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

CASE NO: 21CV1718 AJB KSC
**PLAINTIFFS’ JOINT OPPOSITION
TO DEFENDANTS ATTORNEY
GENERAL ROB BONTA AND 22ND
DISTRICT AGRICULTURAL
ASSOCIATION’S MOTION TO
DISMISS COMPLAINT AND
DEFENDANT STEPHANS’
MOTION TO DISMISS**
Hearing Date: Feb. 23, 2023
Hearing Time: 2:00 p.m.
Courtroom: 4A
Judge: Hon. Anthony J. Battaglia
Action Filed: October 4, 2021

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INTRODUCTION

1
2 The State¹ admits that the First Amended Complaint makes the plain language
3 claim that a ban on gun sales at a gun show, is in fact an indirect ban on gun shows.
4 Mot. 1, 4-5. An essential theory of Plaintiffs’ case is that “constitutional rights [...]”
5 can neither be nullified openly and directly by state legislators or state executive or
6 judicial officers, *nor nullified indirectly by them through evasive schemes.*” *Cooper v.*
7 *Aaron*, 358 U.S. 1, 16-17 (1958) (emphasis added). This Court should accept the
8 State’s admission and deny this Rule 12 motion.

9 We have been here before. In 1995, Santa Clara County tried to ban gun shows at
10 its fairgrounds by using a lease provision to ban the sale—but not the possession—of
11 firearms at that facility. In *Nordyke v. Santa Clara County*, 110 F.3d 707, 713 (9th Cir.
12 1997), the Ninth Circuit held that a ban on the “sale” of firearms at a public fairground
13 was overbroad because it abridged commercial speech associated with the sale of
14 lawful products. Firearms are still lawful products in California 25 years after that
15 decision. Thus, the analysis of AB 893 must begin with what is already settled law in
16 this circuit. An offer to sell firearms or ammunition is speech that “does no more than
17 propose a commercial transaction.” *Va. State Bd. of Pharm. v. Va. Citzs. Consumer*
18 *Council, Inc.*, 425 U.S. 748, 762 (1976). Such an offer is commercial speech under the
19 First Amendment. *Nordyke v. Santa Clara*, 110 F.3d at 710.

20 In 1999, Alameda County passed an ordinance banning the possession—but not
21 the sale—of firearms at its fairgrounds. The defendants in *Nordyke v. King*, 681 F.3d
22 1041 (9th Cir. 2012) apparently relied on the dicta from *Nordyke v. Santa Clara*, 110
23 F.3d at 710-11, “that because the County has not enacted an ordinance to prohibit such
24 sales,” the First Amendment protected the commercial speech associated with a sale.
25 During en banc proceedings, the County reversed its earlier interpretation of its own

26
27 ¹ The State Defendants moved to dismiss Plaintiffs’ claims under Federal Rule of
28 Civil Procedure 12(b)(6). County Defendant Stephan joined the State’s motion.
Plaintiffs respond to both motions here and, for ease of reference, refer to all the
moving defendants as “the State” throughout.

1 ordinance to permit the possession of firearms at its fairgrounds during gun shows.
2 Since gun sales were never forbidden, the Nordykes’ gun shows could resume at the
3 Alameda County Fairgrounds. *Nordyke v. King*, 681 F.3d at 1045-46.

4 In 2018, Defendant 22nd Agricultural District (“DAA”) imposed a moratorium
5 on gun shows at the Del Mar Fairgrounds, which this Court handily struck down on
6 First Amendment and equal protection grounds. *B&L Productions, Inc. v. 22nd Dist.*
7 *Agric. Ass’n (“B&L P”)*, 394 F. Supp. 3d 1226, 1249 (S.D. Cal. 2019).

8 Now we’ve come full circle. More than 20 years after Santa Clara County tried
9 to ban gun shows at their fairgrounds by banning language associated with a
10 commercial transaction, California is still trying to ban gun shows once again by
11 outlawing sales—but not possession—of firearms on public property. If that were not
12 enough to overcome the State’s motion to dismiss, there have been significant events
13 of constitutional importance since *Nordyke v. Santa Clara* was decided—the Supreme
14 Court has issued watershed opinions defining the rights protected by the Second
15 Amendment, including its latest opinion in *New York State Rifle & Pistol Ass’n v.*
16 *Bruen*, -- U.S. --, 142 S. Ct 2111, 2134-35 (2022). *Bruen* is clear that the government
17 cannot ban possession of firearms in public, unless such a restriction is firmly
18 established by precedent. *Bruen*, 142 S. Ct. at 2134-35. And since firearms are still
19 lawful products, the commercial speech associated with their sale cannot be banned
20 either. *Nordyke v. Santa Clara Cnty.*, 110 F.3d 707. In short, because AB 893 forbids
21 anyone to “contract for, authorize, or allow *the sale* of any firearm or ammunition” at
22 the Fairgrounds—a restriction applicable only to commercial speech about such
23 products—AB 893 is virtually identical to the county’s actions in *Nordyke v. Santa*
24 *Clara*. And because *Bruen* essentially affirms the result (if not the rationale) of
25 *Nordyke v. King*, California is out of options for banning gun shows at public venues.

26 What’s more, California has neither amended nor repealed its “Gun Show
27 Enforcement and Security Act of 2000,” Cal. Penal Code §§ 27300, *et seq.*, which was
28 expressly adopted to make gun shows at least as safe as firearm transactions at brick-

1 and-mortar stores and which applies whether the shows take place at public or private
 2 venues. This, of course, means that gun shows are still lawful in California—as long
 3 as they take place on private property. So much for any public safety argument the
 4 State might advance. With no public safety arguments to make, what is left?

5 Even California’s “belief[] that the state should not profit from sales of firearms
 6 and ammunition” is nonsense. FAC ¶ 107, 127. Any state revenue generated by gun
 7 shows will fall into three categories: (1) rent charged to the promoter (which is not
 8 dependent on firearm or ammunition sales); (2) sales tax (which gets paid no matter
 9 where the sale takes place); and (3) fees paid to the California Department of Justice
 10 for mandated background checks (which also must be paid no matter where the sale
 11 takes place).² So even if a bare desire not to “profit from sales of firearms and
 12 ammunition” were a compelling or substantial government interest, banning sales of
 13 firearms and ammunition at the Fairgrounds to serve such an interest is irrational.

14 So why does California seek to ban only gun shows (by banning firearm and
 15 ammunition sales) on public land that is open to all manner of other lawful commerce,
 16 but still allow gun shows at private venues? Is California really just making a “cooties
 17 argument”³ for banning gun shows at the Fairgrounds? If commercial talk about
 18 firearms already complies with federal and state laws addressing public safety, all that
 19 is left to regulate is the exchange of ideas by those who participate in the “gun
 20 culture.” That culture is the impermissible target of AB 893.

21 STATEMENT OF FACTS

22 I. REGULATION OF GUN SHOWS IN CALIFORNIA

23 California has one of the most rigorous regulatory regimes for commerce in
 24

25 ² These fees are also used, in part, to enforce California’s gun laws. This means
 26 that AB 893 (if it curtails firearm and ammunition sales) will deprive law enforcement
 of revenue to stop gun crimes. *See* Cal. Penal Code §§ 28225, 28230, 28233.

27 ³ Cooties is a fictitious childhood disease. “A child is said to ‘catch’ cooties
 28 through any form of bodily contact, proximity, or touching of an ‘infected’ person....
 Often the ‘infected’ person is someone who is perceived as different, due to disability,
 shyness, being of the opposite sex, or having peculiar mannerisms.” Wikipedia,
 Cooties, at <https://en.wikipedia.org/wiki/Cooties> (last visited Nov. 27, 2022).

1 firearms and ammunition in the United States. Laws regulating the sales of firearms
2 and ammunition at gun shows are in many ways at their strictest. *See e.g.*, Cal. Penal
3 Code §§ 27200-27415(which includes the Gun Show Enforcement and Security Act of
4 2000). From requirements that event promoters provide law enforcement with a
5 complete list of all firearm retailer vendors, Cal. Penal Code §§ 27205, 27220, to
6 mandating that promoters maintain minimum insurance policies, *id.* § 27200, and
7 regulations dictating written warnings to be posted throughout the venue, *id.* §
8 27240(a), California law covers all manner of conduct at gun shows. See App’x A (for
9 a more complete list of the myriad state laws regulating gun shows).

10 These “gun show” regulations are on top of the laws relating to lawful sale of
11 firearms and ammunition at permanent retail locations in California. Cal. Penal Code §
12 27310. Firearm purchasers at gun shows are subject to the same background checks,
13 *id.* § 28215, the same 10-day waiting period, *id.* § 26815(a), the same proof of
14 residency requirement, 18 U.S.C. § 922(a)(3), (b)(3), the same everything. No physical
15 transfer of a firearm may lawfully take place at any gun show absent narrow
16 exceptions applicable only to law enforcement. Licensed dealers may begin the
17 process of a sale (offer, acceptance, consideration) onsite, but purchasers must pick up
18 their firearm offsite after all prerequisites for the sale have been met.⁴ In short, there is
19 no “gun show loophole” in California.

20 **II. THE GUN SHOW EXPERIENCE**

21 Gun show events are like modern bazaars—conventions of like-minded people
22 who meet in a public forum set aside by the government for all manner of speech and
23 commerce. Gun shows include the exchange of products, ideas, knowledge, services,
24 education, entertainment, and recreation. *See also* 27 C.F.R. § 478.100(b). At gun
25

26 ⁴ Cal. Penal Code § 27310 (requiring all firearm transfers at gun shows to
27 comply with state and federal law); *id.* § 26805 (prohibiting the sale and transfer of a
28 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 shows, like-minded people come together to explore the lawful uses of firearms,
2 including self-defense, hunting, target shooting, safety training, gunsmithing, and
3 appreciation of firearms. FAC ¶¶ 2-4, 11-22, 47-54. Organizations share information,
4 speakers give lectures, trainers hold classes, and patrons discuss gun rights. *Id.* ¶¶ 49,
5 52, Ex. 4 at 11.

6 In short, gun shows are a celebration of America’s “gun culture,” an essential
7 outgrowth of the rights that flow from the Second Amendment. *Id.* ¶ 49. Participating
8 in that culture is one of the primary reasons people attend gun shows. *Id.* Without the
9 anchor of commerce in firearms and ammunition at these shows, however, patronage
10 will dwindle and the events will disappear. Many (maybe most) of the people who
11 attend gun shows are there to engage in commerce with experienced firearm retailers
12 that they cannot access elsewhere. *Id.* ¶¶ 57-58. Thus, firearm and ammunition vendors
13 are the backbone of the gun show business model. If retailers cannot lawfully sell their
14 products at these events, there is little financial incentive for them to attend. *Id.* ¶ 59.

15 **III. THE DEL MAR FAIRGROUNDS & THE CROSSROADS GUN SHOW**

16 The state of California owns the Del Mar Fairgrounds (“the Fairgrounds”). FAC
17 ¶ 58, Ex. 1. Defendant DAA has the authority to manage the Fairgrounds. *Id.* Its size
18 and location make the Fairgrounds a unique facility—with no other comparable venue
19 in the area. *Id.* ¶ 61. Many public groups thus use the Fairgrounds to host large,
20 expressive events, including concerts, festivals, and trade shows. *Id.* ¶¶ 62-63. The
21 DAA promotes such use by the public. *Id.* ¶ 64. Indeed, its mission is “[t]o manage
22 and promote a world-class, multi-use, public assembly facility with an emphasis on
23 agriculture, education, entertainment, and recreation ... for the benefit of all.” *Id.* ¶ 66.

24 Plaintiff B&L Productions, Inc. (“Crossroads”) has operated popular, safe, legal,
25 and family-friendly gun show events as a business in California for over 30 years.
26 FAC ¶¶ 1, 13. It has long produced events at the Fairgrounds where like-minded
27 people, including the individual and vendor Plaintiffs, gather to engage in lawful
28 speech and commerce necessary for the exercise of the Second Amendment, as well as

1 other forms of political, educational, and commercial speech . *Id.* ¶¶ 1-4, 11-22, 47-54.
2 Gun show vendors are often the same licensed vendors that have brick-and-mortar
3 stores in the community, operate legally over the internet, and are registered with the
4 state as lawful businesses. *Id.* ¶¶ 17, 19, 44. They sell legal products and enjoy
5 attending gun shows so they can interact with customers in a meaningful way. *Id.* ¶ 45.

6 **III. ASSEMBLY BILL 893**

7 Governor Gavin Newsom signed AB 893, amending the California Food &
8 Agricultural Code to add section 4158,⁵ which states that “[n]otwithstanding any other
9 law, an officer, employee, operator, lessee, or licensee of the 22nd District Agricultural
10 Association, as defined in Section 3873, shall not contract for, authorize, or allow the
11 sale of any firearm or ammunition on the property or in the buildings that comprise
12 the... [Fairgrounds].” *Id.*, Ex. 6 at 53-55. The law took effect on January 1, 2021. *Id.*
13 While the law was intended to end gun shows at the Fairgrounds, as the legislative
14 history of AB 893 makes clear, the law’s express target is the buying and selling of
15 firearms and ammunition on the state-owned property of the Fairgrounds. *Id.* ¶¶ 89-90,
16 120, 123-30, Ex. 6, Ex. 7 at 57-64. The banning of gun shows, however, has long been
17 the goal of politicians and lobbyists who dubiously claim they believe it is wrong for
18 the state to benefit from the sale of firearms. *Id.* ¶¶ 113-14. Essentially, even though
19 AB 893 does not expressly state that it “bans” gun shows, that is what the bill does.

20 Because Plaintiffs’ gun shows are an event where they exercise their right to free
21 speech, association, and assembly, and because AB 893 effectively denies Plaintiffs
22 access to a public forum otherwise available for use by the public, AB 893 violates
23 Plaintiffs’ rights to equal protection under the law while exercising those fundamental
24 rights. *Police Dep’t of Chic. v. Mosley*, 408 U.S. 92, 95 (1972). AB 893 denies
25 Plaintiffs Bardack, Diaz, Dupree, Irick, Solis, and Walsh, and the nonprofit plaintiffs
26 of a vital opportunity to assemble and engage in pure speech about the rights and
27

28 ⁵ Plaintiffs refer to both AB 893 and section 4158 as “AB 893” throughout.

1 responsibilities of gun owners, the Second Amendment, and political activism with
2 like-minded individuals. It also strips Plaintiff Crossroads of the right to promote
3 expressive gun show events, acting as a “clearinghouse” for both political and
4 commercial speech. It strips Plaintiffs Solis, Walsh, Captain Jon’s, and L.A.X. Ammo
5 of vital opportunities to engage in lawful commercial speech, including the offer,
6 acceptance, and exchange of consideration for the sales of firearms and ammunition.

7 Finally, AB 893 burdens the rights of the individual plaintiffs to acquire
8 protected arms, and of the vendors to sell those products to their customers with the
9 right to purchase them. *See Andrews v. State*, 50 Tenn. 165 (1871) (cited in *District of*
10 *Columbia v. Heller*, 554 U.S. 570, 614 (2008)); *Craig v. Boren*, 429 U.S. 190, 196-97
11 (1976) (citing *Eisenstadt v. Baird*, 405 U.S. 438 (1972)).

12 LEGAL STANDARD

13 “To survive a motion to dismiss for failure to state a claim under Rule 12(b)(6), a
14 complaint generally must satisfy only the minimal notice pleading requirements of
15 Rule 8(a)(2).” *Porter v. Jones*, 319 F.3d 483, 494 (9th Cir. 2003). That is, Plaintiffs
16 need provide just a short and plain statement showing they are entitled to relief. Fed.
17 R. Civ. P. 8(a)(2). At this stage, courts must view the complaint “in the light most
18 favorable to Plaintiffs, taking all allegations as true, and drawing all reasonable
19 inferences from the complaint in [plaintiffs’] favor.” *Doe v. United States*, 419 F.3d
20 1058, 1062 (9th Cir. 2005).

21 ARGUMENT

22 I. PLAINTIFFS HAVE PLEADED VIABLE CONSTITUTIONAL CLAIMS

23 A. AB 893 Violates Plaintiffs’ First Amendment Rights to Free Speech, 24 Association, and Assembly

25 The First Amendment protects the right to free speech, religion, assembly, and
26 the right to petition the government for redress of grievances. U.S. Const. amend. I. It
27 embodies a national commitment to “robust political debate.” *Hustler Magazine v.*
28 *Falwell*, 485 U.S. 46, 51 (1988). “Effective advocacy of both public and private points

1 of view, particularly controversial ones, is undeniably enhanced by groups association,
 2 as the [Supreme] Court has more than once recognized by remarking upon the close
 3 nexus between the freedoms of speech and assembly.” *NAACP v. Ala. ex rel.*

4 *Patterson*, 357 U.S. 449, 460 (1959). Modern First Amendment jurisprudence often
 5 merges the analysis for free speech with the rights of assembly and free association.

6 When the state denies access to a public forum, courts apply First Amendment
 7 principles to the speech intended to place at that forum. *Cornelius v. NAACP Legal*
 8 *Def. & Educ. Fund, Inc.*, 473 U.S. 788, 797 (1985). This requires the Court to
 9 “identify the nature of the forum [in which one seeks to engage in expressive activity],
 10 because the extent to which the [g]overnment may limit access depends on whether the
 11 forum is public or nonpublic.” *Id.* Finally, the Court “assess[es] whether the [state’s]
 12 justifications for exclusion from the relevant forum satisfy the requisite standard.” *Id.*

13 Applying this analysis, AB 893 is unconstitutional. Yes, firearm sales take place
 14 at gun shows, but the promoters, vendors, and patrons also engage in protected
 15 expression related to the lawful use of firearms—as they have done at the Fairgrounds
 16 for decades. FAC ¶¶ 1-4, 11-22, 47-54. The State’s ban on commerce in arms at the
 17 Fairgrounds is a pretext to ban gun shows and constitutes content- and viewpoint-
 18 based censorship of Plaintiffs’ message. The State’s animus for gun shows closes the
 19 loop and seals the fate of AB 893. *See Cleburne v. Cleburne Living Ctr., Inc.*, 472 U.S.
 20 432 (1985). The Court should apply the highest scrutiny to California’s gun show ban
 21 and strike down AB 893 when the State fails to “prov[e] the constitutionality of its
 22 actions.” *United States v. Playboy Entm’t Grp., Inc.*, 529 U.S. 803, 816 (2000).

23 1. AB 893 Restricts Protected Expression

24 Gun shows bring together like-minded people to engage in all manner of
 25 protected speech. Attendees at Crossroads’ gun shows congregate to explore the lawful
 26 uses of firearms, including self-defense, hunting, target shooting, safety training,
 27 gunsmithing, and appreciation of firearms. Second Amendment groups share
 28 information, speakers give lectures, trainers hold classes, and participants engage

1 others, including candidates for public office, in discussions about gun rights. FAC ¶¶
2 47-54. And, of course, retailers offer firearms and ammunition for sale. *Id.* ¶¶ 57-58.
3 This Court need not take Plaintiffs’ claims that gun shows are deeply expressive at
4 face value. The State’s relentless pursuit to ban them, is itself an inference that they are
5 imbued with symbolic value by the State itself. Couple this with the public statements
6 made by some Defendants and other state actors, and the gun show’s symbolic value
7 evolves from inference to admission. *Id.* ¶¶ 151-57.

8 While AB 893 purports to ban only the sale of firearms and ammunition, the
9 law’s intended effect is to ban gun shows from publicly owned spaces altogether.
10 Plaintiffs allege that the State fully understands this and the role gun shows play in
11 Second Amendment culture. *Id.* ¶¶ 124-30. Indeed, the Attorney General’s office
12 defended the DAA’s moratorium on gun shows at the Del Mar Fairgrounds, which was
13 held to violate the First Amendment and enjoined by this Court. *B&L I*, 394 F. Supp.
14 3d 1226. Now the State seeks to make an indirect attack on guns with a scheme to
15 knock out the commercial cornerstone of gun shows, knowing that this would destroy
16 the pro-Second Amendment cultural experience these events are known for.

17 Indeed, the March 26, 2019, Public Safety Committee’s analysis of AB 893
18 expressly admitted that the “bill would effectively terminate the possibility for future
19 gun shows at the Del Mar Fairgrounds.” FAC ¶ 154, Ex. 7 at 4. The Assembly
20 Appropriations Committee similarly acknowledged that AB 893:

21 [W]ould add a section to the Food and Agricultural Code that
22 prohibits the sale of firearms and ammunitions at the Del Mar
23 Fairgrounds. ...Therefore, this bill would effectively terminate
24 the possibility for future gun shows at the Del Mar Fairgrounds.
On three prior occasions, former Governors Brown and
Schwarzenegger vetoed similar legislation to ban gun shows at
the Cow Palace in San Francisco.

25 FAC ¶ 155, Ex. 11; *see also* FAC ¶¶ 156-57. What’s more, District staff have refused
26 to work with Plaintiff Crossroads in good faith to schedule events in 2021 and beyond.
27 *Id.* ¶¶ 158-64. Gun shows have thus not taken place at the Fairgrounds since AB 893
28 took effect, extinguishing not only the otherwise lawful sale of firearms and

1 ammunition, but the varied political and educational speech that takes at such events.

2 In short, gun shows held in the public commons *themselves* convey a
3 particularized message, and the intended audience understands that message. *Texas v.*
4 *Johnson*, 491 U.S. 397 (1989). That message—in the face of California’s droning
5 assertions in AB 893 (and just about everywhere else) that guns are bad—*is that guns*
6 *really are good*. They facilitate the exercise of a fundamental right to self-defense.
7 *District of Columbia v. Heller*, 554 U.S. 570 (2008). And, just like books, religious
8 symbols, and fellowship with like-minded Americans, gun shows are entitled to the
9 First Amendment protections that book fairs, concerts, and revival meetings enjoy at
10 state-owned venues, like the Fairgrounds.

11 The First Amendment protects the intended expression at Plaintiffs’ gun shows
12 because that expression is not obscene, defamatory, or fraudulent. No Plaintiff has
13 advocated imminent lawless action or solicited others to commit crimes. There are no
14 fighting words or true threats. None of the communications or expressive activities at
15 gun shows are among those unprotected classes of speech. *See United States v.*
16 *Alvarez*, 567 U.S. 709, 717 (2012). Gun shows promote lawful speech that ranges
17 from purely political to commercial—and it all pertains to the exercise and
18 preservation of the right to keep and bear arms. When “the sale of merchandise [is]
19 inextricably intertwined with a religious, political, ideological, or philosophical
20 message, [it] is fully protected by the First Amendment.” *Hunt v. City of Los Angeles*,
21 601 F. Supp. 2d 1158, 1176 (C.D. Cal. 2009), *aff’d in part*, 638 F.3d 703 (9th Cir.
22 2011). *This is the business model of gun shows*.

23 Indirect schemes to violate rights, still violate rights. *Cooper v. Aaron*, 358 U.S.
24 at 16-17. AB 893 targets Plaintiffs’ lawful and protected pro-gun speech and
25 effectively excludes that speech at the Fairgrounds and all other state-owned
26 properties. The next step is whether the Fairgrounds is a public or nonpublic forum.

27 **2. The Fairgrounds Is a Public Forum**

28 Plaintiffs have alleged that the Del Mar Fairgrounds a public forum, and this

1 Court has already made that finding. *B&L I*, 394 F. Supp. 3d at 1246 (Del Mar
2 Fairgrounds is a public forum). Having been “opened [by the State] for use by the
3 public as a place for expressive activity,” it is, at minimum, a “designated public
4 forum.” *Perry Educ. Ass’n v. Perry Loc. Educators’ Ass’n*, 460 U.S. 37, 45 (1983). In
5 such forums, content-based speech prohibitions must survive strict scrutiny, meaning
6 that they must be “necessary [and narrowly drawn] to serve a compelling state
7 interest.” *Id.* at 45-46.

8 3. AB 893 Is Content-based and Viewpoint-discriminatory

9 The Fairgrounds is owned by the state of California and managed by the DAA.
10 FAC ¶ 61. Because of its large size and unique urban location, the Fairgrounds is a
11 unique, publicly owned venue. There is no other public or private venue of similar size
12 in the area. *Id.* ¶ 66. Effectively, the government has a monopoly on venues of this size
13 and type in the area. *Id.* ¶¶ 66, 138. Indeed, the Fairgrounds plays host not only to
14 events produced by DAA, like the San Diego County Fair, but to “events and activities
15 produced by third-party promoters, which range from concerts and festivals, trade
16 shows and consumer expos, equestrian competitions and animal shows, sporting
17 events, fundraisers and personal celebrations.” *Id.* ¶ 70.

18 “[A]bove all else, the First Amendment means that the government has no power
19 to restrict expression because of its message, its ideas, its subject matter, or its
20 content.” *Police Dep’t of Chic. v. Mosley*, 408 U.S. 92, 95 (1972) (collecting cases).
21 The Constitution thus “demands that content-based restrictions on speech be presumed
22 invalid ... and that the Government bear the burden of showing their
23 constitutionality.... This is true even when [the Legislature] twice has attempted to find
24 a constitutional means to restrict, and punish, the speech in question.” *Ashcroft v. Am.*
25 *Civ. Libs. Union*, 542 U.S. 656, 660 (2004); *see also Reed v. Town of Gilbert*, 576 U.S.
26 155, 163 (2015) (holding that content-based restrictions are presumptively
27 unconstitutional and subject to strict scrutiny). Indeed, a finding that a government
28 burden on speech is content-based, is often outcome determinative. *See, e.g., Ark.*

1 *Writers' Project v. Ragland*, 481 U.S. 221, 231-33 (1987).

2 Government restrictions that selectively ban speech based on its subject matter
3 are content-based regulations. *See Mosley*, 408 U.S. at 95-96. “Whether laws define
4 regulated speech by particular subject matter or by its function or purpose, they are
5 subject to strict scrutiny.” *Reed*, 576 U.S. at 156. What’s more, “[g]overnment
6 discrimination among viewpoints—or the regulation of speech based on ‘the specific
7 motivating ideology or the opinion or perspective of the speaker’—is a ‘more blatant’
8 and ‘egregious form of content discrimination.’” *Id.* at 168 (citing *Rosenberger v.*
9 *Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995)).

10 But AB 893’s censorship is both content-based and viewpoint-discriminatory.
11 “[B]ecause the speech at gun shows is likely to be predominantly, if not exclusively,
12 favorable to guns and gun rights, ‘[i]n its practical operation,’ the [Challenged Statutes
13 go] ‘beyond mere content discrimination, to actual viewpoint discrimination.’” *B&L I*,
14 394 F. Supp. 3d at 1246 (quoting *R.A.V. v. City of St. Paul*, 505 U.S. 377, 391 (1992)).
15 “A regulation engages in viewpoint discrimination when it regulates speech based on
16 the specific motivating ideology or perspective of the speaker.” *Interpipe Contracting,*
17 *Inc. v. Becerra*, 898 F.3d 879, 899 (9th Cir. 2018) (internal quotation marks and
18 citation omitted). “When the government targets not subject matter, but particular
19 views taken by speakers on a subject, the violation of the First Amendment is all the
20 more blatant.” *Id.* at 829. Normally, this conclusion is all but dispositive. *Sorrell v.*
21 *IMS Health, Inc.*, 564 U.S. 552, 571 (2011).⁶

22 AB 893 can thus stand *only* if it satisfies the most exacting standard of judicial
23 review. But no matter what level of scrutiny applies, the result is the same—the State

24 _____
25 ⁶ Similarly, when a government refuses to allow some groups to use a designated
26 public forum based on disapproval of the message, courts often consider the
27 government action a “prior restraint” on free speech. *Se. Promos., Ltd. v. Conrad*, 420
28 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 cannot “prov[e] the constitutionality of its actions.” *United States v. Playboy Entm’t*
2 *Grp., Inc.*, 529 U.S. 803, 816 (2000).

3 4. AB 893 Cannot Survive Any Form of Heightened Scrutiny

4 Because AB 893 is a content-based restriction (and prior restraint) on protected
5 speech in a public forum, strict scrutiny must apply. Under strict scrutiny, the State
6 must prove its restriction is narrowly tailored to further a compelling interest. *Reed*,
7 576 U.S. at 156. Even so, a finding that AB 893 bans *only* commercial speech, results
8 in the same outcome. First, the commercial speech doctrine itself may be obsolete. As
9 Justice Thomas has written, “there is no ‘philosophical or historical basis for asserting
10 that “commercial” speech is of “lower value” than “noncommercial” speech.’ Indeed,”
11 he continued, “I doubt whether it is even possible to draw a coherent distinction
12 between commercial and noncommercial speech.” *Lorillard Tobacco v. Reilly*, 533
13 U.S. 525, 574-575 (2001) (J. Thomas, concurring). Justice Thomas’ comments on the
14 commercial speech doctrine notwithstanding, commercial speech is protected if it is
15 not misleading and concerns a lawful activity. *Cent. Hudson Gas & Elec. Comm’n v.*
16 *Pub. Serv. Comm’n*, 447 U.S. 557, 563-64 (1980). Burdens on such speech are
17 constitutional *only* if they directly advance a substantial government interest and are
18 not broader than necessary to serve that interest. *Id.* at 564.

19 AB 893 is *far* broader than necessary to serve any legitimate government
20 interest. Its ban on public property of the commercial speech necessary to the sale of
21 all firearms and ammunition (offer and acceptance)—instead of simply enforcing the
22 many laws that already regulate the sales of such products—defies common sense and
23 circuit precedent. *Nordyke v. Santa Clara Cnty.*, 110 F.3d 707. The State claims that
24 AB 893 addresses public safety. Mot. 11. But the State’s interest must be authentic and
25 sincerely invoked. “[M]erely invoking interests ... is insufficient. The government
26 must also show that the proposed communicative activity endangers those interests.”
27 *Kuba v. I-A Agr. Ass’n*, 387 F.3d 850, 859 (9th Cir. 2004) (citation omitted). The
28 evidentiary burden lies with the government. *United States v. Playboy Entm’t Grp.*,

1 *Inc.*, 529 U.S. 803, 814-18 (2000). Since this is a Rule 12 motion, this Court must
2 accept as true the factual allegations of the FAC. *Doe v.*, 419 F.3d at 1062. The FAC
3 (and the attached exhibits) allege facts tending to show that Plaintiffs’ gun shows are
4 not a threat to public safety. FAC ¶¶ 107-12, 115-19. Exs. 6-10. If the State wants to
5 contest those facts, the forum for that is a trial or summary judgment motion, not a
6 motion to dismiss.

7 Plaintiffs also allege that AB 893’s legislative history reveals only general
8 concerns about gun violence occurring all over the country and legislators’ beliefs that
9 the state should not profit from sales of firearms and ammunition. *Id.* ¶¶ 110-11, 113-
10 20, Ex. 6. As noted above, California does not “profit” from the sale of guns at gun
11 shows. *See supra*, p. 3. Its attenuated revenue from gun shows at the Fairgrounds is
12 limited to rent paid by Crossroads, and apparently (no doubt with tongue planted
13 firmly in cheek) California is still willing to rent space to Crossroads for gun shows as
14 long as they do not sell firearms or ammunition. The sales tax collected and transfer
15 fees paid when a gun is sold at retail, must be paid no matter where the items are sold.

16 At best, the monster of the State’s imagination appears to be a theory that
17 commercial activities associated with gun shows have a “bad tendency” to promote
18 lawless conduct. *See, e.g., Schenck v. United States*, 249 U.S. 47 (1919); *Frohwerk v.*
19 *United States*, 249 U.S. 204 (1919). But the theory that fundamental rights can be
20 abridged based on speculation about motives and bad tendencies began losing traction
21 over 100 years ago in *Abrams v. United States*, 250 U.S. 616 (1919). Modern doctrine
22 requires incitement to immediate unlawful conduct before fundamental rights must
23 yield to any state interest. *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969).

24 The State’s “actual interest” is not public safety, but animus for America’s gun
25 culture and those who take part in it. FAC ¶¶ 60, 90, 107-20, 122-23, 129. But even if
26 the State wants to make a public safety argument, for which they bear the burden of
27 proof, it cannot prove that AB 893 is sufficiently tailored to that end. To meet that
28 burden the government must target the exact wrong it seeks to remedy, and no more.

1 *Frisby v. Schultz*, 487 U.S. 474, 485 (1988) (“A statute is narrowly tailored if it targets
2 and eliminates no more than the exact source of the ‘evil’ it seeks to remedy.”). In
3 analyzing public safety regulations designed to mitigate concrete public safety
4 concerns, *a ban is necessarily overbroad*. See *Edwards v. City of Coeur D’Alene*, 262
5 F.3d 856, 863-66 (9th Cir. 2001). The ban at issue is especially bad, because Plaintiffs
6 have operated safe and legal gun shows in California for decades. FAC ¶¶ 109-13, Ex.
7 14. (Fairgrounds Chief of Security report finding that Crossroads gun shows follow all
8 local, state, and federal laws). The events are largely incident-free, and there is no
9 evidence that they create a unique risk to public safety. *Id.*

10 Complete prohibition is disproportionate and unnecessarily restrictive of the First
11 and Second Amendment activities that take place at gun shows. Especially when such
12 activities are the predicate for exercising fundamental civil rights. See *Heller*, 554 U.S.
13 770 (striking down handgun ban); *Bruen*, 142 S. Ct. 2111 (establishing historical
14 standard of review and striking down ban on public carry of firearms for self-defense);
15 see also *Andrews v. State*, 50 Tenn. at 178 (cited in *Heller*, 554 U.S. at 614, and
16 consistent with *Bruen*, for the historical recognition that the “right [to] keep arms ...
17 necessarily involves the right to *purchase* and use them in such a way as is usual”).

18 Because the State cannot meet its burden—especially without presenting
19 evidence in a Rule 12 motion to dismiss—under any level of scrutiny, Plaintiffs’
20 challenge to AB 893 must be allowed to proceed.

21 **B. AB 893 Violates Plaintiffs’ Right to Equal Protection**

22 Because AB 893 singles out Plaintiffs because of the content of their speech, it
23 violates not only their rights to free speech, assembly, and association, it *also* violates
24 Plaintiffs’ rights under the Equal Protection Clause. U.S. Const. amend. XIV. The
25 Supreme Court, long ago, recognized that *both* the Equal Protection Clause *and* the
26 First Amendment forbid the government from granting “the use of a forum to people
27 whose views it finds acceptable, but deny[ing] use to those wishing to express less
28 favored or more controversial views.” *Mosley*, 408 U.S. at 96. Indeed, the Court held,

1 the government “may not select which issues are worth discussing or debating in
2 public facilities.” *Id.* “Once a forum is opened up to assembly or speaking by some
3 groups, government may not prohibit others from assembling or speaking on the basis
4 of what they intend to say.” *Id.* (emphasis added). If unequal treatment occurs in the
5 context of exercising a fundamental right, or the government is motivated by animus
6 toward a disfavored group, courts should apply heightened scrutiny. *See generally,*
7 *Grosjean v. Am. Press Co.*, 297 U.S. 233 (1936); *Minn. Star & Trib. Co. v. Minn.*
8 *Comm’r of Revenue*, 460 U.S. 575 (1983); *Cleburne*, 473 U.S. 432; *Romer v. Evans*,
9 517 U.S. 620 (1996).

10 AB 893, which targets only members of the “gun culture” who attend gun shows,
11 is undeniably infused with the State’s desire to harm this politically unpopular group.
12 Because AB 893 treats gun shows differently from car shows, antique shows, and
13 other commercial trade shows, it violates equal protection of the law.

14 **C. AB 893 Violates Plaintiffs’ Second Amendment Right to Sell and**
15 **Acquire Protected Arms for Lawful Purposes**

16 **1. Plaintiffs’ Amendment to Include a Second Amendment Claim**
17 **Is Proper Under Rule 15 and 18 U.S.C. § 1653**

18 This Court’s order granted the State’s first motion to dismiss “WITH LEAVE
19 TO AMEND” —full stop. Order at 16 (Aug. 18, 2022) (ECF No. 35) (“MTD Order”).
20 The State boot-straps an argument that Plaintiffs’ amendments are limited solely to
21 “‘curing the deficiencies noted’ in the order ‘where leave is granted’” by reading the
22 next sentence out of context. Mot. 13 (selectively quoting MTD Order at 16). That
23 follow-up sentence, which set the date for filing an amended complaint, did not restrict
24 alleging new theories that arise out of the same transaction. MTD Order at 16. Rather,
25 the Court’s reference to amending “where leave is granted” simply acknowledges the
26 reality that Plaintiffs were not given leave to amend all the claims that had been
27 dismissed. Some claims against some defendants were dismissed with prejudice, and
28 the Court’s order granting leave to amend was not to be read to amend those claims so
dismissed. *Id.* at 7, 16. The State’s citation of *Hardisty v. Moore*, No. 11-cv-1591,

1 2012 U.S. Dist. LEXIS 146524 (S.D. Cal. 2012), where the court dismissed a newly
2 added federal claim because the amendment exceeded the court’s order granting leave
3 to amend, changes nothing. Mot. 14. The *Hardisty* court expressly limited plaintiffs to
4 amending their pleading to address tolling. *Id.* at *12. No such limitation was imposed
5 on Plaintiffs in this Court’s dismissal order.

6 Federal Rule 15 and 18 U.S.C. § 1653 govern the amendment of pleadings.
7 New claims based on the same transaction or occurrence relate back to the original
8 filing. Fed. R. Civ. Proc. 15(c)(1)(A). Amendments should be liberally construed and
9 granted. The factors to consider are undue delay, dilatory motive, repeated failure to
10 cure deficiencies, undue prejudice, and futility of the amendment. *Foman v. Davis*,
11 371 U.S. 178, 181 (1962). The State makes no serious attempt to address these
12 elements. The FAC’s Second Amendment claims are fairly raised.

13 **2. Plaintiffs’ Second Amendment Claim Is Legally Sufficient**

14 In 2008, the Supreme Court held that the Second Amendment protects an
15 individual right to keep and bear arms. *Heller*, 554 U.S. 570. *Heller* described the right
16 to self-defense as the “central component” of the Second Amendment right. *Id.* at 628.
17 Two years later, the Supreme Court confirmed that said right is fundamental and then,
18 through the Fourteenth Amendment, incorporated it to protect against state and local
19 infringement. *McDonald v. City of Chicago*, 561 U.S. 742 (2010). *Heller* and
20 *McDonald* established a “text, history, and tradition” framework for analyzing Second
21 Amendment questions. *Heller*, 554 U.S. at 595; *McDonald*, 561 U.S. at 799.

22 In June 2022, the Supreme Court reaffirmed the validity of this history-based
23 approach. *Bruen*, 142 S. Ct. at 2134-35. The Court expressly rejected the once-popular
24 “two-step” test for analyzing Second Amendment claims, under which courts would
25 (1) determine whether a challenged law restricts conduct within the scope of the
26 Second Amendment, as informed by text, history, and tradition, and then (2) apply a
27 means-end balancing test, like intermediate scrutiny, depending on how close the
28 restricted conduct comes to the “core” right and the severity of the challenged law’s

1 burden. *Id.* at 2126. The Court declared that “[d]espite the popularity of this two-step
2 approach, it is one step too many.” *Id.* at 2127 (emphasis added). The Constitution
3 instead “demands a test rooted in the Second Amendment’s text, as informed by
4 history.” *Id.* As the Court explained, “reliance on history to inform the meaning of
5 constitutional text ... is ... more legitimate, and more administrable, than asking judges
6 to ‘make difficult empirical judgments’ about ‘the costs and benefits of firearms
7 restrictions.” *Id.* at 2130 (quoting *McDonald*, 561 U.S. at 790-91 (plurality opinion)).

8 When analyzing a Second Amendment challenge, courts must begin by asking
9 whether “the Second Amendment’s plain text covers an individual’s conduct.” *Id.* at
10 2129-30. If it does, “the Constitution presumptively protects that conduct,” *id.* at 2130,
11 and the government must “affirmatively prove that its firearms regulation is part of the
12 historical tradition that delimits the outer bounds of the right to keep and bear arms,”
13 *id.* at 2127. To do so, the government must “identify a well-established and
14 representative historical analogue” to the regulation it seeks to defend. *Id.* at 2133.

15 In other words, the State must establish that (1) AB 893 shares common features
16 with historically analogous regulations from the eighteenth to the mid-nineteenth
17 centuries; (2) those analogous regulations were prevalent, not historical outliers; and
18 (3) the modern regulation and the historical analogues are “relevantly similar”—that
19 is, similar in both “how” they operated and “why.” *Id.* Only if the government can
20 meet that heavy burden “may a court conclude that the individual’s conduct falls
21 outside the Second Amendment’s ‘unqualified command.’” *Id.* at 2126, 2130 (quoting
22 *Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 50 n.10 (1961)).

23 Under this test, AB 893 is unconstitutional. The threshold question is whether
24 the Second Amendment extends to the right to acquire the arms, ammunition, and
25 accessories necessary for exercising Second Amendment rights. Common sense and
26 case law say that it does. *See Jackson v. City & Cnty. of San Francisco*, 746 F.3d 953,
27 967-68 (9th Cir. 2014) (hollow-point ammunition); *Duncan v. Becerra*, 970 F.3d 1133
28 (9th Cir. 2020) (magazines over 10 rounds); *Teixeira v. Cnty. of Alameda*, 873 F.3d

1 670, 678 (9th Cir. 2017) (en banc) (discussing authorities acknowledging the right to
2 acquire arms); *see also Ezell v. City of Chicago*, 651 F.3d 684, 704 (7th Cir. 2011)
3 (holding that the Second Amendment “implies a corresponding right to acquire and
4 maintain proficiency” with arms). These authorities align with *Heller*’s favorable
5 citation to *Andrews v. State*, 50 Tenn. 165, 178 (1871), which recognized that the
6 “right of keep arms ... necessarily involves the right to *purchase* and use them in such
7 a way as is usual” (emphasis added).

8 Because the Constitution presumptively protects Plaintiffs’ right to acquire
9 firearms and ammunition, “the government must [now] justify [AB 893] by
10 demonstrating that [it is] consistent with the Nation’s historical tradition of firearm
11 regulation.” *Bruen*, 142 S. Ct. at 2130. What law from The Founding era, or the
12 immediate post-Civil War era, can the State cite that forbids two people—who may
13 lawfully possess firearms on public property—from uttering the words necessary to
14 buy, sell, or trade firearms while standing on public property? Again, even if a binding
15 contract for the sale of a firearm (words constituting an “offer,” “acceptance,” and
16 exchange of consideration) is made in that instant, the execution of the contract
17 requires a licensed firearm retailers to complete the transaction under state law. And
18 even then, the firearm can only be delivered 10-days later at the retailer’s brick-and-
19 mortar store. *See supra*, n.4.

20 Because the State cannot cite a relevant historical law forbidding commercial
21 speech relating to a firearms sale while standing on public property, they rely on two
22 cases of questionable authority. Mot. 17 (citing *Teixeira*, 873 F.3d 670; *United States*
23 *v. Tilotta*, No. 19-cr-04768, 2022 U.S. Dist. LEXIS 156715 (S.D. Cal. 2022)). In
24 *Teixeira*, the Court specifically declined to “define the precise scope of any such
25 acquisition right under the Second Amendment to resolve [that] case.” 873 F.3d at 678.
26 It then went on to “apply [the] two-step inquiry” adopted by the Ninth Circuit in
27 *United States v. Chovan*, 735 F.3d 1127, 1136 (9th Cir. 2013). But *Chovan*’s two-step
28 approach (and by extension *Teixeira*’s holding) were overruled by *Bruen*.

1 The State’s reliance on *United States v. Tilotta* is borderline frivolous. Mot. 17,
2 n.5. That court’s denial of a motion to dismiss a criminal indictment for violating
3 various regulations associated with commercial firearm transactions might be correct.
4 2022 U.S. Dist. LEXIS 156715, at *2. Tilotta appears to have been charged with
5 violating many of the regulations Plaintiffs have long complied with at their gun
6 shows. FAC ¶¶ 109-113, Ex. 14. In any event, the *Tilotta* court is simply wrong to
7 invent a new three-step test for the Second Amendment after the Supreme Court
8 rejected a two-step test as one step too many. *Compare Tilotta*, 2022 U.S. Dist. LEXIS
9 156715, at *11, with *Bruen*, 142 S. Ct. at 2127. *Tilotta* also ignores *Teixeira*’s holding
10 that that right to keep and bear arms “necessarily involves the right to purchase them.”
11 *Teixeira*, 873 F.3d at 678 (citing *Andrews*, 50 Tenn. at 178).

12 The State has not met its lofty burden under *Bruen*. There simply is no
13 subscribed, representative tradition of historical regulations that prohibited the
14 acquisition of firearms and ammunition that would be “relevantly similar” to the
15 burden imposed by AB 893. The State’s Rule 12 motion to dismiss the federal claims
16 should be denied.

17 **II. IMMUNITY OF DEFENDANTS BONTA, NEWSOM, AND ROSS**

18 As for the individual-capacity tort claims against Defendants Bonta, Newsom,
19 and Ross, their inclusion in the FAC was based on some confusion over the Court’s
20 order granting the first motion to dismiss. In one place, the Court dismissed all §1983
21 and supplemental state claims against Newsom and Ross *with* prejudice under
22 sovereign immunity. MTD Order at 9. The Court also held that Newsom, Ross, and
23 Bonta are entitled to qualified immunity from all §1983 claims. *Id.* Elsewhere, the
24 Court dismissed all individual-capacity claims for damages and state-law claims
25 against the “State Defendants” *without* prejudice. *Id.* at 10-11, 15. In case the latter
26 controls, Plaintiffs re-alleged their state-law claims against these State Defendants to
27 make the cleanest record (without an implied waiver) if this matter must be appealed.
28

1 That said, in opposing the State’s first motion to dismiss, Plaintiffs conceded
2 that Defendant Bonta likely has no personal tort liability because he took office in
3 April 2021, after AB 893 was adopted, so it is only his enforcement of AB 893 that
4 has caused Plaintiffs’ alleged harms. Under Government Code section 820.4, he is
5 protected from liability for such conduct. Pls.’ Opp’n Mot. Dismiss Compl. 24 n.11
6 (Feb. 24, 2022) (ECF No. 28). Similarly, Plaintiffs conceded that Defendants
7 Newsom and Ross likely have no personal tort liability because they were engaged in
8 discretionary acts. *Id.* (citing Cal. Gov’t Code § 820.2). Plaintiffs did not intend to
9 walk back those concessions in their First Amended Complaint, but retained
10 Defendants Newsom, Ross, and Bonta to be safe.

11 **III. THE COURT SHOULD HEAR PLAINTIFFS’ STATE-LAW TORT CLAIMS**

12 **A. This Court Has Subject Matter Jurisdiction Over the State Claims**

13 The State’s argument that the Court lacks subject matter jurisdiction over the
14 FAC’s state law claims presumes the loss of federal jurisdiction should this Court
15 dismiss all federal claims. Of course, if the Court allows even one federal claim to
16 proceed past this Rule 12 motion to dismiss, this Court has supplemental jurisdiction
17 to hear the state law claims under 28 U.S.C. § 1367.

18 **B. Plaintiffs Allege a Statutory Basis for Their Tort Claims Against** 19 **Defendant DAA**

20 The State argues that there is no statutory basis for Plaintiffs’ state-law tort
21 claims. Mot. 23. The State is incorrect. The general rule in California is that a public
22 entity is not liable for a tortious injury, *except as provided by law*. Cal. Gov’t Code §
23 815(a); *Cochran v. Herzog Engraving Co.*, 155 Cal. App. 3d 405, 409 (1984).
24 California’s Government Claims Act (“GCA”) provides a basis for government
25 liability for contract claims, like those raised by Plaintiffs here, so long as the claimant
26 complies with all statutory requirements for the presentation of such a claim. Cal.
27 Gov’t Code § 911.2. Plaintiffs allege that they filed a timely tort claim, putting the
28 DAA on notice of Plaintiffs’ claims for intentional and negligent interference with

1 prospective advantage, as well as Crossroads’ claim for intentional interference with
2 contract. FAC ¶¶ 151-154, 228-229, 238-239, 247-248, Ex. 7. And the FAC makes
3 specific and repeated reference to the GCA, by name. *Id.*

4 The State argues that Plaintiffs must point to something *more* than the GCA.
5 Mot. 23 Under Government Code section 815.2, a “public entity is liable for injury
6 proximately caused by an act or omission of an employee of the public entity within
7 the scope of his employment if the act or omission would, apart from this section,
8 have given rise to a cause of action against that employee....” Of course, it is entirely
9 “possible for a public entity and its employees to be held liable for intentional
10 interference with prospective economic advantage....” *City of Costa Mesa v.*
11 *D’Alessio Invests., LLC*, 214 Cal. App. 4th, 358 (2013) (citing *H&M Assocs. v. City of*
12 *El Centro*, 109 Cal.App.3d 399, 405-09 (1980)). Citing AB 893, the DAA’s
13 employees have refused to finalize event dates or contracts with Crossroads to hold
14 gun shows at the Fairgrounds. FAC ¶ 134. There is thus really no room to argue that if
15 the DAA’s employees are obstructing this economic activity in a tortious manner, that
16 would create liability and thus create liability for the DAA under section 815.2.

17 Plaintiffs have identified an adequate statutory basis for their tort claims against
18 DAA, and their claims are not barred. To the extent that this is unclear or
19 insufficiently pled, Plaintiffs can amend, there would be no prejudice in allowing them
20 to do so, and leave to amend should thus be liberally granted.

21 C. Plaintiffs’ Tort Claims Are Timely

22 In California, a claim for interference with a contract against the government
23 must be presented in a tort claim “not later than one year after the accrual of the cause
24 of action.” Cal. Gov’t Code § 911.2(a). The date of accrual is either (1) the date that
25 the wrongdoing occurs, or (2) the date that the wrongdoing causes harm. *City of*
26 *Pasadena v. Super. Ct. of L.A. Cnty.*, 12 Cal. App. 5th 1340 (2017). In other words,
27 “[a] cause of action accrues ‘upon the occurrence of the last element essential to the
28 cause of action.’” *Howard Jarvis Taxpayers Ass’n v. City of La Habra*, 25 Cal. 4th 809

1 (2001) (quoting *Cnty. of San Diego v. Myers*, 147 Cal. App. 3d 417, 421 (1983)).

2 Plaintiffs’ state-law claims could not have accrued until January 1, 2021—when
3 AB 893 took effect. FAC, Ex. 6 at 55. At the very earliest, that is when the elements of
4 wrongdoing, harm, and causation were complete. Though arguably, it would be even
5 later, for Plaintiffs would not have missed their first gun show till later in the year.
6 Plaintiffs’ August 2, 2021, tort claim—presented eight months later—was well within
7 the 12-month statutory window for contract-based tort claims. *Id.* ¶ 151.

8 Relying on *Howard Jarvis Taxpayers Association v. City of La Habra*, 25 Cal.
9 4th 809 (2001), the State incredibly argues that Plaintiffs’ tort claims accrued on
10 October 11, 2019—the day that Governor Newsom signed AB 893 into law. Mot. 24.⁷
11 The State’s reliance on *Howard Jarvis* is inapt. To be sure, the court did hold that a
12 claim challenging the validity of a city ordinance accrued when the ordinance was
13 adopted, “even though the ordinance became operative at a later date.” Mot. 24-25
14 (citing *Howard Jarvis*, 25 Cal. at 815). But it did not suggest that all (or even most)
15 claims arising out of the adoption and enforcement of a law accrue on the date of
16 enactment. The ordinance at issue there did for reasons not at play here.

17 In *Howard Jarvis*, voters challenged the validity of a La Habra utility tax that,
18 under California’s Proposition 62, would have required voter approval. 25 Cal. at 813.
19 The city did not submit the tax to the voters for approval because an appellate court
20 had held that Proposition 62 was unconstitutional. *Id.* (discussing *City of Woodlake v.*
21 *Logan*, 230 Cal. App. 3d 1058, 1064-68 (1991)). Three years after La Habra adopted
22 the utility tax, the California Supreme Court decided *Transportation Authority v.*
23 *Guardino*, 11 Cal. 4th 220 (1995), upholding Proposition 62 and invalidating a local

24 _____
25 ⁷ The State states that the DGS rejected Plaintiffs’ tort claims, noting that it could
26 not “consider claims presented more than one year after accrual....” Mot. 25, n.13
27 (citing Defs.’ Req. Jud. Ntc., Exs. A-E). The DGS rejected Plaintiffs’ claims on
28 December 30, 2021—two and a half months after Plaintiffs sued, Compl. (Oct. 4,
2021) (ECF No. 1), and long after the 45-day statutory period for rejecting a tort claim
had ended, Cal. Gov’t Code § 911.6. What’s more, the DGS did not bother to explain
how it concluded that more than a year had passed since accrual. The letters appear to
be merely post-litigation rationalization.

1 tax imposed without voter approval. *Id.* The *Howard Jarvis* plaintiffs seized upon that
2 change in the law to argue that their Prop 62 challenge to La Habra’s utility tax did
3 not accrue till *Guardino* was decided. *Id.* The California Supreme Court rejected the
4 delayed-accrual claim, reiterating the “principle that a change in the law does not
5 revive stale claims.” *Id.* at 816. The *Howard Jarvis* plaintiffs’ claim was stale because
6 it challenged the act of adopting the tax ordinance without voter approval. *Id.* The
7 wrongdoing, harm, and causation were complete the day the city adopted the tax in
8 violation of Prop 62. *Id.*

9 In contrast, Plaintiffs’ state-law tort claims do not challenge the validity or
10 adoption of AB 893. Contrary to the State’s unsupported claim, Plaintiffs’ tort claims
11 are *not* “rooted in a facial challenge to the *adoption* of AB 893.” Mot. 24. There is no
12 such thing as a “facial” tort claim. The claims do not rely on AB 893’s validity. FAC
13 ¶¶ 222-248. And the FAC paragraphs the State cites reference not just the AB 893’s
14 adoption, *but its enforcement*. See Mot. 24 (citing FAC ¶¶ 257, 267, 276). It is indeed
15 the enforcement of AB 893 that interferes with Plaintiffs’ contracts and economic
16 advantage. *Id.* When AB 893 was adopted, Plaintiffs might have expected those harms
17 would occur at some point, but they did not materialize until the DAA acted (or failed
18 to act) and interfered with Plaintiffs’ economic relationships. The mere adoption of
19 AB 893 did not invite that harm upon them. To the contrary, the FAC alleges that
20 Crossroads “has offered to attempt to hold events without sales of firearms or
21 ammunition to preserve its longstanding relationship with the [DAA], mitigate
22 damages, and continue planning and promoting its family-friendly events until its
23 claims can be heard,” but the DAA, citing AB 893, “has dragged its feet and has not
24 provided dates for events.” FAC ¶ 134.

25 But even if the claims first accrued on October 11, 2019, California recognizes a
26 “continuous accrual” exception that views each wrong in a series of wrongs as
27 triggering its own limitations period. *Aryeh v. Canon Bus. Sols., Inc.*, 55 Cal. 4th 1185,
28 1192 (2013). Because Plaintiffs’ harms are accruing continuously, an independently

1 actionable claim arises each time AB 893’s enforcement blocks another Crossroads
 2 event. That is because the DAA, citing AB 893, refuses to finalize dates for or approve
 3 contracts with Crossroads to host any event at the Fairgrounds, FAC ¶¶ 131-37, 139-
 4 40—events that took place several times every single year for over 30 years until AB
 5 893 took effect, *id.* ¶¶ 11, 222, 231, 241. This conduct constitutes an *ongoing* violation
 6 of the express terms of the DAA’s settlement with Plaintiffs and with Crossroads’
 7 longstanding right of first refusal, and it interferes with the agreements and economic
 8 relationships Crossroads has with its vendors. *Id.* ¶¶ 101, 137, 222-27, 231-37, 241-46,
 9 Ex. 6 at 54. Even *Howard Jarvis*, which rejected the delayed-accrual theory, allowed
 10 the plaintiffs’ tax ordinance challenge to proceed on the theory of continual accrual,
 11 holding that “the [c]ity’s allegedly illegal actions include not only the [o]rdinance’s
 12 initial enactment, but also the [c]ity’s continued collection, through the agency of the
 13 service providers, of an unapproved tax.” 25 Cal. at 819. The DAA’s allegedly
 14 unlawful refusal to work with Plaintiffs to hold gun show events goes beyond AB
 15 893’s initial enactment and continues to this day.

16 **CONCLUSION**

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

20
 21 Dated: November 28, 2022

s/ Anna M. Barvir

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22
 23
 24 Dated: November 28, 2022

s/ Donald Kilmer

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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

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

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 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

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

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

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

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

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

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

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

(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

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

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

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

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

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

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

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

History

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

(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

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

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

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

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

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

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

(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

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

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

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

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

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

(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

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- [PENAL CODE \(§§ 1 — 34370\)](#)
- [Part 6 Control of Deadly Weapons \(Titles 1 — 4\)](#)
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- [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

(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

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

Cal Pen Code § 30350

Copy Citation

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- [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

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

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

(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

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

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

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 DEFENDANT STEPHAN’S
MOTION TO DISMISS**

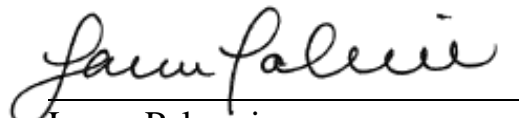
on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

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

Executed November 28, 2022.



Laura Palmerin