” for purposes of damages under § 1983 because they were acting only in  
20 their “official capacities” when signing AB 893 into law and enforcing it. Mot. 10.  
21 To begin with, the argument reflects a misunderstanding of the rule. “[T]he phrase  
22 ‘acting in their official capacities’ is best understood as a reference to the capacity in  
23 which the state officer is sued, not the capacity in which the officer inflicts the  
24 alleged injury.” *Hafer v. Melo*, 502 U.S. 21, 26 (1991). That Plaintiffs’ injuries  
25 stem, in part, from an official action does take their individual claims off the table.

26 The State argues, however, that Plaintiffs’ individual-capacity claims are a  
27 mere “pleading device,” because Plaintiffs allege no actionable activity separate  
28 from official actions of enforcement and signing legislation. Mot. 10. This simply is

1 not true. The complaint alleges that Newsom “has long harbored animus toward gun  
2 show promotion.” Compl. ¶ 122. For instance, before he took office as Governor, he  
3 took the unusual step of writing to the DAA to persuade the board to adopt its  
4 unconstitutional gun-show moratorium in 2018. *Id.* ¶ 123. Ross, for her part, has  
5 also inserted herself into the debate. *See* Pls.’ Req. Jud. Ntc., Exs. 4-5 (letters from  
6 Ross to anti-gun-show activists). Given their particular interest in the gun-show-ban  
7 debate, as well as their unique relationship with the DAAs, Plaintiffs believe  
8 discovery will confirm what Plaintiffs reasonably believe, that Newsom and Ross  
9 have engaged in even more actionable conduct outside the simple act of signing and  
10 enforcing AB 893.

11  
12 **E. Plaintiffs Allege a Statutory Basis for Their Tort Claims Against Defendant DAA**

13 The general rule in California is that a public entity is not liable for a tortious  
14 injury, *except as provided by law*. Cal. Gov’t Code § 815(a). In other words,  
15 government liability is limited to the exceptions set forth in statute. *Cochran v.*  
16 *Herzog Engraving Co.*, 155 Cal. App. 3d 405, 409 (1984). California’s Government  
17 Claims Act (“GCA”) provides a basis for government liability for contract claims,  
18 like those raised by Plaintiffs here, so long as the claimant complies with all  
19 statutory requirements for the presentation of such a claim. Cal. Gov’t Code §  
20 911.2; *Voth v. Wasco Pub. Util. Dist.*, 56 Cal. App. 3d 353, 356 (1976) (observing  
21 that “the one-year clause was intended to cover claims arising out of contract and ...  
22 for injury to real property”). Plaintiffs allege that they filed a compliant tort claim on  
23 August 2, 2021, putting the DAA on notice of Plaintiffs’ claims for intentional and  
24 negligent interference with prospective advantage, as well as Plaintiff B&L’s claim  
25 for intentional interference with contract. Compl. ¶¶ 151-154, 228-229, 238-239,  
26 247-248. Further, the complaint makes specific and repeated reference to the GCA,  
27 by name. *Id.* Plaintiffs thus alleged an adequate statutory basis for their tort claims  
28 against Defendant DAA. If the Court, however, finds that Plaintiffs’ countless

1 references to their GCA claim fail to put the DAA on notice, Plaintiffs request leave  
2 to amend to expressly identify that basis.<sup>11</sup>

3 **F. Plaintiffs’ Tort Claims Against Defendant DAA Are Timely**

4 In California, a claim for interference with a contract against the government  
5 must be presented in a tort claim “not later than one year after the accrual of the  
6 cause of action.” Cal. Gov’t Code § 911.2(a). The date of accrual is either (1) the  
7 date that the wrongdoing occurs, or (2) the date that the wrongdoing causes harm.  
8 *City of Pasadena v. Super. Ct. of L.A. Cnty.*, 12 Cal. App. 5th 1340 (2017). But  
9 because of the potential for ongoing harms, California recognizes a “continuous  
10 accrual” exception that views each wrong in a series of wrongs as triggering its own  
11 limitations period. *Aryeh v. Canon Bus. Sols., Inc.*, 55 Cal. 4th 1185, 1192 (2013).  
12 Because Plaintiffs’ harms are accruing continuously, an independently actionable  
13 claim arises each time AB 893 blocks another of B&L’s events.

14 The harms against Plaintiffs are indeed ongoing to this day, compounding  
15 each day AB 893 remains the law. That is because the DAA, citing AB 893, refuses  
16 to secure dates for or approve contracts with B&L to host any event at the Venue.  
17 Compl. ¶¶ 131-137. And there has been no effort from the DAA or its staff to work  
18 with B&L to explore other ways to accommodate gun shows within the confines of  
19 AB 893. *Id.* This conduct constitutes an *ongoing* violation of the express terms of  
20 the DAA’s settlement with Plaintiffs, and it interferes with the agreements and  
21 economic relationships B&L has with its vendors, including the other plaintiffs in  
22

---

23 <sup>11</sup> Plaintiffs concede that Defendant Bonta likely has no personal tort liability  
24 because he took office in April 2021, after AB 893 was adopted, so it is only his  
25 enforcement of AB 893 that has caused Plaintiffs’ alleged harms. Under  
26 Government Code section 820.4, he is protected from liability for such conduct.  
27 Similarly, Plaintiffs concede that Defendants Newsom and Ross likely have no  
28 personal tort liability because they were engaged in discretionary acts. Cal. Gov’t  
Code § 820.2 (no public employee liability for “injury resulting from [an] act or  
omission [made in] ... the exercise of the discretion vested in him, whether or not  
such discretion be abused”). For better or worse, that immunity protects them even  
though they conspired to strip Plaintiffs of their fundamental rights via AB 893 and  
acted with malice and utter disregard for Plaintiffs’ rights. *See Hardy v. Vial*, 48 Cal.  
2d 577, 582-84 (1957).



1 this lawsuit. *Id.* ¶¶ 101, 138, 223-226, 232-236, 241245, Ex. 5 at 36.

2 But even without relying on the “continuous accrual” doctrine, Plaintiffs’  
3 claims are timely. Certainly, Plaintiffs’ claims could not have accrued until January  
4 1, 2021—when AB 893 took effect. The State mistakenly claims the law was  
5 adopted in April 2019, Mot. 25, but the legislative history shows that Newsom  
6 signed the bill on October 11, 2019. Compl., Ex. 6 at 53. More importantly, AB 893  
7 did not take effect until *January 1, 2021*. *Id.*, Ex. 6 at 55. At the earliest, that is  
8 when the elements of wrongdoing, harm, and causation were complete. Though  
9 arguably, it would be even later, for Plaintiffs would not have missed their first gun  
10 show till later in the year. Plaintiffs’ August 2, 2021 tort claim—presented just  
11 eight months later—was well within the 12-month statutory window for contract-  
12 based tort claims. *Id.* ¶ 151. And Plaintiffs filed their lawsuit on October 4, 2021,  
13 just weeks after their claims was denied by operation of law. Compl. ¶¶ 151-154.

14 **CONCLUSION**

15 For these reasons, Plaintiffs ask this Court to deny both the State Defendants  
16 and the County Defendants’ motions to dismiss. If the Court, however, finds any  
17 part of the complaint insufficiently pleaded, Plaintiffs request leave to amend.

18 Dated: February 24, 2022

19 *s/ Anna M. Barvir*  
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26  
27  
28

# Appendix A

**APPENDIX A: STATE LAWS RE: GUN SHOWS IN CALIFORNIA**  
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## Cal Pen Code § 26805

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 2 Issuance, Forfeiture, and Conditions of License to Sell, Lease, or Transfer Firearms at Retail \(Arts. 1 — 6\)](#)
- [Article 2 Grounds for Forfeiture of License \(§§ 26800 — 26915\)](#)

### § 26805. Business of licensee conducted only in buildings designated on license; Gun show or event or specified events; Delivery

---

(a) Except as provided in subdivisions (b) and (c), the business of a licensee shall be conducted only in the buildings designated in the license.

(b)

(1) A person licensed pursuant to [Sections 26700](#) and [26705](#) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at any gun show or event, as defined in [Section 478.100 of Title 27 of the Code of Federal Regulations](#), or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subdivision shall be entitled to conduct business as authorized herein at any gun show or event in the state, without regard to the jurisdiction within this state that issued the license pursuant to [Sections 26700](#) and [26705](#), provided the person complies with all applicable laws, including, but not limited to, the waiting period specified in subdivision (a) of [Section 26815](#), and all applicable local laws, regulations, and fees, if any.

(2) A person conducting business pursuant to this subdivision shall publicly display the person's license issued pursuant to [Sections 26700](#) and [26705](#), or a facsimile thereof, at any gun show or event, as specified in this subdivision.

(c)

(1) A person licensed pursuant to [Sections 26700](#) and [26705](#) may engage in the sale and transfer of firearms other than handguns, at events specified in [Sections 27900](#) and [27905](#), subject to the prohibitions and restrictions contained in those sections.

(2) A person licensed pursuant to [Sections 26700](#) and [26705](#) may also accept delivery of firearms other than handguns, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction, raffle, or similar event specified in [Section 27900](#).

(d) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

(1) The building designated in the license.

(2) The places specified in subdivision (b) or (c).

(3) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2011 ch 745 § 7 \(AB 809\)](#), effective January 1, 2012; [Stats 2019 ch 738 § 16 \(SB 376\)](#), effective January 1, 2020.

## Cal Pen Code § 27200

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 1 Gun Show or Event \(§§ 27200 — 27245\)](#)

### § 27200. Requirement of certificate of eligibility to organize gun show

---

(a) No person shall produce, promote, sponsor, operate, or otherwise organize a gun show or event, as specified in subdivision (b) of [Section 26805](#), unless that person possesses a valid certificate of eligibility from the Department of Justice.

(b) Unless the department's records indicate that the applicant is a person prohibited from possessing firearms, a certificate of eligibility shall be issued by the Department of Justice to an applicant provided the applicant does all of the following:

(1) Certifies that the applicant is familiar with the provisions of this article and Article 2 (commencing with [Section 27300](#)).

(2) Ensures that liability insurance is in effect for the duration of an event or show in an amount of not less than one million dollars (\$1,000,000).

(3) Provides an annual list of the gun shows or events that the applicant plans to promote, produce, sponsor, operate, or otherwise organize during the year for which the certificate of eligibility is issued, including the date, time, and location of the gun shows or events.

(c) If during that year the information required by paragraph (3) of subdivision (b) changes, or additional gun shows or events will be promoted, produced, sponsored, operated, or otherwise organized by the applicant, the producer shall notify the Department of Justice no later than 30 days prior to the gun show or event.

(d) The Department of Justice shall adopt regulations to administer the certificate of eligibility program under this section.

(e) The Department of Justice shall recover the full costs of administering the certificate of eligibility program by fees assessed applicants who apply for certificates. A licensed gun show producer shall be assessed an annual fee of eighty-five dollars (\$85) by the department.

(f) It is the intent of the Legislature that the certificate of eligibility program established pursuant to this section be incorporated into the certificate of eligibility program established pursuant to [Section 26710](#) to the maximum extent practicable.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012.

#### ▼ Annotations

Commentary

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**Law Revision Commission Comments:**

**2010—**

Subdivision (a) of [Section 27200](#) continues the first sentence of former Section 12071.1(a) without substantive change.

Subdivision (b) continues the second sentence of former Section 12071.1(a) without substantive change.

Subdivision (c) continues former Section 12071.1(b) without substantive change.

Subdivisions (d) and (e) continue former Section 12071.1(d) without substantive change.

Subdivision (f) continues former Section 12071.1(q) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with [Section 27300](#)), see Article 3 (commencing with [Section 27400](#)).

For the consequences of violating this article, see [Section 27245](#) (punishment).

See [Sections 16520](#) (“firearm”), 16800 (“licensed gun show producer”).



## Cal Pen Code § 27205

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 1 Gun Show or Event \(§§ 27200 — 27245\)](#)

### § 27205. List of entities renting or intending to rent space at gun show or event

(a) Before commencement of a gun show or event, the producer thereof shall, upon written request from a law enforcement agency with jurisdiction over the facility, make available to that agency, within 48 hours or a later time specified by the agency, a complete and accurate list of all persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms, or processing the sale or transfer of ammunition.

(b) The producer shall thereafter, upon written request, for every day the gun show or event operates, within 24 hours or a later time specified by the requesting law enforcement agency, make available to that agency an accurate, complete, and current list of the persons, entities, and organizations that have leased or rented, or are known to the producer to intend to lease or rent, any table, display space, or area at the gun show or event for the purpose of selling, leasing, or transferring firearms, or processing the sale or transfer of ammunition.

(c) Subdivisions (a) and (b) apply to any person, entity, or organization, regardless of whether that person, entity, or organization participates in the entire gun show or event, or only a portion thereof.

(d) The information that may be requested by the law enforcement agency with jurisdiction over the facility, and that shall be provided by the producer upon request, includes, but is not limited to, the following information relative to a vendor who offers for sale any firearms manufactured after December 31, 1898, or any ammunition:

- (1) The vendor's complete name.
- (2) A driver's license or identification card number.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2019 ch 736 § 1 \(AB 1669\)](#), effective January 1, 2020.

#### ▼ Annotations

## Notes

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**Amendments:****2019 Amendment (ch 736):**

Added “, or processing the sale or transfer of ammunition” in (a) and (b); and in the introductory language of (d), substituted “includes,” for “may include,” added “any” and added “, or any ammunition”.

## Commentary

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**Law Revision Commission Comments:****2010—**

Subdivision (a) of [Section 27205](#) continues the first paragraph of former Section 12071.1(f) without substantive change.

Subdivision (b) continues the second paragraph of former Section 12071.1(f) without substantive change.

Subdivision (c) continues the third paragraph of former Section 12071.1(f) without substantive change.

Subdivision (d) continues former Section 12071.1(g) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with [Section 27300](#)), see Article 3 (commencing with [Section 27400](#)).

For the consequences of violating this article, see [Section 27245](#) (punishment).

See [Section 16520](#) (“firearm”).

## Cal Pen Code § 27210

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 1 Gun Show or Event \(§§ 27200 — 27245\)](#)

### § 27210. Event and security plan and schedule

---

(a) The producer and facility's manager of a gun show or event shall prepare an annual event and security plan and schedule that shall include, at a minimum, the following information for each show or event:

(1) The type of show or event, including, but not limited to, antique or general firearms and ammunition.

(2) The estimated number of vendors offering firearms or ammunition for sale or display.

(3) The estimated number of attendees.

(4) The number of entrances and exits at the gun show or event site.

(5) The location, dates, and times of the show or event.

(6) The contact person and telephone number for both the producer and the facility.

(7) The number of sworn peace officers employed by the producer or the facility's manager who will be present at the show or event.

(8) The number of nonsworn security personnel employed by the producer or the facility's manager who will be present at the show or event.

(b) The annual event and security plan shall be submitted by either the producer or the facility's manager to the Department of Justice and the law enforcement agency with jurisdiction over the facility.

(c) If significant changes have been made since the annual plan was submitted, the producer shall, not later than 15 days before commencement of the gun show or event, submit to the department, the law enforcement agency with jurisdiction over the facility site, and the facility's manager, a revised event and security plan, including a revised list of vendors that the producer knows, or reasonably should know, will be renting tables, space, or otherwise participating in the gun show or event.

(d) The event and security plan shall be approved by the facility's manager before the event or show, after consultation with the law enforcement agency with jurisdiction over the facility.

(e) A gun show or event shall not commence unless the requirements of subdivisions (b), (c), and (d) are met.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2014 ch 103 § 9 \(AB 1798\)](#), effective January 1, 2015; [Stats 2015 ch 303 § 415 \(AB 731\)](#), effective January 1, 2016; [Stats 2019 ch 736 §](#)

[2 \(AB 1669\)](#), effective January 1, 2020.

▼ Annotations

Notes

• [↓](#) Amendments:

[↑](#) Amendments:

**2014 Amendment:**

Substituted (1) “facility’s manager” for “facility manager” in the introductory clause of subd (a); and (2) “facility’s manager” for “facilities manager” in subd (a)(7).

**2015 Amendment:**

(1) Added the comma after “show or event” in subd (a)(1); and (2) amended subd (e) by (a) substituting “A” for “No”; and (b) adding “not”.

**2019 Amendment (ch 736):**

Added “and ammunition” in (a)(1); and added “or ammunition” in (a)(2).

Commentary

**Law Revision Commission Comments:**

**2010—**

Subdivision (a) of [Section 27210](#) continues former Section 12071.1(h) without substantive change.  
Subdivision (b) continues the first sentence of former Section 12071.1(i) without substantive change.  
Subdivision (c) continues the second sentence of former Section 12071.1(i) without substantive change.  
Subdivision (d) continues the third sentence of former Section 12071.1(i) without substantive change.  
Subdivision (e) continues the fourth sentence of former Section 12071.1(i) without substantive change.  
For exceptions to provisions in this article and Article 2 (commencing with [Section 27300](#)), see Article 3 (commencing with [Section 27400](#)).

For the consequences of violating this article, see [Section 27245](#) (punishment).

See [Section 16520](#) (“firearm”).

**2014—**

[Section 27210](#) is amended to standardize the references to the facility’s manager for the site of the gun show or event.

# Cal Pen Code § 27215

## Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 1 Gun Show or Event \(§§ 27200 — 27245\)](#)

## § 27215. Notification to vendors

The producer of a gun show or event shall be responsible for informing prospective gun show vendors of the requirements of this article and of Article 2 (commencing with [Section 27300](#)) that apply to vendors.

## History

Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012.

### ▼ Annotations

### Commentary

#### Law Revision Commission Comments: 2010—

[Section 27215](#) continues former Section 12071.1(j) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with [Section 27300](#)), see Article 3 (commencing with [Section 27400](#)).

For the consequences of violating this article, see [Section 27245](#) (punishment).

## Cal Pen Code § 27220

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 1 Gun Show or Event \(§§ 27200 — 27245\)](#)

### § 27220. Submission of prospective vendor and designated firearms transfer agent lists

(a) Within seven calendar days of the commencement of a gun show or event, but not later than noon on Friday for a show or event held on a weekend, the producer shall submit a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers or ammunition vendors to the Department of Justice for the purpose of determining whether these prospective vendors and designated firearms transfer agents possess valid licenses and are thus eligible to participate as licensed dealers or ammunition vendors at the show or event.

(b) The department shall examine its records and if it determines that a dealer's or vendor's license is not valid, it shall notify the show or event producer of that fact before the show or event commences.

### History

Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2019 ch 736 § 3 \(AB 1669\)](#), effective January 1, 2020.

#### ▼ Annotations

#### Notes

#### Amendments:

#### 2019 Amendment (ch 736):

Added "or ammunition vendors" twice in (a); and added "or vendor's" in (b).

Commentary

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**Law Revision Commission Comments:**

**2010—**

Subdivision (a) of [Section 27220](#) continues the first sentence of former Section 12071.1(k) without substantive change. Subdivision (b) continues the second sentence of former Section 12071.1(k) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with [Section 27300](#)), see Article 3 (commencing with [Section 27400](#)).

For the consequences of violating this article, see [Section 27245](#) (punishment).

See [Sections 16520](#) (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to [Sections 26700](#) to [26915](#), inclusive”).

## Cal Pen Code § 27225

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 1 Gun Show or Event \(§§ 27200 — 27245\)](#)

### § 27225. Failure to cooperate by vendor

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If a licensed firearms dealer or ammunition vendor fails to cooperate with a producer of a gun show or event, or fails to comply with the applicable requirements of this article or Article 2 (commencing with [Section 27300](#)), that person shall not be allowed to participate in that show or event.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2019 ch 736 § 4 \(AB 1669\)](#), effective January 1, 2020.





## Cal Pen Code § 27230

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 1 Gun Show or Event \(§§ 27200 — 27245\)](#)

### § 27230. Failure to cooperate by producer

If a producer fails to comply with [Section 27215](#) or [27220](#), the gun show or event shall not commence until those requirements are met.

### History

Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012.

#### ▼ Annotations

#### Commentary

#### Law Revision Commission Comments:

2010—

[Section 27230](#) continues former Section 12071.1(m) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with [Section 27300](#)), see Article 3 (commencing with [Section 27400](#)).

For the consequences of violating this article, see [Section 27245](#) (punishment).

# Cal Pen Code § 27235

## Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 1 Gun Show or Event \(§§ 27200 — 27245\)](#)

## § 27235. Written contracts required

Every producer of a gun show or event shall have a written contract with each gun show vendor selling firearms or ammunition at the show or event.

## History

Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2019 ch 736 § 5 \(AB 1669\)](#), effective January 1, 2020.

### ▼ Annotations

#### Notes

#### Amendments: 2019 Amendment (ch 736):

Added "or ammunition".

#### Commentary

#### Law Revision Commission Comments: 2010—

[Section 27235](#) continues former Section 12071.1(n) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with [Section 27300](#)), see Article 3 (commencing with [Section 27400](#)).

For the consequences of violating this article, see [Section 27245](#) (punishment).

See [Section 16520](#) ("firearm").

## Cal Pen Code § 27240

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 1 Gun Show or Event \(§§ 27200 — 27245\)](#)

### § 27240. Posting of signs required

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(a) The producer of a gun show or event shall require that signs be posted in a readily visible location at each public entrance to the show containing, but not limited to, the following notices:

(1) This gun show follows all federal, state, and local firearms, ammunition, and weapons laws, without exception.

(2) Any firearm carried onto the premises by any member of the public will be checked, cleared of any ammunition, and secured in a manner that prevents it from being operated, and an identification tag or sticker will be attached to the firearm before the person is allowed admittance to the show.

(3) No member of the public under the age of 18 years shall be admitted to the show unless accompanied by a parent, grandparent, or legal guardian.

(4) All firearms transfers between private parties at the show shall be conducted through a licensed dealer in accordance with applicable state and federal laws.

(5) Persons possessing firearms or ammunition at this facility shall have in their immediate possession government-issued photo identification, and display it upon request to any security officer or any peace officer, as defined in [Section 830](#).

(6) All ammunition transfers between private parties at the show shall be conducted through a licensed dealer or ammunition vendor in accordance with applicable state and federal laws.

(b) The show producer shall post, in a readily visible location at each entrance to the parking lot at the show, signage that states: "The transfer of firearms or ammunition on the parking lot of this facility is a crime."

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2019 ch 736 § 6 \(AB 1669\)](#), effective January 1, 2020.

#### ▼ Annotations

## Notes

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### Amendments:

#### 2019 Amendment (ch 736):

Added “, ammunition,” in (a)(1); in (a)(5), added “of ammunition” and substituted “shall” for “may”; added (a)(6); and added “or ammunition” in (b).

## Commentary

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### Law Revision Commission Comments:

#### 2010—

Subdivision (a) of [Section 27240](#) continues former Section 12071.1(o) without substantive change.

Subdivision (b) continues former Section 12071.1(p) without substantive change.

For exceptions to provisions in this article and Article 2 (commencing with [Section 27300](#)), see Article 3 (commencing with [Section 27400](#)).

For the consequences of violating this article, see [Section 27245](#) (punishment).

See [Sections 16520](#) (“firearm”), 26700 (“dealer,” “licensee,” or “person licensed pursuant to [Sections 26700](#) to [26915](#), inclusive”).

## Cal Pen Code § 27245

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 1 Gun Show or Event \(§§ 27200 — 27245\)](#)

### § 27245. Willful failure to comply; Penalty

(a) A willful failure by a gun show producer to comply with any of the requirements of this article, except for the posting of required signs, shall be a misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000), and shall render the producer ineligible for a gun show producer license for one year from the date of the conviction.

(b) A willful failure of a gun show producer to post signs as required by this article shall be a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000) for the first offense and not to exceed two thousand dollars (\$2,000) for the second or subsequent offense, and with respect to the second or subsequent offense, shall render the producer ineligible for a gun show producer license for one year from the date of the conviction.

(c) Multiple violations charged pursuant to subdivision (a) arising from more than one gun show or event shall be grounds for suspension of a producer's certificate of eligibility pending adjudication of the violations.

### History

Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012.

#### ▼ Annotations

#### Commentary

#### Law Revision Commission Comments:

2010—

Subdivision (a) of [Section 27245](#) continues former Section 12071.1(e)(1) without substantive change.

Subdivision (b) continues former Section 12071.1(e)(2) without substantive change.

Subdivision (c) continues former Section 12071.1(e)(3) without substantive change.

A violation of the predecessor of this article (former Section 12071.1) counts as a prior offense in determining the appropriate punishment under this section. See [Section 16015](#) (determining existence of prior conviction).

For exceptions to provisions in this article and Article 2 (commencing with [Section 27300](#)), see Article 3 (commencing with [Section 27400](#)).



## Cal Pen Code § 27305

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 2 Gun Show Enforcement and Security Act of 2000 \(§§ 27300 — 27350\)](#)

### § 27305. Written certification by vendors

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All gun show or event vendors shall certify in writing to the producer that they:

- (a) Will not display, possess, or offer for sale any firearms, ammunition, knives, or weapons for which possession or sale is prohibited.
- (b) Acknowledge that they are responsible for knowing and complying with all applicable federal, state, and local laws dealing with the possession and transfer of firearms or ammunition.
- (c) Will not engage in activities that incite or encourage hate crimes.
- (d) Will process all transfers of firearms through licensed firearms dealers as required by state law.
- (e) Will process all sales or transfers of ammunition through licensed firearms dealers or ammunition vendors as required by state law.
- (f) Will verify that all firearms in their possession at the show or event will be unloaded, and that the firearms will be secured in a manner that prevents them from being operated except for brief periods when the mechanical condition of a firearm is being demonstrated to a prospective buyer.
- (g) Have complied with the requirements of [Section 27320](#).
- (h) Will not display or possess black powder, or offer it for sale.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2019 ch 736 § 7 \(AB 1669\)](#), effective January 1, 2020.

# Cal Pen Code § 27310

## Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 2 Gun Show Enforcement and Security Act of 2000 \(§§ 27300 — 27350\)](#)

## § 27310. Firearm and ammunition transfer or sale requirements

(a) All firearms and ammunition transfers or sales at a gun show or event shall be conducted in accordance with applicable state and federal laws.

(b) Commencing July 1, 2022, the Department of Justice may inspect any firearm dealers, ammunition vendors, or manufacturers participating in a gun show or event in order to ensure compliance with subdivision (a). The department may adopt regulations to administer the application and enforcement provisions of this chapter.

## History

Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2019 ch 736 § 8 \(AB 1669\)](#), effective January 1, 2020; [Stats 2020 ch 273 § 1 \(AB 2061\)](#), effective January 1, 2021.

## Annotations

### Notes

#### • Amendments:

#### Amendments:

##### 2019 Amendment (ch 736):

Substituted “and ammunition transfers or sales” for “transfers”.

##### 2020 Amendment (ch 273):

Added designation (a) and inserted “conducted” following “shall be”; and added (b).

## Commentary

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**Law Revision Commission Comments:**

**2010—**

[Section 27310](#) continues former Section 12071.4(c) without substantive change.

For exceptions to provisions in this article and Article 1 (commencing with [Section 27200](#)), see Article 3 (commencing with [Section 27400](#)).

For the consequences of violating this article, see [Section 27350](#) (punishment).

See [Section 16520](#) (“firearm”).

## Cal Pen Code § 27315

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 2 Gun Show Enforcement and Security Act of 2000 \(§§ 27300 — 27350\)](#)

### § 27315. Sales of ammunition

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Sales of ammunition at a gun show or event shall comply with all applicable laws, including [Sections 30347](#), [30348](#), [30350](#), [30352](#), and [30360](#).

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2019 ch 736 § 9 \(AB 1669\)](#), effective January 1, 2020.

## Cal Pen Code § 27320

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 2 Gun Show Enforcement and Security Act of 2000 \(§§ 27300 — 27350\)](#)

### § 27320. Information required from vendor

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(a) Before commencement of a gun show or event, each vendor who will offer for sale any firearms manufactured after December 31, 1898, or any ammunition, shall provide to the producer all of the following information relative to the vendor, the vendor's employees, and other persons, compensated or not, who will be working or otherwise providing services to the public at the vendor's display space:

- (1) The person's complete name.
- (2) The person's driver's license or state-issued identification card number.
- (3) The person's date of birth.
- (4) The person's certificate of eligibility number pursuant to [Section 26915 or 30347 of the Penal Code](#).

(b) The producer shall keep the information at the onsite headquarters of the show or event for the duration of the show or event, and at the producer's regular place of business for two weeks after the conclusion of the show or event. The producer shall make the information available upon request to any sworn peace officer for purposes of the officer's official law enforcement duties.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2019 ch 736 § 10 \(AB 1669\)](#), effective January 1, 2020.

## Cal Pen Code § 27325

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 2 Gun Show Enforcement and Security Act of 2000 \(§§ 27300 — 27350\)](#)

### § 27325. Name tag required

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At any gun show or event, each vendor and each employee of a vendor shall wear a name tag indicating first and last name.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012.

## Cal Pen Code § 27335

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 2 Gun Show Enforcement and Security Act of 2000 \(§§ 27300 — 27350\)](#)

### § 27335. Minors prohibited unless accompanied by parent or guardian

---

No member of the public who is under the age of 18 years shall be admitted to, or be permitted to remain at, a gun show or event unless accompanied by a parent or legal guardian. Any member of the public who is under the age of 18 years shall be accompanied by that person's parent, grandparent, or legal guardian while at the show or event.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012.

## Cal Pen Code § 27340

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 2 Gun Show Enforcement and Security Act of 2000 \(§§ 27300 — 27350\)](#)

### § 27340. Persons bringing firearms or ammunition to gun show or event

(a) Persons other than show or event security personnel, sworn peace officers, or vendors, who bring any firearm or any ammunition that is separate from a firearm onto the gun show or event premises shall sign in ink the tag or sticker that is attached to the firearm prior to being allowed admittance to the show or event, as provided for in subdivision (b) and (c).

(b) All firearms carried onto the premises of a gun show or event by members of the public shall be checked, cleared of any ammunition, secured in a manner that prevents them from being operated, and an identification tag or sticker shall be attached to the firearm, prior to the person being allowed admittance to the show. The identification tag or sticker shall state that all firearms transfers between private parties at the show or event shall be conducted through a licensed dealer in accordance with applicable state and federal laws. The person possessing the firearm shall complete the following information on the tag before it is attached to the firearm:

(1) The gun owner's signature.

(2) The gun owner's printed name.

(3) The identification number from the gun owner's government-issued photo identification.

(c) Any ammunition carried onto the premises of a gun show or event by members of the public shall be checked and secured in a manner that prevents the ammunition from being discharged. An identification tag or sticker shall be attached to the ammunition prior to the person being allowed admittance to the show. The identification tag or sticker shall state that all ammunition transfers between private parties at the show or event shall be conducted through a licensed dealer or ammunition vendor in accordance with applicable state and federal laws. The person possessing the ammunition shall complete the following information on the tag before it is attached to the ammunition:

(1) The ammunition owner's signature.

(2) The ammunition owner's printed name.

(3) The identification number from the ammunition owner's government-issued photo identification.



## History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2019 ch 736 § 11 \(AB 1669\)](#), effective January 1, 2020.

## Cal Pen Code § 27345

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 2 Gun Show Enforcement and Security Act of 2000 \(§§ 27300 — 27350\)](#)

### § 27345. Persons possessing firearms or ammunition carrying identification

---

Any person who possesses a firearm or ammunition at a gun show or event shall have government-issued photo identification in immediate possession, and shall display it upon request to any security officer or peace officer.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2019 ch 736 § 12 \(AB 1669\)](#), effective January 1, 2020.

## Cal Pen Code § 27350

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 2 Gun Show Enforcement and Security Act of 2000 \(§§ 27300 — 27350\)](#)

### § 27350. Violations of article

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(a) Unless otherwise specified, a first violation of this article is an infraction.

(b) Any second or subsequent violation of this article is a misdemeanor.

(c) Any person who commits an act the person knows to be a violation of this article is guilty of a misdemeanor for a first offense.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012.

## Cal Pen Code § 27400

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 3 Exceptions Relating to Law Enforcement \(§§ 27400 — 27415\)](#)

### § 27400. Exceptions for transfers to authorized law enforcement representative

(a) Article 1 (commencing with [Section 27200](#)) and Article 2 (commencing with [Section 27300](#)) do not apply to any sale, delivery, or transfer of firearms made to an authorized law enforcement representative of any city, county, city and county, or state, or of the federal government, for exclusive use by that governmental agency if, prior to the sale, delivery, or transfer of these firearms, 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.

(b) Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that person is employed.

(c) Within 10 days of the date a handgun, and commencing January 1, 2014, any firearm, is acquired by the agency, a record of the same shall be entered as an institutional weapon into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2011 ch 745 § 23 \(AB 809\)](#), effective January 1, 2012.

## Cal Pen Code § 27405

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 3 Exceptions Relating to Law Enforcement \(§§ 27400 — 27415\)](#)

### § 27405. Exceptions for loans of firearms in specified circumstances

---

Article 1 (commencing with [Section 27200](#)) and Article 2 (commencing with [Section 27300](#)) do not apply to the loan of a firearm if all of the following conditions are satisfied:

- (a) The loan is made by an authorized law enforcement representative of a city, county, or city and county, or of the state or federal government.
- (b) The loan is made to a peace officer employed by that agency and authorized to carry a firearm.
- (c) The loan is made for the carrying and use of that firearm by that peace officer in the course and scope of the officer's duties.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012.

## Cal Pen Code § 27410

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 3 Exceptions Relating to Law Enforcement \(§§ 27400 — 27415\)](#)

### § 27410. Exceptions for transfer of firearms from law enforcement agency to peace officer

(a) Article 1 (commencing with [Section 27200](#)) and Article 2 (commencing with [Section 27300](#)) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a peace officer pursuant to [Section 10334 of the Public Contract Code](#).

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred pursuant to [Section 10334 of the Public Contract Code](#) to that peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2011 ch 745 § 24 \(AB 809\)](#), effective January 1, 2012.

## Cal Pen Code § 27415

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 3 Gun Show or Event \(Arts. 1 — 3\)](#)
- [Article 3 Exceptions Relating to Law Enforcement \(§§ 27400 — 27415\)](#)

### § 27415. Exceptions for transfers of firearms from law enforcement agency to retiring peace officer

(a) Article 1 (commencing with [Section 27200](#)) and Article 2 (commencing with [Section 27300](#)) do not apply to the sale, delivery, or transfer of a firearm by a law enforcement agency to a retiring peace officer who is authorized to carry a firearm pursuant to Chapter 5 (commencing with [Section 26300](#)) of Division 5.

(b) Within 10 days of the date that a handgun, and commencing January 1, 2014, any firearm, is sold, delivered, or transferred to that retiring peace officer, the name of the officer and the make, model, serial number, and other identifying characteristics of the firearm being sold, delivered, or transferred shall be entered into the Automated Firearms System (AFS) via the California Law Enforcement Telecommunications System (CLETS) by the law enforcement or state agency that sold, delivered, or transferred the firearm, provided, however, that if the firearm is not a handgun and does not have a serial number, identification number, or identification mark assigned to it, that fact shall be noted in AFS. Any agency without access to AFS shall arrange with the sheriff of the county in which the agency is located to input this information via this system.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amended [Stats 2011 ch 745 § 25 \(AB 809\)](#), effective January 1, 2012.

## Cal Pen Code § 27545

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 6 Sale, Lease, or Transfer of Firearms \(Chs. 1 — 6\)](#)
- [Chapter 4 Crimes Relating to Sale, Lease, or Transfer of Firearms \(Arts. 1 — 7\)](#)
- [Article 1 Crimes Relating to Sale, Lease, or Transfer of Firearms \(§§ 27500 — 27590\)](#)

### § 27545. Transaction where neither party holds a dealer's license

Where neither party to the transaction holds a dealer's license issued pursuant to [Sections 26700](#) to [26915](#), inclusive, the parties to the transaction shall complete the sale, loan, or transfer of that firearm through a licensed firearms dealer pursuant to Chapter 5 (commencing with [Section 28050](#)).

### History

Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012.

#### ▼ Annotations

#### Commentary

#### Law Revision Commission Comments:

2010—

[Section 27545](#) continues former Section 12072(d) without substantive change.

For exceptions to this provision, see Article 2 (commencing with [Section 27600](#)) and Article 6 (commencing with [Section 27850](#)). See also [Section 28000](#) (circumstances that may be reported to Department of Justice in prescribed format).

For the consequences of violating this section, see [Section 27590](#) (punishment for violation of article).

See [Sections 16520](#) ("firearm"), [26700](#) ("dealer," "licensee," or "person licensed pursuant to [Sections 26700](#) to [26915](#), inclusive").

### Notes to Decisions

#### 1. Generally



To prove a violation of former Pen C § 12072(d), the People need not prove a defendant knew or should have known that the other party to the firearms transaction was unlicensed. Thus, in a prosecution of defendant for unlawfully transferring a firearm under former Pen C § 12072(d), the prosecution was not required to prove that defendant, who was not a licensed dealer, knew that the person who purchased a firearm from him was also unlicensed. [People v. Vaughn \(Cal. App. 1st Dist. Oct. 3, 2014\)](#), 230 Cal. App. 4th 322, 178 Cal. Rptr. 3d 595, 2014 Cal. App. LEXIS 892.

## Cal Pen Code § 30347

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 10 Special Rules Relating to Particular Types of Firearms or Firearm Equipment \(Chs. 1 — 10\)](#)
- [Chapter 1 Ammunition \(Arts. 1 — 5\)](#)
- [Article 3 Ammunition Vendors \(§§ 30342 — 30365\)](#)

### § 30347. Ammunition vendor's agents and employees; Certificate of eligibility from Department of Justice; Limitation on scope of employment for specified persons

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

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

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

## Cal Pen Code § 30348

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 10 Special Rules Relating to Particular Types of Firearms or Firearm Equipment \(Chs. 1 — 10\)](#)
- [Chapter 1 Ammunition \(Arts. 1 — 5\)](#)
- [Article 3 Ammunition Vendors \(§§ 30342 — 30365\)](#)

### § 30348. Sale of ammunition by licensed vendor; Licensed premises requirement; Gun shows and events

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

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

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

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

### History

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Adopted by voters, Prop. 63 § 8.11, effective November 9, 2016.

## Cal Pen Code § 30350

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 10 Special Rules Relating to Particular Types of Firearms or Firearm Equipment \(Chs. 1 — 10\)](#)
- [Chapter 1 Ammunition \(Arts. 1 — 5\)](#)
- [Article 3 Ammunition Vendors \(§§ 30342 — 30365\)](#)

### § 30350. Transfer of ammunition without assistance of vendor or employee

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An ammunition 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 ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or an employee of the vendor.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amendment approved by voters, Prop. 63 § 8.12, effective November 9, 2016.

## Cal Pen Code § 30352

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 10 Special Rules Relating to Particular Types of Firearms or Firearm Equipment \(Chs. 1 — 10\)](#)
- [Chapter 1 Ammunition \(Arts. 1 — 5\)](#)
- [Article 3 Ammunition Vendors \(§§ 30342 — 30365\)](#)

### § 30352. Information necessary for transfer of ammunition

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

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

**(b)**

(1) Commencing July 1, 2019, an ammunition vendor shall electronically submit to the department the information required by subdivision (a) for all sales and transfers of ownership of ammunition. The department shall retain this information in a database to be known as the Ammunition Purchase Records File. Except as provided in paragraph (2), this information shall remain confidential and may be used by the department and those entities specified in, and pursuant to, subdivision (b) or (c) of Section 11105, through the California Law Enforcement Telecommunications System, only for law enforcement purposes. The ammunition vendor shall not use, sell, disclose, or share the information for any other purpose other than the submission required by this subdivision without the express written consent of the purchaser or transferee.

(2) The information collected by the department as provided in paragraph (1) shall be available to researchers affiliated with the California Firearm Violence Research Center at UC Davis following approval by the institution's governing institutional review board, when required. At the department's discretion, and subject to Section 14240, the data may be provided to any other nonprofit bona fide research institution accredited by the United States Department of Education or the Council for Higher

Education Accreditation for the study of the prevention of violence, following approval by the institution's governing institutional review board or human subjects committee, when required, for academic and policy research purposes. Material identifying individuals shall only be provided for research or statistical activities and shall not be transferred, revealed, or used for purposes other than research or statistical activities, and reports or publications derived therefrom shall not identify specific individuals. Reasonable costs to the department associated with the department's processing of that data may be billed to the researcher. If a request for data or letter of support for research using the data is denied, the department shall provide a written statement of the specific reasons for the denial.

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

**(1)** A person authorized to purchase ammunition pursuant to Section 30370.

**(2)** A person who was approved by the department to receive a firearm from the ammunition vendor, pursuant to Section 28220, if that vendor is a licensed firearms dealer, and the ammunition is delivered to the person in the same transaction as the firearm.

**(d)** Commencing July 1, 2019, the ammunition vendor shall verify with the department, in a manner prescribed by the department, that the person is authorized to purchase ammunition. If the person is not listed as an authorized ammunition purchaser, the vendor shall deny the sale or transfer.

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

**(1)** An ammunition vendor.

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

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

**(4)** A gunsmith.

**(5)** A wholesaler.

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

**(7)** An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale or other transfer of ownership is for exclusive use by that government agency, and, prior to the sale, delivery, or transfer of the 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 that individual is employed.

**(8)**

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

**(B)**

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

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

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

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

## History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012. Amendment approved by voters, Prop. 63 § 8.13, effective November 9, 2016; Amended [Stats 2016 ch 55 § 12](#), effective January 1, 2017; [Stats 2021 ch 253 § 11 \(AB 173\)](#), effective September 23, 2021.

## Cal Pen Code § 30360

### Copy Citation

Deering's California Codes are current through all 770 Chapters of the 2021 Regular Session.

- [Deering's California Codes Annotated](#)
- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
- [Title 4 Firearms \(Divs. 1 — 12\)](#)
- [Division 10 Special Rules Relating to Particular Types of Firearms or Firearm Equipment \(Chs. 1 — 10\)](#)
- [Chapter 1 Ammunition \(Arts. 1 — 5\)](#)
- [Article 3 Ammunition Vendors \(§§ 30342 — 30365\)](#)

### § 30360. False entries in records

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Commencing February 1, 2011, a 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 [Section 30352](#). If the right thumbprint is not available, then the vendor shall have the purchaser or transferee use the left thumb, or any available finger, and shall so indicate on the form.

### History

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Added [Stats 2010 ch 711 § 6 \(SB 1080\)](#), effective January 1, 2011, operative January 1, 2012.



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**CERTIFICATE OF SERVICE**  
IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

Case Name: *B & L Productions, Inc., et al. v. Newsom, et al.*  
Case No.: 21CV1718 AJB KSC

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’ JOINT OPPOSITION TO DEFENDANTS GOVERNOR  
GAVIN NEWSOM, ATTORNEY GENERAL ROB BONTA, SECRETARY  
KAREN ROSS, AND 22ND DISTRICT AGRICULTURAL ASSOCIATION’S  
MOTION TO DISMISS COMPLAINT AND DEFENDANTS STEPHAN AND  
ELDRIDGE’S MOTION TO DISMISS**

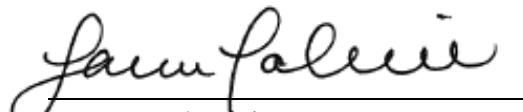
on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

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San Diego County and Lonnie Eldridge, County Counsel  
of San Diego County*

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

Executed February 24, 2022.

  
\_\_\_\_\_  
Laura Palmerin