

Case No. 23-3793

In the United States Court of Appeals
for the Ninth Circuit

GAVIN NEWSOM,
in his official capacity as Governor of the State of California and in his personal
capacity, et al.,
Defendants-Appellants,

v.

B & L PRODUCTIONS, INC., et al.,
Plaintiffs-Appellees.

On Appeal from the United States District Court
for the Central District of California
Case No. 8:22-cv-01518 JWH (JDEx)
Honorable John W. Holcomb

**APPELLEES' SUPPLEMENTAL EXCERPTS OF RECORD
VOLUME I OF II**

C.D. Michel
Anna M. Barvir
Tiffany D. Chevront
MICHEL & ASSOCIATES, P.C.
180 E. Ocean Blvd., Suite 200
Long Beach, CA 90802
(562) 216-4444
cmichel@michellawyers.com

Donald Kilmer
Law Offices of Donald Kilmer, APC
14085 Silver Ridge Rd.
Caldwell, Idaho 83607
(408) 264-8489
don@dclawoffice.com

Attorneys for Plaintiffs-Appellees

January 30, 2024

SER-0001

1 C.D. Michel-SBN 144258
 Anna M. Barvir-SBN 268728
 2 Tiffany D. Chevront-SBN 317144
 MICHEL & ASSOCIATES, P.C.
 3 180 East Ocean Blvd., Suite 200
 Long Beach, CA 90802
 4 Telephone: (562) 216-4444
 Email: cmichel@michellawyers.com

5 Attorneys for Plaintiffs B&L Productions, Inc., California Rifle & Pistol Association,
 6 Incorporated, Gerald Clark, Eric Johnson, Chad Littrell, Jan Steven Merson, Asian
 Pacific American Gun Owner Association, Second Amendment Law Center, Inc.

7 Donald Kilmer-SBN 179986
 Law Offices of Donald Kilmer, APC
 8 14085 Silver Ridge Road
 Caldwell, Idaho 83607
 9 Telephone: (408) 264-8489
 Email: Don@DKLawOffice.com

10 Attorney for Plaintiff Second Amendment Foundation

11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 B&L PRODUCTIONS, INC., d/b/a
 14 CROSSROADS OF THE WEST;
 15 GERALD CLARK; ERIC JOHNSON;
 CHAD LITTRELL; JAN STEVEN
 16 MERSON; CALIFORNIA RIFLE &
 PISTOAL ASSOCIATION,
 17 INCORPORATED; ASIAN PACIFIC
 AMERICAN GUN OWNERS
 ASSOCIATION; SECOND
 18 AMENDMENT LAW CENTER, INC.;
 and SECOND AMENDMENT
 19 FOUNDATION,

20 Plaintiffs,

21 v.

22 GAVIN NEWSOM, in his official
 capacity as Governor of the State of
 23 California; ROB BONTA, in his official
 capacity as Attorney General of the
 State of California; KAREN ROSS, in
 24 her official capacity as Secretary of
 California Department of Food &
 25 Agriculture and in his personal capacity;
 TODD SPITZER, in his official capacity
 26 as District Attorney of Orange County;
 32nd DISTRICT AGRICULTURAL
 27 ASSOCIATION; DOES 1-10;

28 Defendants.

CASE NO: 8:22-cv-01518 JWH (JDEx)

**PLAINTIFFS' RESPONSE TO STATE
 DEFENDANTS' SECOND
 SUPPLEMENTAL BRIEF RE:
 MOTION FOR PRELIMINARY
 INJUNCTION**

Date: April 6, 2023
 Time: 9:00 a.m.
 Courtroom: 9D
 Judge: Honorable John D. Holcomb

Action Filed: August 12, 2022

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

	Page
Table of Contents.....	ii
Table of Authorities.....	iii
Introduction.....	1
Argument.....	2
I. The Proper Analysis for Second Amendment Claims Under <i>Bruen</i>	2
II. The State Has Not Identified an Enduring Historical Tradition of Relevant Firearm Regulation.....	4
A. For Purposes of <i>Bruen</i> ’s Historical Analysis, the Founding Era Is the Relevant Period, and the State Identifies Only a Single Law From That Time.....	5
B. The State’s Status As a Landlord of a Public Marketplace Does Not Confer the Power to Ban Otherwise Lawful Activities.....	9
C. Not One of the State’s Proposed Historical Analogues Is “Relevantly Similar” to the Challenged Statutes.....	13
1. Regulations on the commercial sale of arms.....	13
2. Restrictions on arms in “sensitive places” and other places where people gather.....	17
Conclusion.....	20

	Page(s)
TABLE OF AUTHORITIES	
Cases	
<i>Antonyuk v. Hochul</i> , No. 22-cv-0986, 2022 U.S. Dist. LEXIS 182965 (N.D.N.Y. Oct. 6, 2022).....	4
<i>B&L Prods., Inc. v. 22nd Dist. Agric. Ass’n</i> , 394 F. Supp. 3d 1226 (S.D. Cal. 2019)	10
<i>Bonidy v. U.S. Postal Serv.</i> , 790 F.3d 1121 (10th Cir. 2015).....	12, 13
<i>GeorgiaCarry.org, Inc. v. Georgia</i> , 687 F.3d 1244 (11th Cir. 2012).....	11, 12
<i>GeorgiaCarry.org, Inc. v. U.S. Army Corps of Engineers</i> , 212 F. Supp. 3d 1348 (N.D. Ga. 2016)	12
<i>Grosjean v. Am. Press Co.</i> , 297 U.S. 233 (1936)	11
<i>McDonald v. City of Chicago</i> , 561 U.S. 742 (2010)	8
<i>Minn. Star & Trib. Co. v. Minn. Comm’r of Revenue</i> , 460 U.S. 575 (1983)	11
<i>N.Y. State Rifle & Pistol Ass’n, Inc. v. Bruen</i> , __ U.S. __, 142 S. Ct. 2111 (2022)	<i>passim</i>
<i>Nordyke v. King</i> , 681 F.3d 1041 (9th Cir. 2012).....	10
<i>Nordyke v. Santa Clara Cnty.</i> , 110 F.3d 707 (9th Cir. 1997).....	10
<i>Police Dep’t of Chic. v. Mosley</i> , 408 U.S. 92 (1972)	10
<i>Romer v. Evans</i> , 517 U.S. 620 (1996)	10

1 *San Antonio Indep. Sch. Dist. v. Rodriguez,*
 2 411 U.S. 1 (1973) 11

3 *Solomon v. Cook Cnty. Bd. of Comm’rs,*
 4 559 F. Supp. 3d 675 (N.D. Ill. 2021)..... 12

5 *United States v. Class,*
 6 930 F.3d 460 (D.C. Cir. 2019), *abrogated by Bruen*, 142 S. Ct. 2111 12

7 **Statutes**

8 18 U.S.C. 922 (a)(2)(A)..... 13

9 18 U.S.C. 922(a)(5) 13

10 18 U.S.C. 1715..... 13

11 1968 Gun Control Act 19

12 An Act for the Prevention of Damage by Fire, and the Safe Keeping of
 13 Gun Powder, 1821 Me. Laws 98-99, ch. 25, § 5..... 16

14 An Act in Addition to an Act..... 16

15 An Act in Amendment of an Act Entitled an Act Relating to Theatrical
 16 Exhibitions and Places of Amusement, §§ 1-2 14

17 An Act Incorporating the Cities of Hartford, New Haven, New London,
 18 Norwich and Middletown, 1836..... 16

19 An Act to Provide for the Appointment of Inspectors and Regulating
 20 the Manufacture of Gunpowder, 1820 N.H. Laws 274, ch. XXV, §§
 21 1-9 (repealed by act of Dec. 23, 1842)..... 16

22 An Act to Provide for the Proof of Fire Arms, Manufactured 16

23 An Act to Regulate Gun Powder Manufactories and Magazines..... 14

24 An Act to Regulate the Keeping and Selling, and Transporting of
 25 Gunpowder, 1825 N.H. Laws 74, §§ 1-2 16

26 Cal. Penal Code § 16510 15

27 Cal. Penal Code § 27305 15

28

1 Cal. Penal Code § 27330 12

2 Cal. Penal Code § 27340 12

3 Firearm Owners’ Protection Act, 100 Stat. 449, 455-56 (May 19, 1986)..... 19

4 1814 Mass. Acts 464, ch. 192, § 2..... 16

5 1650 Md. Laws 273, § 5 12-13..... 6

6 1811 N.J. Laws 300, § 1 14

7 Ordinance No. 498, sec. 13 (Dec. 29, 1853) 15

8 **Other Authorities**

9

10 27 CFR 478.31 13

11

12 Alcohol, Tobacco, Firearms, and Explosives, *Gun Shows: Brady*
 13 *Checks and Crime Gun Traces* 4 (Jan. 1999), available at
 14 <https://www.atf.gov/file/57506/download> (last visited Mar. 10,
 2023)..... 19

15 District Agricultural District, *Board of Directors Governing Manual,*
 16 Introduction 1, available at [https://s3.us-west-](https://s3.us-west-1.amazonaws.com/ocfair.com/wp-content/uploads/2021/02/02141413/Policy-Combo-All.pdf)
 17 [1.amazonaws.com/ocfair.com/wp-](https://s3.us-west-1.amazonaws.com/ocfair.com/wp-content/uploads/2021/02/02141413/Policy-Combo-All.pdf)
 18 [content/uploads/2021/02/02141413/Policy-Combo-All.pdf](https://s3.us-west-1.amazonaws.com/ocfair.com/wp-content/uploads/2021/02/02141413/Policy-Combo-All.pdf) (last
 19 visited Mar. 10, 2023) 12

20 *The Laws and General Ordinances of the City of New Orleans:*
 21 *Together with the Acts of the Legislature, Decisions of the Supreme*
 22 *Court, and Constitutional Provisions Relating to the City*
 23 *Government: Revised and Digested, Pursuant to an Order of the*
 24 *Common Council, Sec. 1, art. 636 (5), 257 (Henry Jefferson Leovy,*
 25 *Simmons & Co. New Ed. 1870)..... 14*

26 *The Revised Statutes of the State of Rhode Island and Providence*
 27 *Plantations: To Which are Prefixed, The Constitutions of the United*
 28 *States and of the State, ch. 80, § 2(Jan. Sess. 1857), at 204-05*
 (1857)..... 14

Senate Bill 264..... 1

Senate Bill 915..... 1

1	U.S. Const., amend. I.....	10
2	U.S. Const., amend. II.....	<i>passim</i>
3	U.S. Const., amend. XIV	8
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		

INTRODUCTION

1
2 Underwhelmed with the parties' earlier supplemental briefing, this Court
3 ordered another round of briefing on whether Senate Bill 264 and Senate Bill 915
4 ("the Challenged Statutes") are "consistent with this Nation's historical tradition of
5 firearm regulation." Order (Feb. 1, 2023) (quoting *N.Y. State Rifle & Pistol Ass'n,
6 Inc. v. Bruen*, __ U.S. __, 142 S. Ct. 2111, 2126 (2022)). The Court warned the State
7 that it was not seeking "a rearguard defense of the Ninth Circuit's pre-*Bruen* legal
8 authorities," but was graciously providing the State with one more opportunity to
9 find any laws it considered proper analogues to the challenged law. *Id.* Yet again,
10 however, the State squandered that opportunity. First, by arguing *again* that the
11 conduct in which Plaintiffs seek to engage is not protected by the Second
12 Amendment at all. And, second, by failing to present *any* constitutionally relevant
13 historical analogue to its modern-day ban on selling lawful firearms, ammunition,
14 and firearm parts on state-owned property—let alone a "well-established and
15 representative" one. *Bruen*, 142 S. Ct. at 2133.

16 Instead, the State cites all manner of irrelevant laws, including English laws
17 that pre-date Shakespeare, oft-criticized fire-safety ordinances, laws regulating arms
18 in "sensitive places," license requirements, and rules preventing college kids from
19 keeping guns on campus.¹ Then, it introduces the opinions of a historian who
20 provides little more than improper legal opinion and a legal scholar who
21 inexplicably devotes his entire declaration to the historical pedigree of restrictions
22 on carrying or possessing arms in "sensitive places"—something the California
23 Legislature took pains *not* to restrict when it adopted the Challenged Statutes.

24 What it did *not* include was a single law dating to the ratification of the
25

26 ¹ The State did not provide copies of or links to any of the primary historical
27 sources it cited throughout its brief, requiring Plaintiffs to spend countless hours of
28 legal research to verify the State's citations and summaries of the historical texts. To
assist the Court and prevent duplication of efforts, Plaintiffs have compiled a
spreadsheet of website links to primary and secondary sources for these laws. The
spreadsheet is attached as Appendix A.

1 Second Amendment that, like the Challenged Statutes, banned the sale of legal,
2 protected arms on state-owned property. It has not—and cannot—“demonstrate that
3 [its modern ban] is consistent with this Nation’s historical tradition of firearm
4 regulation.” *Id.* at 2126. The laws violate the Second Amendment.

5 ARGUMENT

6 I. THE PROPER ANALYSIS FOR SECOND AMENDMENT CLAIMS UNDER *BRUEN*

7 As Plaintiffs have explained, under the Supreme Court’s recent decision in
8 *New York State Rifle & Pistol Ass’n v. Bruen*, __ U.S. __, 142 S. Ct. 2111, 2127
9 (2022), it is no longer appropriate for courts to subject Second Amendment claims to
10 multi-step, interest-balancing tests, like intermediate scrutiny. Pls.’ Mot. Prelim. Inj.
11 (“Mot.”) 21-22; Pls.’ Suppl Br. Supp. Mot. Prelim. Inj. (“Pls. Suppl. Br.”) 2-3.
12 Instead, the correct analysis begins and ends with an analysis of text and history.
13 *Bruen*, 142 S. Ct. at 2127. So, when faced with a Second Amendment challenge,
14 courts begin by asking if the restricted conduct is within the Second Amendment’s
15 “plain text.” *Id.* at 2126, 2129-30. If it is, “the Constitution presumptively protects
16 that conduct,” *id.* at 2127, and “the *government* must affirmatively prove that its
17 firearms regulation is part of the historical tradition that delimits the outer bounds of
18 the right to keep and bear arms,” *id.* (emphasis added).

19 Because the Challenged Statutes restrict the sale of all lawful firearms,
20 ammunition, and firearm parts—conduct within the Second Amendment’s “plain
21 text” that “the Constitution presumptively protects”—the State must “justify its
22 regulation by demonstrating that it is consistent with the Nation’s historical tradition
23 of *firearm* regulation.” *Bruen*, 142 S. Ct. at 2126, 2130 (emphasis added). This
24 requires the State to “identify a *well-established and representative* historical
25 analogue” to the laws it seeks to defend. *Id.* at 2133 (emphasis added). It is not
26 enough for the State to present a handful of laws from “outlier jurisdictions.” *Id.* at
27 2155-56. It must instead present evidence of “an *enduring* American tradition of
28 state regulation.” *Id.* (emphasis added). “Only then may [this C]ourt conclude that”

1 the conduct Plaintiffs wish to engage in “falls outside the Second Amendment’s
2 ‘unqualified command.’” *Id.* (quoting *Konigsberg v. State Bar of Cal.*, 366 U.S. 36,
3 50 n.10 (1961)). The State has not—because it cannot—meet this heavy burden.

4 Here, because the State does not even claim the Challenged Statutes address
5 an “unprecedented societal concern” or a “dramatic technological change” that
6 might justify a “more nuanced approach” to analogical reasoning, *id.* at 2123, the
7 inquiry is necessarily simple. This is because, as *Bruen* instructs, “when a
8 challenged regulation addresses a general societal problem that has persisted since
9 the 18th century, the lack of a *distinctly similar* historical regulation addressing that
10 problem is relevant evidence that the challenged regulation is inconsistent with the
11 Second Amendment.” *Id.* at 2131 (emphasis added). So this Court need only ask
12 whether the State has presented evidence of distinctly similar laws from the relevant
13 historical period—that is, Founding-era laws banning law-abiding people from
14 contracting for the sale of lawful arms on public property. If it has, the Court should
15 also consider whether such laws are constitutionally relevant: Do they evidence an
16 “enduring American tradition” of banning public sales of arms? Or are they merely
17 outliers that existed for only a short time or in a handful of jurisdictions? At best, the
18 State has provided evidence of only the latter.

19 Even if the State were entitled to a “more nuanced approach” under *Bruen*, the
20 State must still present a genuine analogue that is “relevantly similar” to the modern
21 restrictions it seeks to defend. *Id.* at 2122. The *Bruen* Court did not establish all the
22 ways a proposed analogue may be “relevantly similar,” but it did “point toward at
23 least two metrics: *how* and *why* the regulations burden a law-abiding citizen’s right
24 to armed self-defense.” *Id.* at 2133 (emphasis added). When looking at the “how,”
25 courts should ask whether a proposed analogue imposes a “comparable burden.” *Id.*
26 To prevent this analysis from devolving into just another way to balance burdens
27 and benefits—a test *Bruen* explicitly rejected—this Court should ask whether the
28 challenged modern laws and the proposed historical analogue impose a similar *type*

1 of burden (not just a similarly *severe* burden). When looking at the “why,” this
2 Court should consider “whether th[e] burden is comparably justified,” mindful that
3 historical laws enacted for one purpose cannot be used as a pretext to justify a
4 modern law that was enacted for different reasons. *Id.*

5 In short, “a historical statute cannot earn the title ‘analogue’ if it is clearly
6 more distinguishable than it is similar to the thing to which it is compared.”
7 *Antonyuk v. Hochul*, No. 22-cv-0986, 2022 U.S. Dist. LEXIS 182965, at *20
8 (N.D.N.Y. Oct. 6, 2022). As discussed below, this is the sort of strained comparison-
9 making that all of the State’s proposed historical analogues rely on.

10 **II. THE STATE HAS NOT IDENTIFIED AN ENDURING HISTORICAL TRADITION OF** 11 **RELEVANT FIREARM REGULATION**

12 Again, the State has not shown that it should be allowed to proceed to the
13 “more nuanced approach” of analogical inquiry. But even if it had, it has not proven
14 that there is an American tradition dating to the Founding Era of “relevantly similar”
15 laws banning the sale of protected arms, including ammunition and firearm parts, on
16 public property. Nor has it presented evidence of a well-established tradition of laws
17 banning the sale of firearms or firearm components in general (the absolute minimal
18 requirement for an analogous historical law).

19 Instead, the State focuses on largely irrelevant laws from medieval England,
20 colonial America, and the Nineteenth Century to try (but ultimately fail) to establish
21 that the government has historically enjoyed broad authority to (1) restrict activities
22 on its own property, State’s 2d Suppl. Br. 2-4, (2) regulate the commercial sale of
23 arms, *id.* at 6-11, and (3) regulate arms in “sensitive places,” *id.* at 11-16. But even if
24 the historical laws the State relies on are sufficient under *Bruen* to justify *some* types
25 of laws within these broad categories of regulation, they are not from the relevant
26 historical period for determining the original understanding of the Second
27 Amendment, nor are they genuine historical analogues that are “relevantly similar”
28 to the Challenged Statutes.

1 **A. For Purposes of *Bruen*'s Historical Analysis, the Founding Era Is**
2 **the Relevant Period, and the State Identifies Only a Single Law**
3 **From That Time**

4 First, a word about the period this Court should consider when reviewing the
5 State's historical record. The State relies almost exclusively on Nineteenth Century
6 laws from antebellum and Reconstruction Era America, as well as a smattering of
7 laws from the Middle Ages and the colonial period. But laws from these periods,
8 *Bruen* instructs, are of limited analytical value if they do not have some historical
9 relative from the post-Revolution, Founding Era. And even if they did take hold
10 during the founding, a proposed historical analogue is not constitutionally relevant if
11 it is not "relevantly similar" (in kind and in justification) to the laws the State seeks
12 to defend. *See supra* Part I.

13 Pre-Founding English and American Law: In describing the Second
14 Amendment's history-and-tradition-based analysis, the *Bruen* Court cautioned that
15 not all history is created equal. Indeed, because "[c]onstitutional rights are enshrined
16 with the scope they were understood to have when the people adopted them," the
17 *Bruen* Court gave very little weight to evidence of medieval English and Colonial
18 American restrictions that did not take hold in post-Revolution America. *Id.* (citing
19 *Heller*, 554 U.S. at 634). As the Court explained, "[s]ometimes, in interpreting our
20 own Constitution, 'it [is] better not to go too far back into antiquity for the best
21 securities of our liberties,' [citation omitted] *unless evidence shows that medieval*
22 *law survived to become our Founders' law.*" *Id.* (citing *Funk v. United States*, 290
23 U.S. 371, 382 (1933)) (emphasis added).

24 Even still, the State cites two medieval English laws and two colonial laws
25 pre-dating the Founding by at least 100 years. State's Suppl. Br. 12-13 (citing *The*
26 *Statute of Northampton*, 2 Edw. 3, c. 3 (1328) (Eng.) (forbidding the carry of arms in
27 a manner that terrified the people); 4 Hen 4, c. 29 (1403) (Eng.) (restricted the carry
28 of arms or use of armor in churches and on highways "in affray of the Peace or the
29 King's Liege people); *id.* at 4 (citing 1647 Md. Laws 216, § 6 (banning the carry of

1 arms into the Maryland House of Assembly while the body was in session); 1650
2 Md. Laws 273, § 5 12-13 (same).

3 The first of the State’s two English laws is the Statute of Northampton. It
4 restricted Englishmen from “com[ing] before the King’s Justices, or other of the
5 King’s Ministers doing their office, with force and arms,” from bringing “force in
6 affray of the peace,” and from going or riding “armed by night nor by day, in Fairs,
7 Markets, []or in the presence of the Justices or other Ministers, nor in no part
8 elsewhere.” 2 Edw. 3 c. 3 (1328). The use of this ancient law to illuminate the
9 original understanding of the Second Amendment, however, has been so roundly
10 rejected by the Supreme Court, it is almost not worth mentioning. But because the
11 State insists on citing it as proof of a long tradition of regulating arms in “sensitive
12 places” that would eventually take hold in America, Plaintiffs note that the *Bruen*
13 Court rejected the relevance of the Statute of Northampton in no uncertain terms:

14 [T]he Statute of Northampton—at least as it was
15 understood during the Middle Ages—*has little bearing on the*
16 *Second Amendment adopted in 1791*. The Statute of
17 Northampton was enacted nearly 20 years before the Black
18 Death, more than 200 years before the birth of Shakespeare,
19 more than 350 years before the Salem Witch Trials, more than
20 450 years before the ratification of the Constitution, and nearly
21 550 years before the adoption of the Fourteenth Amendment.

22 The Statute’s prohibition on going or riding “armed”
23 obviously did not contemplate handguns, given they did not
24 appear in Europe until about the mid-1500s. [Citation.] Rather,
25 it appears to have been centrally concerned with the wearing of
26 armor. [Citations.] If it did apply beyond armor, it applied to
27 such weapons as the “launcegay,” a 10- to 12-foot-long
28 lightweight lance. [Citations.]

29 The Statute’s apparent focus on armor and, perhaps,
30 weapons like launcegays makes sense given that armor and
31 lances were generally worn or carried only when one intended
32 to engage in lawful combat or—as most early violations of the
33 Statute show—to breach the peace. [Citations.]

34 *Bruen*, 142 S. Ct. at 2139-40 (emphasis added).

35 While marginally more relevant than medieval laws restricting the carry of
36 arms to terrify the people and breach the peace, the State’s citation to Maryland’s
37

1 colonial laws barring the possession of arms in the House of Assembly while that
2 body was in session are also of little value to this Court. State’s 2d Suppl. Br. 4, 13
3 (citing 1647 Md. Laws 216, § 6; 1650 Md. Laws 273, § 5). When read in context, it
4 is clear that the lower house of the colonial Maryland Legislature was making rules
5 for its legislative sessions and not statutes applicable to the public at large. *See*
6 App’x A at 1-2. What’s more, these rules are not “relevantly similar” to California’s
7 modern ban on sales of lawful arms at publicly owned marketplaces in either kind or
8 justification. They do not restrict sales of firearms or firearm components at all, and
9 they were adopted for the very specific purpose of preventing potentially violent
10 interference with the legislative process, and not because the government opposed
11 profiting from the sale of guns or an interest in promoting public safety generally.

12 Nineteenth Century America: The State also relies heavily on Nineteenth
13 Century laws restricting the carry or possession of arms in “sensitive places” (like
14 courthouses and polling places) and places where people regularly gather (like
15 churches, schools, and dance halls). As described in section II.C., *infra*, these laws
16 are not “relevantly similar” to California’s modern ban on sales (but not possession)
17 of lawful arms at the fairgrounds. But, more than that, the Court should give these
18 laws (like the laws of medieval England) little weight because they were simply
19 adopted far too late to provide valuable insight into the original understanding of the
20 Second Amendment.

21 Indeed, *Heller* expressly stated that the Founding Era was the relevant time
22 for determining the original public understanding, noting that the “Constitution was
23 written to be understood by the voters,” and that “[n]ormal meaning ... excludes
24 secret or technical meanings that would not have been known to ordinary citizens *in*
25 *the founding generation.*” 554 U.S. at 576-77 (emphasis added). *Bruen* affirmed this
26 holding, reasoning that the Constitution’s “meaning is fixed according to the
27 understandings of those who ratified it,” although it “can, and must, apply to
28 circumstances beyond those *the Founders* specifically anticipated.” 142 S. Ct. 2132

1 (citing *United States v. Jones*, 565 U.S. 400, 404-05 (2012)). In short, the Second
2 Amendment had an ascertainable, fixed meaning when it was adopted.

3 *Bruen* also made clear that “individual rights enumerated in the Bill of Rights
4 and made applicable against the States through the Fourteenth Amendment have the
5 same scope as against the Federal Government.” 142 S. Ct. at 2137. In other words,
6 the Bill of Rights, including the Second Amendment, cannot have one meaning
7 when applied against the federal government and a different meaning when
8 incorporated against the states. *See also McDonald v. City of Chicago*, 561 U.S. 742,
9 763 (2010) (citing *Malloy v. Hogan*, 378 U.S. 1 (1964)). So whatever the Second
10 Amendment meant in 1791 about the restraints on the federal government, it must
11 mean the same thing when applied to restrain the states in 1868 and later. And
12 whatever the ratifiers of the Fourteenth Amendment may have understood about the
13 meaning of the Second Amendment in 1868 cannot change the 1791 meaning.

14 Although both *Heller* and *Bruen* examined some limited evidence from the
15 mid- to late-Nineteenth Century, they did so merely to confirm the original
16 understanding of the Second Amendment in 1791. *Bruen* notes that “we made clear
17 in *Gamble [v. United States]*, 139 S. Ct. 1960 (2019) that *Heller*’s interest in mid- to
18 late-19th-century commentary was *secondary*.” *Bruen*, 142 S. Ct. at 2137 (quoting
19 *Gamble*, 139 S. Ct. at 1975-76) (emphasis added). It was treated as “mere
20 confirmation of what the Court thought had already been established.” *Id.*

21 Furthermore, both *Heller* and *Bruen* held that little weight should be given
22 such evidence under any circumstances. *Bruen* expressly cautioned “against giving
23 postenactment history more weight than it can rightly bear.” 142 S. Ct. at
24 2136. And, citing *Heller*, *Bruen* observed that because post-Civil War discussions of
25 the right to keep and bear arms “took place 75 years after the *ratification of the*
26 *Second Amendment*, they do not provide as much insight into its original meaning as
27 earlier sources.” *Bruen*, 142 S. Ct. at 2137 (emphasis added). Evidence from the
28 Nineteenth and Twentieth Centuries, the Court held, does “not provide insight into

1 the meaning of the Second Amendment when it contradicts earlier evidence.” *Id.* at
2 2154, n.28.

3 Of course, the State relies almost exclusively on historical analogues from the
4 late Nineteenth Century precisely *because* it contradicts earlier evidence. Based on
5 the State’s own citations, laws restricting the arms in sensitive places and places
6 where people regularly gather were practically nonexistent at the time of the
7 Founding, except for a few laws prohibiting carry in “legislative assemblies, polling
8 places, and courthouses.” *Bruen*, 142 S. Ct. at 2133. That was the relevant historical
9 tradition. As time went on, restrictions on public carry—though still few—were
10 adopted. The State would like this court to consider those later regulations, often
11 from a century or more after the Founding, as determinative of the original public
12 understanding of the Second Amendment when, in fact, they contradict it.

13 * * * *

14 In short, the meaning of a constitutional provision is fixed according to the
15 understanding at the Founding, so the laws of that period—not of Fourteenth
16 Century England, colonial America, or the Reconstruction Era—should guide this
17 Court’s analysis. The State identifies dozens of proposed historical analogues, but
18 *only one* of them is from the Founding. State’s Suppl. Br. 4. A handful were adopted
19 too early. *Id.* at 4, 12-13; *see also* App’x A at 1-2. But most were adopted far too
20 late, having been adopted during the Civil War period or later. State’s 2d Suppl. Br.
21 at 6-16; *see also* App’x A at 2-25. Such can hardly be characterized as evidence of
22 the enduring American tradition of regulation that *Bruen* demands.

23
24 **B. The State’s Status As a Landlord of a Public Marketplace Does Not
Confer the Power to Ban Otherwise Lawful Activities**

25 Even though the State cited just one law from the Founding to justify the
26 Challenged Statutes—a Maryland law that banned the carry of arms in the House of
27 Assembly while the legislative body was sitting—the State claims it has broad
28 (nearly unfettered) authority as the proprietor of the State’s fairgrounds to dictate

1 what activities take place there. State’s 2d Suppl. Br. 4 (citing 63 Proceedings and
2 Acts of the General Assembly 338, § 5 (June 15-July 3, 1773)). While it *may* be true
3 that the government has some authority to restrict activities on its own property, the
4 State’s citation of just one irrelevant Founding-era law (buttressed by just three more
5 Nineteenth Century laws and a handful of pre-*Bruen* circuit court decisions) is not
6 sufficient under *Bruen* to justify the State’s modern ban on sales of protected, lawful
7 arms at California’s fairgrounds.

8 To the contrary, the State’s authority to ban constitutionally protected
9 activities on government-owned property that is open to the public for its use has
10 long been circumscribed. For instance, in the First Amendment context, the State
11 cannot ban the use of government facilities otherwise open to the public for
12 expressive activities, assembly, or association based on the content or viewpoint of
13 the participants. *See, e.g., Police Dep’t of Chic. v. Mosley*, 408 U.S. 92, 96 (1972);
14 *B&L Prods., Inc. v. 22nd Dist. Agric. Ass’n*, 394 F. Supp. 3d 1226, 1249 (S.D. Cal.
15 2019). Nor can it ban the commercial speech associated with the sale of otherwise
16 lawful products—including constitutionally protected arms. *Nordyke v. Santa Clara*
17 *Cnty.*, 110 F.3d 707, 713 (9th Cir. 1997). In the Second Amendment context, the
18 government cannot ban the possession of firearms carried for lawful purposes in
19 non-sensitive places. *Nordyke v. King*, 681 F.3d 1041, 1045-46 (9th Cir. 2012). And
20 finally, the Equal Protection Clause bars the State from discriminating against
21 people exercising their aggregated, fundamental rights. *See, e.g., Mosley*, 408 U.S. at
22 96. Here, seeking to effectively ban gun shows at all state-owned fairgrounds,
23 including the Orange County Fair & Event Center, the State is in a box. The four
24 walls of its box are these four fundamental rights.

25 The United States Supreme Court applies a species of Equal Protection
26 analysis to government regulations that discriminate against “disfavored groups.”
27 *Romer v. Evans*, 517 U.S. 620 (1996). The same analysis applies when unequal
28 treatment occurs in the context of exercising a fundamental right, or the government

1 is motivated by animus toward a disfavored group, where courts apply heightened
2 scrutiny. *See generally Grosjean v. Am. Press Co.*, 297 U.S. 233 (1936); *San*
3 *Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1 (1973); *Minn. Star & Trib. Co. v.*
4 *Minn. Comm’r of Revenue*, 460 U.S. 575 (1983). Here, the evidence shows that the
5 State’s interest is in banning gun shows and the constitutionally protected conduct
6 that takes place at those events—based on political animus for America’s gun
7 culture and those who take part in it. *See Mot. 18*. Such irrational discrimination
8 cannot survive any level of judicial review, let alone strict scrutiny.

9 Yet the State presses on with an almost frivolous argument that it can engage
10 in irrational discrimination because it is a “property owner” with the power “to
11 exercise exclusive dominion and control over its land.” *See State’s 2s Suppl. Br. 3*.
12 But the “government as proprietor” authorities the State cites do not give the State
13 much quarter. As noted above, this Court has stated that it is not interested in a
14 rearguard rescue of pre-*Bruen* Ninth Circuit jurisprudence. Evidently taking that
15 direction quite literally, the State went in search of pre-*Bruen* Tenth and Eleventh
16 Circuit decisions.

17 First, even though it acknowledged that *GeorgiaCarry.org, Inc. v. Georgia*,
18 687 F.3d 1244, 1265 (11th Cir. 2012), was abrogated by *Bruen*, the State relies on
19 the case for the broad principle that “[a]n individual’s right to bear arms as
20 enshrined in the Second Amendment, whatever its full scope, certainly must be
21 limited by the equally fundamental right of a *private property owner* to exercise
22 exclusive dominion and control over its land.” *State’s 2d Suppl. Br. 2* (emphasis
23 added). But citing only a law review article and three pre-*Bruen* decisions, the State
24 expands the “right of a property owner to control conduct on its own land ... to the
25 government when it operates as a proprietor.” *Id.* (quoting Eugene Volokh,
26 *Implementing the Right to Keep and Bear Arms for Self-Defense*, 56 UCLA L. Rev.
27 1443, 1474-75 (2009); *Bonidy v. U.S. Postal Serv.*, 790 F.3d 1121 (10th Cir. 2015);
28 *United States v. Class*, 930 F.3d 460 (D.C. Cir. 2019), *abrogated by Bruen*, 142 S.

1 Ct. 2111; *GeorgiaCarry.org, Inc. v. U.S. Army Corps of Engineers*, 212 F. Supp. 3d
2 1348 (N.D. Ga. 2016)).

3 The State relies on the Tenth Circuit’s decision *Bonidy* upholding a restriction
4 on the carry of firearms in postal parking lots and the D.C. Circuit’s *Class* decision
5 upholding a similar restriction applicable to a U.S. Capitol parking lot. To be sure,
6 both circuits did recognize that the government has some managerial authority to
7 restrict the activities that take place on its property. State’s 2d Suppl. Br. 4 (quoting
8 *Bonidy*, 790 F.3d at 1126; *Class*, 930 F.3d at 464). But as the Northern District of
9 Illinois observed in *Solomon v. Cook Cnty. Bd. of Comm’rs*, 559 F. Supp. 3d 675,
10 694 (N.D. Ill. 2021), these holdings were predicated not on the fact that the
11 government owned the property, but on the fact that a parking lots for the post office
12 and the U.S. Capitol are areas “immediately around a sensitive place.” *Id.* (citing
13 *Bonidy*, 790 F.3d at 1123). Similarly, the district court in *GeorgiaCarry.org*, which
14 upheld a restriction on the use of firearms on the U.S. Army Corps of Engineers’
15 property, assumed that the property is a “sensitive place.” 212 F. Supp. 3d at 1361;
16 *see Solomon*, 559 F. Supp. 3d at 694-96. Post *Bruen*, that assumption is, of course,
17 dubious. Because, as discussed below, California’s fairgrounds are *not* sensitive
18 places, *Bonidy*, *Class*, and *GeorgiaCarry.org* are unpersuasive.

19 The State’s citation to this trio of cases is also inapt because firearms,
20 ammunition, and firearm components are not present at California’s fairgrounds as
21 tools for self-defense during gun shows. They are strictly items of commerce. In
22 fact, state laws not challenged here ban the carry of firearms and ammunition
23 together at gun shows, even by holders of valid carry permits. *See* Cal. Penal Code
24 §§ 27330, 27340. Fatal to the State’s “government as proprietor” argument is that
25 the very purpose of the Orange County Fair & Event Center is “to hold fairs,
26 expositions and exhibitions in Orange County to exhibit the industries and industrial
27 enterprises, resources, and *products of every kind or nature of the state*, with a view
28 toward improving, exploiting, encouraging, and stimulating them.” 32nd District

1 Agricultural District, *Board of Directors Governing Manual*, Introduction 1,
2 available at [https://s3.us-west-1.amazonaws.com/ocfair.com/wp-](https://s3.us-west-1.amazonaws.com/ocfair.com/wp-content/uploads/2021/02/02141413/Policy-Combo-All.pdf)
3 [content/uploads/2021/02/02141413/Policy-Combo-All.pdf](https://s3.us-west-1.amazonaws.com/ocfair.com/wp-content/uploads/2021/02/02141413/Policy-Combo-All.pdf) (last visited Mar. 10,
4 2023) (emphasis added).²

5 For all the reasons described above, the State cannot open its fairgrounds to
6 the public to use as marketplaces for all kinds of lawful products then shut the door
7 to one kind of lawful product and the people that buy and sell that product just
8 because it does not approve of it—even when acting as a property owner.

9
10 **C. Not One of the State’s Proposed Historical Analogues Is
“Relevantly Similar” to the Challenged Statutes**

11 **1. Regulations on the commercial sale of arms**

12 After arguing that the State’s role as the proprietor of the fairgrounds affords it
13 practically boundless authority to decide what activities take place there, the State
14 argues that the government has, historically, enjoyed broad authority to regulate the
15 commercial sale of arms. Plaintiffs do not generally disagree that such laws have
16 some historical pedigree. But the laws the State relies on for that broad premise do
17 not justify the very specific sales restriction here because they are not “relevantly
18 similar” (in kind or in justification) to the Challenged Statutes.

19
20 ² *Bonidy* is inapt for another reason. The U.S. Postal Service itself handles
21 firearms as items of commerce on its premises, even assuming *arguendo* it can still
22 ban the public from carrying them for self-defense. Indeed, “the U.S. Postal Service
23 recommends that long guns be sent by registered mail and that no marking of any
24 kind which would indicate the nature of the contents be placed on the outside of any
25 parcel containing firearms. Handguns are not mailable; a common or contract carrier
26 must be used to ship a handgun.” 18 U.S.C. 1715, 922(a)(5) and 922 (a)(2)(A); 27
28 CFR 478.31. See Bureau of Alcohol, Tobacco, Firearms and Explosives, Firearms
29 Q&As, *May a Nonlicensee Ship a Firearms Through the U.S. Postal Service?*,
30 <https://tinyurl.com/47ujx9n9> (last visited Mar. 10, 2023)

31 In other words, the U.S. Postal Service can no more refuse the purely
32 commercial delivery of firearms on its property based on its business model, than
33 the Fairgrounds can refuse the purely commercial disposition of firearms on its
34 property in accordance with its business model.

1 The State’s “commercial sales” regulations generally fall into one of two
2 categories, zoning or licensing requirements and gunpowder quality regulations.
3 Plaintiffs address each type of law in turn.

4 Zoning and Licensing Requirements: The State first cites a few regulations that
5 restricted the location of various arms-related businesses, including indoor shooting
6 galleries and gunpowder manufactories, usually requiring that such businesses
7 operate in the less populated or “compact” parts of town. *See, e.g., An Act to*
8 *Regulate Gun Powder Manufactories and Magazines within this State, 1811 N.J.*
9 *Laws 300, § 1 (requiring all manufactories of gunpowder and storage magazines to*
10 *be located away from populated area); 1851 R.I. Pub. Laws 9, An Act in*
11 *Amendment of an Act Entitled an Act Relating to Theatrical Exhibitions and Places*
12 *of Amusement, §§ 1-2, in The Revised Statutes of the State of Rhode Island and*
13 *Providence Plantations: To Which are Prefixed, The Constitutions of the United*
14 *States and of the State, ch. 80, § 2 (Jan. Sess. 1857), at 204-05 (1857) (banned*
15 *shooting galleries (or any building or enclosure) where firearms are used for*
16 *practicing firing ball or shot from the “compact part of the town of Newport”); The*
17 *Laws and General Ordinances of the City of New Orleans: Together with the Acts of*
18 *the Legislature, Decisions of the Supreme Court, and Constitutional Provisions*
19 *Relating to the City Government: Revised and Digested, Pursuant to an Order of the*
20 *Common Council, Sec. 1, art. 636 (5), 257 (Henry Jefferson Leovy, Simmons & Co.*
21 *New Ed. 1870).*

22 These early zoning regulations may be vaguely similar to the Challenged
23 Statutes insofar as they limit where arms-related business may take place. But they
24 were adopted because of the specific threat posed by indoor shooting galleries and
25 large stores of combustible gunpowder in heavily populated areas, where buildings
26 are close to one another. The Challenged Statutes are not concerned with such
27 threats. Indeed, the restrictions are not on shooting or discharge of firearms on state-
28 property, nor are they about manufacturing or possessing large quantities of

1 gunpowder or other highly combustible products at gun shows (which is, in fact, still
2 banned by California state laws not challenged here, *see, e.g.*, Cal. Penal Code §§
3 16510, 27305). Because the purpose of these historical zoning regulations differs so
4 greatly from the Challenged Statutes, they are not “relevantly similar” analogues
5 under the *Bruen* analysis.

6 Some of those restrictions also required that such businesses obtain a license to
7 operate. *See, e.g.*, Digest of the Charters and Ordinances of the City of Memphis,
8 Together with the Acts of the Legislature Relating to the City, with an Appendix
9 Page, ch. 5, art. VI., at 147-148 (October 7, 1863) (WM. H. Bridges, Argus Book
10 and Job Office 1863) (requiring a license to set up a shooting gallery in the city of
11 Memphis); Alabama Acts of the General Assembly 329-35 (1868); Ordinances and
12 Joint Resolutions of the City of San Francisco: Together with a List of the Officers
13 of the City and County, and Rules and Orders of the Common Council 220,
14 Ordinance No. 498, sec. 13 (Dec. 29, 1853), at 220 (Monson & Valentine 1854)
15 (requiring that “[e]very person, house or firm engaged in keeping a pistol or rifle
16 shooting gallery” to pay for and obtain a license to operate). These requirements are
17 not similar in kind to the Challenged Statutes, which are not about permitting or
18 licensing at all. And other state laws not challenged here require that gun show
19 vendors obtain and maintain all necessary licenses.

20 *Gunpowder Regulations*: Next, the State cites a handful of Nineteenth Century
21 laws regulating the quality, storage, or sale of gunpowder. Like the zoning and
22 licensing regulations discussed above, none of the gunpowder regulations the State
23 cites were adopted in the during the founding, so this Court should give them little
24 weight. *Bruen*, 142 S. Ct. at 2136 (cautioning “against giving postenactment history
25 more weight than it can rightly bear”). But even if the State had shown that such
26 laws were also common place when the Second Amendment was ratified, they are
27 not “relevantly similar” to the Challenged Statutes for two reasons.

28 First, they do not impose a similar burden on the Second Amendment. Two of

1 the laws regulate only the storage of gunpowder and authorize “selectmen,” fire
2 marshals, or other officials to search for gunpowder that they reasonably suspect to
3 be stored improperly. *See, e.g.*, An Act for the Prevention of Damage by Fire, and
4 the Safe Keeping of Gun Powder, 1821 Me. Laws 98-99, ch. 25, § 5 (Maine law
5 authorizing local “selectmen,” having obtained a search warrant, to search for
6 gunpowder they reasonably suspect to be stored in violation of local law); An Act to
7 Regulate the Keeping and Selling, and Transporting of Gunpowder, 1825 N.H. Laws
8 74, §§ 1-2 (banning the storage of more than $\frac{3}{4}$ cask or 75 pounds of gunpowder in
9 any building and requiring storage of smaller quantities in noncombustible vessels);
10 An Act Incorporating the Cities of Hartford, New Haven, New London, Norwich
11 and Middletown, 1836 Conn. Acts 105 (Reg. Sess.), chap. 1, § 20 (Connecticut law
12 authorizing local towns to regulate “the bringing in, and conveying out, or storing of
13 gun-powder” in excess of 25 pounds). And one other such law sets minimum quality
14 standards for gunpowder manufactured in the state for sale and authorized official
15 inspectors to ensure those standards are met. *See, e.g.*, An Act to Provide for the
16 Appointment of Inspectors and Regulating the Manufacture of Gunpowder, 1820
17 N.H. Laws 274, ch. XXV, §§ 1-9 (repealed by act of Dec. 23, 1842).³ None of these
18 things are like flat bans of the sale of protected arms in any given place.

19 Second, laws regulating gunpowder storage and quality were enacted to
20 prevent catastrophic explosions and fires in town limits and near powder houses.
21 They were necessary because of the highly combustible and unstable nature of loose
22 gunpowder in early America, which is not a modern concern. They were not enacted
23 to combat crime, in general, or gun violence, more specifically. And, more

24
25 ³ An 1814 Massachusetts law set similar quality standards for all “musket
26 barrels and pistol barrels, manufactured” in the state, requiring each “to be proved
27 by the person appointed according to the provisions of an act . . . with a charge of
28 powder equal in weight to the ball which fits the bore of the barrel to be proved.” An
Act in Addition to an Act, entitled “An Act to Provide for the Proof of Fire Arms,
Manufactured within this Commonwealth,” 1814 Mass. Acts 464, ch. 192, § 2.

1 importantly, most such laws regulated only the *manner* of keeping of gunpowder;
2 they did not restrict the sale of any common arm. These distinctions are key because,
3 again, the State’s proposed historical analogues must be similar in both type and
4 justification. *Bruen*, 142 S. Ct. at 2133.

5 The State comes closest to finding a genuine historical analogue in its citation
6 to an 1825 New Hampshire law that restricted the retail sale of gunpowder on “any
7 highway, or in any street, lane, or alley, or on any wharf, or on parade or common.”
8 *See* State’s 2d Suppl. Br. 8 (citing An Act to Regulate the Keeping and Selling, and
9 Transporting of Gunpowder, 1825 N.H. Laws 74, § 5). But, aside from being
10 adopted half a century after the Second Amendment’s ratification, it is the *only* law
11 the State could identify that restricted the sale of a common arm in certain public
12 spaces that might resemble today’s fairgrounds. It is a marginally relevant outlier
13 that provides no insight into the original meaning of the Second Amendment. To
14 paraphrase the *Heller* Court, “we would not stake our interpretation of the Second
15 Amendment upon a single law, in effect in a single [jurisdiction], that contradicts the
16 overwhelming weight of other evidence regarding the right to keep and bear
17 arms....”

18 **2. Restrictions on arms in “sensitive places” and other places** 19 **where people gather**

20 Finally, the State relies on nearly two dozen different historical restrictions on
21 carry or possession of arms in “sensitive places” and other public places where
22 people regularly gather. State’s 2d Suppl. Br. 11-6. The State groups these laws
23 together as if public gathering spaces are “sensitive places” per se. But, as explained
24 above, laws restricting public carry were not adopted until the mid- to late-
25 Nineteenth Century. They were thus adopted far too late—often by more than a
26 century—to be of much use to this Court. Indeed, such laws *contradict* the broad
27 historical traditional of *not* broadly restricting the public carry of arms except for in
28 truly sensitive places, like courthouses, legislative buildings, and polling places.

1 What’s more, the State’s historical “sensitive places” and public carry laws are
2 simply not genuine analogues that are “relevantly similar” to California’s modern
3 ban on selling lawful firearms and components on state properties. They are vastly
4 different in kind because they restrict the possession of firearms in certain public
5 places, while the Challenged Statutes ban the sale of lawful firearms and firearm
6 components (and the speech necessary to engage in those sales), *while deliberately*
7 *leaving possession untouched.*

8 And they are vastly different in justification because those historical laws were
9 adopted to minimize the potential for violent disruption of the legal, electoral, and
10 legislative processes (“sensitive places”) and the specific risk to the public when
11 large groups of people gather with weapons (other places where people regularly
12 gather). While the Challenged Statutes were adopted, according to the bill’s
13 legislative history, to make a symbolic statement that the State should not profit
14 from the sales of guns. Mot. 18 (citing Pls.’ Req. Jud. Ntc., Ex. 14 at 77; Barvir
15 Decl., Ex. 30; Sen. Pub. Safety Committee Hrg., Mar. 16, 2021, at 4:12:59, available
16 at <https://tinyurl.com/bdda9ejh> (last visited Mar. 10, 2023)).

17 But even if the Challenged Statutes’ purpose were to promote public safety, a
18 ban on the sale of arms at the fairgrounds without likewise banning their possession
19 is clearly not about the potential danger to groups of people gathering at gun shows,
20 rather it is about decreasing the overall supply and demand for firearms in hopes that
21 doing so will have some impact on gun violence. These are not similar justifications.

22 The Court does not have to take Plaintiffs’ word for it. The State’s own
23 opposition claims it is not banning gun shows or even the possession of guns at the
24 State’s fairgrounds. *See* Defs.’ Opp’n Mot. Prelim. Inj. 10-11 (“Opp’n”). And its
25 latest brief concedes that “the purchase or sale of firearms or ammunition is
26 prohibited only on state property—and such items may be sold and are readily
27 accessible in ample alternative locations.” *See* Defs.’ 2d Suppl. Br. 1 (citing Defs.’
28

1 Suppl. Br. 1, 4-5).⁴ This means that, aside from conflicting with *Bruen*, historical
2 laws that banned public carry of firearms are irrelevant unless the State can make the
3 case that fairgrounds really are “sensitive places”—that is, that they are analogous to
4 courthouses, polling places, and legislative buildings. This, the State cannot prove.
5 Gun shows have been taking place, largely without incident, at California’s
6 fairgrounds for more than 30 years. Olcott Decl. ¶ 2. And, they have taken place in
7 public venues all over the country, including “public arenas, civic centers,
8 *fairgrounds*, and armories,” for generations. Bureau of Alcohol, Tobacco, Firearms,
9 and Explosives, *Gun Shows: Brady Checks and Crime Gun Traces* 4 (Jan. 1999),
10 available at <https://www.atf.gov/file/57506/download> (last visited Mar. 10, 2023).⁵
11 What’s more, the types of activities that take place at state fairgrounds are not like
12 the official activities of the courts, legislatures, and electoral polling places that have
13 historically made those places subject to greater regulation.

14 In short, any argument that the Orange County Fair & Event Center, or any
15 fairgrounds for that matter, is too sensitive for the presence of guns, whether for
16 self-defense or items of commerce, borders on frivolous. This is especially true
17 because the Challenged Statutes do not restrict possession at all. Indeed, it can
18 hardly be argued with a straight face that state fairgrounds are so sensitive that the
19 State must ban the sale of guns and ammunition, but it is fine to possess them.

21 ⁴ The claim that sales of firearms, ammunition, and firearm parts can take
22 place in “ample alternative locations” sounds an awful lot like the now-forbidden
23 interest-balancing argument that, because people can buy guns elsewhere, the law
24 does not really burden the Second Amendment much (or at all). After *Bruen*, the
25 question is no longer whether people can buy guns elsewhere today, but whether
26 there is evidence of an enduring American tradition of restricting the sales of lawful,
27 protected arms on public property.

28 ⁵ See also Firearm Owners’ Protection Act, 100 Stat. 449, 455-56 (May 19,
1986). The Act was passed 37 years ago to amend the 1968 Gun Control Act so that
“licensed dealer[s] may ... conduct business temporarily at a location other than the
location specified on the license if such temporary location is the location for a *gun*
show or event sponsored by any national, State, or local organization, or any affiliate
of any such organization devoted to the collection, competitive use, or other sporting
use of firearms in the community, and such location is in the State which is specified
on the license.” (Emphasis added.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CONCLUSION

For these reasons, and those discussed in Plaintiffs’ earlier briefs, this Court should find that Plaintiffs are likely to succeed on the merits of their constitutional claims and enjoin the enforcement of the Challenged Statutes while this case proceeds.

Dated: March 10, 2023

MICHEL & ASSOCIATES, P.C.

/s/ Anna M. Barvir
Anna M. Barvir
Counsel for Plaintiffs B&L Productions, Inc.,
California Rifle & Pistol Association,
Incorporated, Gerald Clark, Eric Johnson, Chad
Littrell, Jan Steven Merson, Asian Pacific
American Gun Owner Association, Second
Amendment Law Center, Inc.

Dated: March 10, 2023

LAW OFFICES OF DONALD KILMER, APC

/s/ Donald Kilmer
Donald Kilmer
Counsel for Plaintiff Second Amendment
Foundation

ATTESTATION OF E-FILED SIGNATURES

I, Anna M. Barvir, am the ECF User whose ID and password are being used to file this PLAINTIFFS’ RESPONSE TO STATE DEFENDANTS’ SECOND SUPPLEMENTAL BRIEF RE: MOTION FOR PRELIMINARY INJUNCTION. In compliance with Central District of California L.R. 5-4.3.4, I attest that all signatories are registered CM/ECF filers and have concurred in this filing.

Dated: March 10, 2023

/s/ Anna M. Barvir
Anna M. Barvir

APPENDIX

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
12	1328	England	2 Edw. 3, c. 3 (1328) (Eng.)		⊘	⊘	⊘	⊘	<i>Statute of Northampton.</i> This is an ancient English statute regulating possession and carrying of "arms" to terrify the people. "[T]he Statute of Northampton—at least as it was understood during the Middle Ages—has little bearing on the Second Amendment adopted in 1791." <i>Bruen</i> , 142 S.Ct. 2111, 2139.
12	1403	England	4 Hen 4, c. 29 (1403) (Eng.)		⊘	⊘	⊘	⊘	Ancient English statute regulating possession and carrying weapons "in affray of the Peace or the King's Liege people" with exceptions for such activity if they are "lawful Liege People to our Sovereign Lord the King."
13	1647	Maryland	1647 Md. Laws 216	Proceedings and Acts of the General Assembly January 1637/8-September 1664 https://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000001/html/am1--215.html	⊘	⊘	⊘	⊘	The context of the citation (i.e., reading the previous page) makes it clear that the lower house of the colonial Maryland legislature was making rules for its legislative sessions and not statutes applicable to the public at large.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
4, 13	1650	Maryland	1650 Md. Laws 273	Proceedings and Acts of the General Assembly January 1637/8-September 1664 https://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000001/html/am1--273.html	⊖	⊖	⊖	⊖	The context of the citation (i.e., reading the previous page) makes it clear that the lower house of the colonial Maryland legislature was making rules for its legislative sessions and not statutes applicable to the public at large.
4	1773	Maryland	63 Proceedings and Acts of the General Assembly 338, § 5 (June 15-July 3, 1773)	Proceedings and Acts of the General Assembly, 1771 to June-July, 1773 https://msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000063/html/am63--338.html	✓	⊖	⊖	⊖	The context of the citation (i.e., reading the previous page) makes it clear that the lower house of the colonial Maryland legislature was making rules for its legislative sessions and not statutes applicable to the public at large.
13	1810	Georgia	The Minutes of the Senate Academicus of the State of Georgia, 1799-1842, at 86 (1810)	https://perma.cc/7RJR-9JYR	⊖	⊖	⊖	⊖	The language of the law on the Duke Center webpage lacks context, but the Center includes a link to the primary source. What is controversial is that this college rule appears to forbid the possession of weapons, including firearms, to its students even when they are not on campus. Assuming the student is otherwise qualified to possess firearms, and assuming that this regulation would constitute state action, it is likely unconstitutional.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
8	1811	New Jersey	An Act to Regulate Gun Powder Manufactories and Magazines within this State, 1811 N.J. Laws 300, § 1	Laws of the State of New Jersey, 1811, p. 225, An Act to regulate Gun-Powder Manufactories and Magazines within this state. https://books.google.com/books?id=3bf_dYwJ11MC&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false	⊘	✓	⊘	⊘	The language of the law on the Duke Center webpage is incomplete and lacks context. The full text of this law begins on pg. 225 of the Primary Source. This "Act to regulate Gun-Powder Manufactories and Magazines with this state" is more in the nature of a zoning ordinance: It requires manufactories and storage magazines to be located away from populated areas. The law contains a exemption for any manufactories already located in populated areas.
8	1814	Mass.	An Act in Addition to an Act, entitled "An Act to Provide for the Proof of Fire Arms, Manufactured within this Commonwealth," 1814 Mass. Acts 464, ch. 192, § 2	Laws of the Commonwealth of Massachusetts Vol. VI., p. 464, Chap. CXCLII, An Act in addition to an act, entitled "An act to provide for the proof of Fire Arms, manufactured within this Commonwealth." http://ldc.mainelegislature.org/Open/Mass/1806-1820/Ma	⊘	✓	Unknown	⊘	The language of the law on the Duke Center webpage is incomplete and lacks context. Pg. 158 of the Primary Source pdf shows pg. 464 of Massachusetts laws from 1814. Chap. CXCLII (192) is the cited law. This law does address manufacturing standards for musket and pistol barrels and requires a conforming proof-mark before any sale. The penalty is a civil fine of \$10. Musket and pistol barrels manufactured in a United State armoury or for the United States

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
8	1820	New Hampshire	An Act to Provide for the Appointment of Inspectors and Regulating the Manufacture of Gunpowder, 1820 N.H. Laws 274, chap XXV, §§ 1-9	Laws of New Hampshire, Including Public and Private Acts, Resolves, Votes, Etc., Volume Eight, Second Constitutional Period, 1811-1820. https://books.google.com/books?id=Cb9GAQAAIAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage	⊖	✓	⊖	⊖	The citation in the State's brief is incorrect, and on the Duke webpage, it is also incorrect. The "Act to Provide for the Appointment of Inspectors and Regulating the Manufactory of Gun Powder" is set forth in chapter 24 (not chapter 25). The law begins on 907 of the Alternate Source. This law was repealed by act of December 23, 1842. See Revised Statutes (1842), Chap. 230.
8	1821	Maine	An Act for the Prevention of Damage by Fire, and the Safe Keeping of Gun Powder, 1821 Me. Laws 98; chap. 25, §5	Laws of the State of Maine, Vol. I, Published March 8, 1821, p. 112, Chapter XXV, An Act for the prevention of damage by Fire, and safe keeping of Gun Powder https://ldc.mainelegislature.org/Open/Laws/1821/1821_PL_c025.pdf	⊖	✓	⊖	⊖	The State cites a single subsection (i.e., § 5) of a law that has eight sections. The entire Chapter XXV is a state law that authorizes towns of certain sizes in Maine to promulgate regulations for the storage of gun powder. Section 5 of this law merely requires obtaining a warrant before conducting a search for any person suspected to violating any town's regulation.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
13	1824	Virginia - University of Virginia	University of Virginia Board of Visitors Minutes 6-7 (October 4-5, 1824)	University of Virginia Board of Visitors Minutes (October 4-5, 1824). https://encyclopediavirginia.org/entries/university-of-virginia-board-of-visitors-minutes-october-4-5-1824/#:~:text=At%20its%20meeting%20of%20October,bring%20personal%20slaves%20onto%2	⊘	⊘	⊘	⊘	This citation is not a law, but a rule for students of the University of Virginia. Along with keeping servants, horses, and dogs on campus, it restricts students from "keep[ing] or us[ing] arms of any kind or gunpowder." Violation could result in "minor punishments, at the discretion of the Faculty, or of the board of Censors, approved by the Faculty."
8	1825	New Hampshire	An Act to Regulate the Keeping and Selling, and Transporting of Gunpowder, 1825 N.H. Laws 74	Laws of New Hampshire, Including Public and Private Acts, Resolves, Votes, Etc., Volume Nine Second Constitutional Period, 1821-1828 https://www.google.com/books/edition/Laws_of_New_Hampshire_Second_constitutio/pr9GAQAAlAAJ?hl=en&gbpv=1&bsq=Gunpowder	⊘	✓	⊘	⊘	The citations in the government's brief and at the Duke Center webpage are incomplete and lack context. The full text of the law can be found at pg. 461 of the Primary Source. The full statute authorizes the storage and sale (up to seventy-five pounds) of gunpowder if fire code regulations are obeyed. Non-conforming sales are "punished" by forfeiture and civil fines.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
13	1832	Maine - Waterville College	Laws of Waterville College, Maine 11 (1832)	https://www.google.com/books/edition/Laws_of_Waterville_College_Maine/n0wMAQAAMAAJ?hl=en&gbpv=1&pg=PA11&printsec=frontcover	⊘	⊘	⊘	⊘	This citation is to a publication titled: <i>Laws of Waterville College, Maine</i> by Hallowell: Glazier, Masters & Co., 1832. Chapter VI (Moral Department and Miscellaneous Regulations) of these rules for the college begins on pg. 10. Rule 6 on pg. 11 reads: "No Student shall keep firearms, or any deadly weapon whatever. He shall bring no gunpowder upon the College premises; nor shall cats or dogs be kept by Students for their private use or pleasure."
9	1836	Conn.	An Act Incorporating the Cities of Hartford, New Haven, New London, Norwich and Middletown, 1836 Conn. Acts 105 (Reg. Sess.), chap. 1, § 20	https://collections.ctdigitalarchive.org/islandora/object/30002%3A22002122#page/102/mode/2up	⊘	✓	⊘	⊘	The language of the law on Duke Center webpage is incomplete and lacks context. The Primary Source link to this law begins on pg. 102 of 1024 of Public acts passed by the General Assembly of Connecticut, 1836-1850. This state law grants powers to these new cities and includes a power to regulate (via fine or forfeiture) "the bringing in, and conveying out, or storing of gun-powder." The State's citation omits the following: quantities of gun-powder that do not exceed twenty-five pounds are not subject to fine or forfeiture.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
10	1841	Iowa - Burlington [Territory]	Ordinances of the City of Burlington, with Head Notes and an Analytic Index, § 1 (1841), at 149-150 (Chas. Ben. Darwin, Thompson & Co. Printers, 1856)		⊘	⊘	⊘	⊘	Iowa was admitted as state on December 28, 1846. The citation and text at the Duke Center webpage sets forth a city ordinance that regulates the "erecting a shooting battery" by any gunsmith conducting a gun shop within the city. The regulations contemplate that said shooting battery shall be kept in good and safe condition.
9	1845	Iowa [Territory]	An Act to Incorporate and Establish the City of Dubuque, 1845 Iowa Laws 119, chap 123, § 12	Laws of Iowa, Passed at the Annual Session of the Legislative Assembly, Which Commenced on the First Day of December, Eighteen Hundred and Forty-Five https://www.legis.iowa.gov/docs/publications/iactc/1846.1/1846_Iowa_Acts.pdf	⊘	✓	⊘	⊘	Iowa was admitted as state on December 28, 1846. The 1845 Iowa territorial law cited by the State's brief merely authorizes the City of Dubuque to adopt regulations regarding the sale and keeping of gun-powder in the city. The pincite of the Alternate Source is pg. 91 of the pdf (or pg. 727 of the document).

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
9	1847	Vermont	An Act to Amend an Act Entitled "An Act to Incorporate the Village of Rutland" 1865 Vt. Acts & Resolves 213 § 10 (November 15, 1847)	Acts and Resolves Passed by the General Assembly of the State of Vermont https://books.google.com/books?id=QCREAAAAYAAJ&pg=PA213&lpg=PA213&dq=1865+Vt.+Acts+and+Resolves+213+10&source=bl&ots=yjZyXmZfp4&sig=ACfU3U1xkVeFkLKrMca-JdL60wquoYcC-w&hl=en&sa=X&ved	⊖	✓	⊖	⊖	The citation in the State's brief is incomplete and the language of the law on Duke Center webpage is incomplete and lacks context. The full text of the cited section can be found on pg. 213 of the Primary Source. The cited section is part of an act to incorporate the Village of Rutland within the state of Vermont, and sets forth the powers of the local fire-wardens.
9	1847	Indiana	An Act to Reduce the Law Incorporating the City of Madison, and the Several Acts Amendatory thereto into One Act, and to Amend the Same, 1847 Ind. Acts 93, chap 61, § 8, pt. 4	Indiana acts, 1847-48, 32nd session, local, by Indiana. General Assembly. https://archive.org/details/isl-ind-gov-acts-1848-l-03/ISL_IND_Gov_Acts1848L_01/page/n45/mode/2up?q=explosive	⊖	✓	⊖	⊖	The citation in the State's brief is incomplete and the language of the law on Duke Center webpage is incomplete and lacks context. The full text of the cited section can be found on pg. 93 of the Primary Source. The cited section is part of an act to incorporate the City of Madison within the state of Indiana, and sets forth the powers of the city for general regulation and licensing for such activities as ferries, wagons, coaches, foreign insurance companies, "and the keepers of gun powder and other explosive compounds."

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
9	1848	Louisiana - East Feliciana Parish	Digest of the Laws and Ordinances of the Parish of East Feliciana, Adopted by the Police Jury of the Parish, sec. 1. (September session, 1847), at 80 (John C. White, Whig Office, September 1, 1848)		⊘	⊘	⊘	⊘	The law cited by the State's brief and set forth on the Duke Center website does <i>not</i> prohibit the carrying or sale of firearms. Rather, it prohibits their discharge in the city limits in the town of Clinton, Louisiana. There is an exception for good cause such as shooting a mad dog, and presumably for self-defense and/or sale. The fine is ten dollars for violation.
9	1851	Rhode Island	1851 R.I. Pub. Laws 9, An Act in Amendment of an Act Entitled an Act Relating to Theatrical Exhibitions and Places of Amusement, §§ 1-2, in The Revised Statutes of the State of Rhode Island and Providence Plantations: To Which are Prefixed, The Constituti	None found and no primary source material is available on the Duke Center for Firearms Law website.	⊘	⊘	⊘	⊘	The language cited as law on the Duke Center webpage is a regulation of shooting galleries in the town of Newport imposing licensing requirements and an annual tax.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
10	1853	California - San Francisco	<i>Ordinances and Joint Resolutions of the City of San Francisco: Together with a List of the Officers of the City and County, and Rules and Orders of the Common Council 220, Ordinance No. 498, section 13 (December 29, 1853), at 220 (Monson & Valentine 1854)</i>	Ordinances and Joint Resolutions of the City of San Francisco, 1853. p. 220, § 13. https://books.google.com/books?id=EMxMAQAA-MAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false	⊖	✓	⊖	⊖	The citation in the State's brief is incomplete. The full text of the law can be found on pg. 220 of the Primary Source. It reads: "Sec. 13. Every person, house or firm engaged in keeping a pistol or rifle shooting gallery, shall pay for a license to carry on same, the sum of ten dollars per quarter, in addition to the amount of the powder license." The provision addressing a powder license is set forth in Sec. 12.
15	1857	New York - Central Park	First Annual Report of the Improvement of the Central Park, New York (January 1, 1857) Appendix A, 106 (Chas. W. Baker 1857)	https://advance.lexis.com/usresearchhome/?pdmfid=1000516&crd=5e94066f-dec3-4b23-8877-5225af3ec3dc&ecomp=43kxk&prid=42d9c028-c1d7-4db5-a4cc-70fc3bc73852&aci=la&cbc=0&lnsi=9f6e5c3f-9bf-488b-8d53-736659dfa57e&rmflag=0&sit=null	⊖	⊖	⊖	⊖	The language of the law on the Duke Center webpage is incomplete and lacks context, but it includes a link to the source document (see Primary Source link at pg. 166). The ordinance cited restricts various activities in Central Park, including "to carry firearms or to throw stones or other missiles within it." The restrictions on general public carry may be overbroad and thus invalid in light of the <i>Bruen</i> decision.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
14	1858	Tennessee	Public Statutes of the State of Tennessee since the Year 1858, at 108 (James H. Shankland ed., 1871)	Public Statutes of the State of Tennessee, Since the Year 1858. p. 108. https://books.google.com/books?id=1IE0AQAAMAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q=weapons&f=false	⊘	⊘	⊘	⊘	The language of the law on the Duke Center webpage clearly indicates that the statute is part of the Tennessee election code making this a sensitive place regulation. To the extent this statute acts as a restriction on general public carry, it may be overbroad and thus invalid in light of the <i>Bruen</i> decision.
15	1861	New York - Central Park	Fourth Annual Report of the Board of Commissioners of the Central Park 106 (1861)	https://babel.hathitrust.org/cgi/pt?id=hvd.32044106439805&view=1up&seq=124&skin=2021	⊘	⊘	⊘	⊘	The language of the law on the Duke Center webpage is incomplete and lacks context, but it includes a link to the source document (see Primary Source link at pdf pgs. 333-334). This appears to be a duplicate citation to the same ordinance restricting carry of firearms and throwing of stones in a subsequent report of the Board of Commissioners of Central Park. Again, the restrictions on general public carry may be overbroad and thus invalid in light of the <i>Bruen</i> decision.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
10	1863	Tennessee - Memphis	Digest of the Charters and Ordinances of the City of Memphis, Together with the Acts of the Legislature Relating to the City, with an Appendix Page, Chp. 5, Art. VI., at 147-148 (October 7, 1863) (WM. H. Bridges, Argus Book and Job Office 1863)	Digest of the Charters and Ordinances of the City of Memphis (1863), https://books.google.com/books?id=8BJHAQAAMAAJ&pg=PA275&lpg=PA275&dq=Digest+of+the+City+of+Memphis+1863&source=bl&ots=OXrPKaDnAK&sig=ACfU3U2ze9gEm2qhqejqUx_-9rJeJXA1zg&hl=en&sa=X&ved=2ahU	⊖	⊖	⊖	⊖	The Duke Center webpage and the Primary Source (at pgs. 147-48) cite the same law requiring a license to set up a shooting gallery in the city of Memphis. All gun sales at California compliant gun shows are required to be conducted through a licensed dealer; that requirement is not challenged here.
7	1868	Alabama	<i>Alabama Acts of the General Assembly</i> 329-35 (1868)	Plaintiffs have been unable to locate any primary or secondary source to verify the text of this cited ordinance	⊖	✓	✓	⊖	All firearm dealers, including dealers at gun shows, are already licensed by the Federal Government and the State of California.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
5	1870	Georgia	1870 Ga. Laws 421	Acts and resolutions of the General Assembly. 1870 https://babel.hathitrust.org/cgi/pt?id=nyp.33433.009066832&view=1up&seq=429	⊘	⊘	⊘	⊘	The correct citation to this law is: Ga.L. 1870, p. 421, §§ 1, 2. The modern law is found at O.C.G.A. § 16-11-127. The 1870 law generally prohibited the carrying of deadly weapons at courts of justice, election ground or precinct, place of public worship or any other public gathering, except militia muster grounds. The Georgia State Supreme Court interpreted the law in 1905 in <i>Wynne v. State</i> , 123 Ga. 566 (1905), recognizing that the purpose of the law was to protect against the risk of danger arising from the carry of deadly weapons at public gatherings. The restrictions on general public carry may be overbroad and thus invalid in light of the <i>Bruen</i> decision.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
14	1870	Texas	An Act Regulating the Right to Keep and Bear Arms, Aug. 12, 1870, reprinted in 2 A Digest of the Laws of Texas: Containing the Laws in Force, and the Repealed Laws on Which Rights Rest from 1864 to 1872, at 1322 (George W. Paschal 1873)	Gammel, Hans Peter Mareus Neilsen, The Laws of Texas, 1822-1897, vol. 6, (1898), https://texashistory.unt.edu/ark:/67531/metaph6734/m1/243/: (last accessed Mar. 10, 2023)	⊘	⊘	⊘	⊘	This citation in the State's brief appears to be from a Digest compiled by someone named George W. Paschal. And the language of the law on the Duke Center webpage is incomplete and lacks context. The full text can be found on pg. 63 of the Primary Source. It restricts carry of any bowie-knife, dirk, or butcher-knife, or firearms, whether known as a six-shooter, gun, or pistol of any kind at any church or religious assembly, any school-room or other place where persons are assembled for educational, literary, or scientific purposes, or into a ball room, social party, or other social gathering, composed of ladies and gentleman, or to any election precinct on the day or days of any election, where any portion of the people of this state are collected to vote at any election, or to any other place where people may be assembled to muster or to perform any other public duty, or any other public assembly. The restrictions on general public carry may be overbroad and thus invalid in light of the <i>Bruen</i> decision.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
10	1870	Louisiana - New Orleans	<i>The Laws and General Ordinances of the City of New Orleans: Together with the Acts of the Legislature, Decisions of the Supreme Court, and Constitutional Provisions Relating to the City Government: Revised and Digested, Pursuant to an Order of the Common Council, Section 1, art. 636 (5), 257 (Henry Jefferson Leovy, Simmons & Co.</i>	The Laws and Revised Ordinances of the City of New Orleans, 1870, p. 257. https://books.google.com/books?id=xitPAQAAIAAJ&printsec=frontcover&source=gbs_ViewAPI#v=onepage&q&f=false	☒	☒	☒	☒	At pg. 256 of the Primary Source, the New Orleans legislature enacted ordinances addressing "Offences and Nuisances." Art. 635. (4.) prohibits the discharge of any gun, pistol, fowling piece or firearm within the city limits. Military reviews and self-defense are exceptions. Art. 636. (5.) makes it unlawful to establish or operate a shooting gallery without obtaining the consent of two-thirds of neighbors and the common council.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
14	1871	Texas	Tex. Act of April 12, 1871, Art. 320	Gammel, Hans Peter Mareus Neilsen, The Laws of Texas, 1822-1897, vol. 6 (1898), https://texashistory.unt.edu/ark:/67531/metaph6734/m1/917/?q=circus: (last accessed Mar. 10, 2023)	⊘	⊘	⊘	⊘	The citation in the State's brief is incomplete and lacks context. The full text of this law begins on pg. 25 of the Primary Source. This 1871 law amends the 1870 law. It expands the places where carrying a weapon may be prohibited to include "places where persons are assembled for amusement [... including] any circus, show, or public exhibition of any kind [...]" -- however, the law makes an exception "as may be required or permitted by law." Gun shows are permitted by law under CA Penal Code § 27300 et seq. The restrictions on general public carry may be overbroad and thus invalid in light of the <i>Bruen</i> decision.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
5	1873	Georgia	Code of the State of Georgia 818 (§ 4528) (1873)	Clark, Richard H.; Cobb, Thomas R.R.; Irwin, David; Lester, George N.; and Hill, Walter B., "1873 Irwin's Code, 2nd ed." (1873). Historical Georgia Digests and Codes. 16. https://digitalcommons.law.uga.edu/ga_code/16	⊘	⊘	⊘	⊘	This law codified at § 4528 in 1873 [available at pg. 818 of the Primary Source] is merely a re-codification of the Acts of 1870, pg. 421. The preceding § 4527 [available at pg. 817 of the Primary Source] authorizes the carrying "in an open manner and fully exposed to view, any pistol (except a horseman's pistol)." And the annotation makes clear that "[t]he offense consists not in <i>having</i> the pistol at a particular place and time but, in having it concealed: 36 Ga., 245." To the extent the law is a broad restriction on general public carry, it is likely overbroad and thus invalid in light of the <i>Bruen</i> decision.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
16	1873	Illinois - Chicago	<i>Laws and Ordinances Governing the City of Chicago</i> , Part I, Chp. 31, § 6, 88-89 (Murray F. Tuley, Bulletin Printing Company 1873)	Laws and Ordinances Governing the City of Chicago, 1873, p. 88-89; https://books.google.com/books?id=aUCVhqQeRE8C&printsec=frontcover&hl=pt-PT&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false	⊗	⊗	⊗	⊗	The full text of this ordinance can be found on pgs. 88-89 of the Primary Source. The cited city ordinance is part of the chapter on Parks and Public Grounds. Section 6 is entitled "Firearms and Missiles Prohibited-- Protection Shrubbery." It reads: "All persons are forbidden to carry firearms or to throw stones or other missiles within any one of the public parks. All persons are forbidden to cut, break or in any way injure or deface the trees, shrubs, plants, turf or any of the buildings, fences, bridges, or other construction or property, within or upon any of the said parks." To the extent the law is a broad restriction on general public carry, it is likely overbroad and thus invalid in light of the <i>Bruen</i> decision.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
14	1874	Missouri	An Act to Prevent the Carrying of Weapons in Public Assemblies of the People, Acts of the . . . General Assembly of the State of Missouri 43 (1874)	Laws of Missouri Passed at the General Assembly - https://books.google.com/books?id=Pw1GAQAAIAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q=weapons&f=false	⊘	⊘	⊘	⊘	The full text of the cited law begins on pg. 420 of the Primary source. This law is part of a broader grant of authorities to local governments, giving towns the "power by ordinance" to, among other things, restrict the carrying of concealed, <i>but not openly carried</i> , weapons (including firearms) in various places. The State did not cite any local ordinance from Missouri adopting such a law.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
5	1879	Missouri	Revised Statutes of the State of Missouri 1879, at 224 (§ 1274)	Revised Statutes of the State of Missouri, 1879, Volume 1, p. 224 (p. 310 of image). https://mdh.contentdm.oclc.org/digital/collection/p16795coll26/id/10273	⊘	⊘	⊘	⊘	The full text of the cited law begins on pg. 224 of the Primary Source. This law restricts the carrying of concealed, <i>but not openly carried</i> , weapons (including firearms). It also restricts the carry of any weapon (including firearms) into any church or place of religious assembly, school room or place of educational, literary, or social assembly, election precinct on election day, court room during the sitting of the court, or any other public assemblage of people (except militia drills or meetings of the militia). It also restricts the "rude, angry or threatening" brandishing of a weapon and the carry of weapons while intoxicated. Also restricts the transfer to minors without the consent of aparent or guardian. To the extent this statute acts as a restriction on general public carry, it is likely overbroad and thus invalid in light of the <i>Bruen</i> decision.
14	1883	Missouri	Laws of Missouri Passed at the Session of the Thirty-Second General Assembly 76 (1883)		⊘	⊘	⊘	⊘	As footnote 7 of the State's brief notes, this 1883 statue merely amended the 1874 law by increasing the fine.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
14	1887	Kansas - Rooks County	Ordinance No. 76: An Ordinance Prohibiting Deadly Weapons, July 1, 1887, reprinted in Stockton Review and Rooks County Record (KS) 1 (July 1, 1887)	Plaintiffs have been unable to locate any primary or secondary source to verify the text of this cited ordinance	Unknown	Unknown	Unknown	Unknown	
16	1887	Penn. - Philadelphia	<i>A Digest of the Laws and Ordinances of the City of Philadelphia from the Year 1701 to the 21 Day of June, 1887</i> , A.14 ap. 1868 § 21 P.L. 10851 VII. 57, 2, at 513 (Frank F. Brightley, Kay & Brother, 1887)	A Digest of the Laws and Ordinances of the City of Philadelphia from the Year 1701 to the 21 Day of June, 1887, A.14 ap. 1868 § 21 P.L. 10851 VII. 57, 2, at 513 (Frank F. Brightley, Kay & Brother, 1887)	⊖	⊖	⊖	⊖	The full texts of the cited ordinance begins on pg. 513 of the Primary Source citation. When read in context, the law is a prohibition on hunting in city parks. To the extent this statute acts as a restriction on general public carry, it is likely overbroad and thus invalid in light of the <i>Bruen</i> decision.
15	1889	Arizona [Territory]	1889 Ariz. Sess. Laws 16-17, No. 13, § 3	Session Laws of the Territory of Arizona, 1889. Session begun on the twenty-first day of January, 1889. https://azmemory.azlibrary.gov/nodes/view/88885	⊖	⊖	⊖	⊖	Arizona was admitted as a state on February 14, 1912. Section 4 of this territorial law specifically authorizes possession of arms by persons "authorized or permitted by law." To the extent this statute acts as a restriction on general public carry, it is likely overbroad and thus invalid in light of the <i>Bruen</i> decision.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
15	1890	Missouri - Town of Columbia	Chapter XVII: Carrying Concealed Weapons—Firing Guns, Pistols, Fire Crackers, Etc., May 22, 1890, <i>reprinted in General Ordinances of the Town of Columbia, in Boone County, Missouri</i> , at 34, 35 (Lewis M. Switzler ed., 1890)	Chapter XVII: Carrying Concealed Weapons—Firing Guns, Pistols, Fire Crackers, Etc., May 22, 1890, reprinted in General Ordinances of the Town of Columbia, in Boone County, Missouri, at 34, 35 (Lewis M. Switzler ed., 1890), https://books.google.com/books?	⊘	⊘	⊘	⊘	The citation in the State's brief is incomplete and lacks context. The full text of the law begins on pg. 34 of the Primary Source. Section 163 of the law appears to be a "sensitive place" regulation. Furthermore, the general prohibition on concealed carry, Section 162, does not "apply to persons moving or traveling peaceably through the state." To the extent this statute acts as a restriction on general public carry, it is likely overbroad and thus invalid in light of the <i>Bruen</i> decision.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
15	1890	Oklahoma [Territory]	<i>Statutes of Oklahoma 1890</i> , Article 47: Concealed Weapons, undated (Will T. Little, L.G. Pitman, & R.J. Barker eds., 1891).	The Statutes of Oklahoma, 1890. Guthrie, Oklahoma: The State Capital Printing Co., Publishers. 1891. Article 47, p. 495. https://books.google.com/books?id=4NIOAQAAIAAJ&printsec=frontcover&source=gbs_ge_summary_r&cad=0#v=onepage&q&f=false	⊘	⊘	⊘	⊘	Oklahoma was admitted as state on November 16, 1907. The citation in the State's brief is incomplete and lacks context. The full text of this territorial law begins on pg. 495 of the Primary Source. Sec. 1 prohibits carrying concealed weapons, "except as in the article provided." Sec. 2 prohibits the open carry of weapons, "except as in this article provided." Sec. 3 restricts transfers to minors. Sec. 5 authorizes the carrying of "shot-guns or rifles for the purpose of hunting, having them repaired, or for killing animals, [...] or while travelling or removing from one place to another, not otherwise." Sec. 7 restricts carry of certain arms into churches, schools, ball rooms, parties, elections, bars/liquor stores, political conventions, or other public assemblies. Sec. 8 restricts the carry or wear of any arm with the intent to injure another person. Sec. 9 restricts brandishing.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
16	1891	Minnesota - St. Paul	<i>Proceedings of the Common Council of the City of Saint Paul, June 2, 1891</i> (St. Paul: The Herald Print 1892)	Proceedings of the City of St. Paul, Ramsey County, Minnesota. 1891. St. Paul: the Herald Print 1892.	⊘	⊘	⊘	⊘	The full text of the cited ordinance begins on pg. 133 of the Primary Source, "Of Ordinances Passed and Resolutions Adopted by the Common Council of the City of St. Paul." Section 6 reads: "No person shall carry firearms or shoot birds in any park, or within fifty yards thereof, or throw stones or other missiles therein. To the extent this statute acts as a restriction on general public carry, it is likely overbroad and thus invalid in light of the <i>Bruen</i> decision.
16	1892	Mass. - City of Lynn	Annual Report of the Park Commissioners of the City of Lynn for the Year Ending December 20, 1892, at 45 (United States: Whitten & Cass 1893)	https://www.google.com/books/edition/Annual_Report_of_the_Park_Commissioner_s/LTICAAAAYAAJ?hl=en&gbpv=1&pg=RA2-PA23&printsec=frontcover	⊘	⊘	⊘	⊘	The language of the ordinance on the Duke Center webpage is incomplete and lacks context, but it includes a link to the source document (see Primary Source link at pg. 23). When read in context, the cited ordinance is clearly a prohibition on hunting in a city park. To the extent this statute acts as a restriction on general public carry, it is likely overbroad and thus invalid in light of the <i>Bruen</i> decision.

APPENDIX A: Historical Laws Cited by the State Defendants

State's Br. Pg. No.	Year	Jdx	Citation from Govt Brief [Link to Duke Center for Firearms Law, if available]	Primary Source Link	Passed Between 1750-1800	Regulates Sales of Arms, Ammo, or Parts	Regulates Sales on Govt Property	Purpose: Govt Should Not Profit From Gun Sales	Comments
16	1897	Penn. Pittsburgh	A Digest of the Acts of Assembly Relating to and the General Ordinances of the City of Pittsburgh, from 1804 to Jan. 1, 1897, with References to Decision Thereon, 496, § 5 (July 27, 1893) (W.W. Thomson, W. T. Nicholson Sons, Printers and Binders 2d ed. 18	https://www.google.com/books/edition/A_Digest_of_the_Acts_of_Assembly_Relation/Jdk-AAAAYAAJ?hl=en&gbpv=1&pg=PA496&printsec=frontcover	⊖	⊖	⊖	⊖	The language of the ordinance on the Duke Center webpage is incomplete and lacks context, but it includes a link to the source document (see Primary Source link at pg. 496). It appears that the ordinance, when read in context, is a prohibition on hunting in a city park. And section 2 of the ordinance indicates that the law's purpose is the control, maintenance, supervision and preservation of the public parks." To the extent this statute acts as a restriction on general public carry, it is likely overbroad and thus invalid in light of the <i>Bruen</i> decision.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Case Name: *B & L Productions, Inc., et al. v. Newsom, et al.*
Case No.: 8:22-cv-01518 JWH (JDEx)

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' RESPONSE TO STATE DEFENDANTS' SECOND
SUPPLEMENTAL BRIEF RE: MOTION FOR PRELIMINARY
INJUNCTION**

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

Nicole J. Kau, Deputy Attorney General
nicole.kau@doj.ca.gov
300 South Spring Street, Suite 1702
Los Angeles, CA 90013-1230
Attorney for Defendants

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

Executed March 10, 2023.


Christina Castron

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ROB BONTA
Attorney General of California
R. MATTHEW WISE
Supervising Deputy Attorney General
NICOLE J. KAU
Deputy Attorney General
State Bar No. 292026
300 South Spring Street, Suite 1702
Los Angeles, CA 90013-1230
Telephone: (213) 269-6220
Fax: (916) 731-2125
E-mail: Nicole.Kau@doj.ca.gov
*Attorneys for Defendants Governor Gavin Newsom,
Attorney General Rob Bonta, Secretary Karen Ross,
and 32nd District Agricultural Association*

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

GAVIN NEWSOM, et al.,

Defendants.

8:22-cv-01518 JWH (JDEx)

**STATE DEFENDANTS' SECOND
SUPPLEMENTAL BRIEF IN
OPPOSITION TO MOTION FOR
PRELIMINARY INJUNCTION**

Date: April 6, 2023
Time: 9:00 a.m.
Courtroom: 9D
Judge: The Honorable John W.
Holcomb
Action Filed: August 12, 2022

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF CONTENTS

	Page
INTRODUCTION	1
ARGUMENT	2
I. The Government Has Historically Enjoyed Broad Authority to Regulate Conduct on Its Own Property	2
II. The Government Has Historically Enjoyed Broad Authority To Regulate the Commercial Sale of Products, Including Firearms, to Promote Public Safety.....	6
III. The Government Has Historically Enjoyed Broad Authority to Regulate Firearms in Sensitive Places, Particularly in Public Spaces.....	11
CONCLUSION.....	16

TABLE OF AUTHORITIES

	Cases	Page(s)
1		
2		
3		
4		
5	<i>Bonidy v. U.S. Postal Serv.</i> ,	
6	790 F.3d 1121 (10th Cir. 2015).....	4
7	<i>District of Columbia v. Heller</i> ,	
8	554 U.S. 570 (2008)	11
9	<i>English v. State</i> ,	
10	35 Tex. 473 (1872)	11, 16
11	<i>GeorgiaCarry.Org, Inc. v. Georgia</i> ,	
12	687 F.3d 1244 (11th Cir. 2012).....	3
13	<i>GeorgiaCarry.org, Inc. v. U.S. Army Corps of Eng’rs</i> ,	
14	212 F. Supp. 3d 1348 (N.D. Ga. 2016)	4
15	<i>Hill v. State</i> ,	
16	53 Ga. 472 (1874).....	12, 16
17	<i>New York State Rifle & Pistol Ass’n v. Bruen</i> ,	
18	142 S. Ct. 2111 (2022)	2, 11, 12
19	<i>Oakland Tactical Supply, LLC v. Howell Township</i> ,	
20	No. 2:18-cv-13443 (E.D. Mich. Feb. 17, 2023)	1
21	<i>Teixeira v. Cty. of Alameda</i> ,	
22	873 F.3d 670 (9th Cir. 2017).....	10
23	<i>United States v. Class</i> ,	
24	930 F.3d 460 (D.C. Cir. 2019)	4
25	<i>United States v. Holton</i> ,	
26	No. 3:21-CR-0482-B, 2022 WL 16701935 (N.D. Tex. Nov. 3,	
27	2022).....	10, 11
28	<i>United States v. Tilotta</i> ,	
	No. 3:19-CR-04768-GPC, 2022 WL 3924282 (S.D. Cal. Aug. 30,	
	2022).....	1

1	TABLE OF AUTHORITIES		
2	(continued)		
3			Page
3	Constitutional Provisions		
4	Second Amendment.....		<i>passim</i>
5	Texas Constitution of 1868, Art. I, § 13.....		8
6	Statutes and Ordinances		
7			
8	2 Edw. 3, c. 3 (1328) (Eng.)		12
9	4 Hen 4, c. 29 (1403) (Eng.).....		12
10	63 Proceedings and Acts of the General Assembly 338, § 5 (June 15-		
11	July 3, 1773)	4	BA Cite 0658BA 000095
12	1647 Md. Laws 216		13
13	1650 Md. Laws 273		4, 13
14	1851 R.I. Pub. Laws 9, An Act in Amendment of an Act Entitled an		
15	Act Relating to Theatrical Exhibitions and Places of Amusement,		
16	§§ 1-2, in <i>The Revised Statutes of the State of Rhode Island and</i>		
17	<i>Providence Plantations: To Which are Prefixed, The Constitutions</i>		
18	<i>of the United States and of the State</i> , chp. 80, section 2 (January		
19	Session 1857), at 204-205 (Samuel Ames, Chairman, Sayles, Miller		
20	and Simons 1857).....		9
21	1870 Ga. Laws 421		5
22	1889 Ariz. Sess. Laws 16-17, No. 13, § 3.....		15
23	An Act for the Prevention of Damage by Fire, and the Safe Keeping of		
24	Gun Powder, 1821 Me. Laws 98; chap. 25, §5		8
25	An Act in Addition to an Act, entitled “An Act to Provide for the Proof		
26	of Fire Arms, Manufactured within this Commonwealth,” 1814		
27	Mass. Acts 464, ch. 192, § 2.....		8
28	An Act Incorporating the Cities of Hartford, New Haven, New		
	London, Norwich and Middletown, 1836 Conn. Acts 105 (Reg.		
	Sess.), chap. 1, § 20		9

	Page
TABLE OF AUTHORITIES	
(continued)	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
An Act Regulating the Right to Keep and Bear Arms, Aug. 12, 1870, <i>reprinted in 2 A Digest of the Laws of Texas: Containing the Laws in Force, and the Repealed Laws on Which Rights Rest from 1864 to 1872</i> , at 1322 (George W. Paschal 1873)	14
An Act to Amend an Act Entitled “An Act to Incorporate the Village of Rutland” 1865 Vt. Acts & Resolves 213 § 10 (November 15, 1847)	9
An Act to Incorporate and Establish the City of Dubuque, 1845 Iowa Laws 119, chap 123, § 12	9
An Act to Prevent the Carrying of Weapons in Public Assemblies of the People, Acts of the . . . General Assembly of the State of Missouri 43 (1874)	14
An Act to Provide for the Appointment of Inspectors and Regulating the Manufacture of Gunpowder, 1820 N.H. Laws 274, chap XXV, §§ 1-9	8
An Act to Regulate Gun Powder Manufactories and Magazines within this State, 1811 N.J. Laws 300, § 1	8
An Act to Reduce the Law Incorporating the City of Madison, and the Several Acts Amendatory thereto into One Act, and to Amend the Same, 1847 Ind. Acts 93, chap 61, § 8, pt. 4	9
An Act to Regulate the Keeping and Selling, and Transporting of Gunpowder, 1825 N.H. Laws 74	8
Code of the State of Georgia 818 (§ 4528) (1873)	5
Chapter XVII: Carrying Concealed Weapons—Firing Guns, Pistols, Fire Crackers, Etc., May 22, 1890, <i>reprinted in General Ordinances of the Town of Columbia, in Boone County, Missouri</i> , at 34, 35 (Lewis M. Switzler ed., 1890)	15
Ordinance No. 76: An Ordinance Prohibiting Deadly Weapons, July 1, 1887, <i>reprinted in Stockton Review and Rooks County Record (KS)</i> 1 (July 1, 1887)	14

1	TABLE OF AUTHORITIES		
2	(continued)		
3			Page
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			

14

Other Authorities

A Digest of the Acts of Assembly Relating to and the General Ordinances of the City of Pittsburgh, from 1804 to Jan. 1, 1897, with References to Decision Thereon, 496, § 5 (July 27, 1893) (W.W. Thomson, W. T. Nicholson Sons, Printers and Binders 2d ed. 1897) 16

A Digest of the Laws and Ordinances of the City of Philadelphia from the Year 1701 to the 21 Day of June, 1887, A.14 ap. 1868 § 21 P.L. 10851 VII. 57, 2, at 513 (Frank F. Brightley, Kay & Brother, 1887). 16

Alabama Acts of the General Assembly 329-35 (1868) [7 BA Cite 0658BA 000049](#)

Annual Report of the Park Commissioners of the City of Lynn for the Year Ending December 20, 1892, at 45 (United States: Whitten & Cass 1893)..... 16

Digest of the Charters and Ordinances of the City of Memphis, Together with the Acts of the Legislature Relating to the City, with an Appendix Page, Chp. 5, Art. VI., at 147-148 (October 7, 1863) (WM. H. Bridges, Argus Book and Job Office 1863) 10

Digest of the Laws and Ordinances of the Parish of East Feliciana, Adopted by the Police Jury of the Parish, sec. 1. (September session, 1847), at 80 (John C. White, Whig Office, September 1, 1848)..... 9

Eugene Volokh, *Implementing the Right to Keep and Bear Arms for Self-Defense*, 56 UCLA L. Rev. 1443 (2009) 3

First Annual Report of the Improvement of the Central Park, New York (January 1, 1857) Appendix A, 106 (Chas. W. Baker 1857)..... 15

Fourth Annual Report of the Board of Commissioners of the Central Park 106 (1861)..... 15

	Page
TABLE OF AUTHORITIES	
(continued)	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
	16
	14
	13
	3
	3
	6
	10
	10
	10
	12

1	TABLE OF AUTHORITIES		
2	(continued)		
			Page
3	Patrick J. Charles, <i>The Faces of the Second Amendment outside the</i>		
4	<i>Home: History Versus Ahistorical Standards of Review</i> , 60 Clev.		
5	St. L. Rev. 1 (2012)	12	
6	<i>Public Statutes of the State of Tennessee since the Year 1858</i> , at 108		
7	(James H. Shankland ed., 1871)	14	
8	<i>Proceedings of the Common Council of the City of Saint Paul, June 2,</i>		
9	<i>1891</i> (St. Paul: The Herald Print 1892).....	16	
10	<i>Revised Statutes of the State of Missouri 1879</i> , at 224 (§ 1274)	5	
11	<i>Statutes of Oklahoma 1890</i> , Article 47: Concealed Weapons, undated		
12	(Will T. Little, L.G. Pitman, & R.J. Barker eds., 1891).	15	
13	<i>The Minutes of the Senate Academicus of the State of Georgia, 1799-</i>		
14	<i>1842</i> , at 86 (1810).....	13	
15	<i>The Supreme Court: On Carrying Concealed Weapons</i> , STATE		
16	JOURNAL (Jefferson City, MO), Apr. 12, 1873	14	
17	<i>University of Virginia Board of Visitors Minutes 6-7</i> (October 4-5,		
18	<i>1824</i>).	13	
19	2 William Blackstone, <i>Commentaries on the Laws of England</i> (1765).....	3	
20	William J. Novak, <i>The People's Welfare, Law and Regulation in</i>		
21	<i>Nineteenth Century America</i> (University of North Carolina Press		
22	<i>1996</i>).....	6, 7	
23			
24			
25			
26			
27			
28			

INTRODUCTION

1
2 SB 264 and SB 915 prohibit the sale of firearms, ammunition, and precursor
3 parts on state property. Plaintiffs allege that these laws “violate[] [their] Second
4 Amendment right to buy and sell firearms and the ammunition and parts necessary
5 to the effective operation of those firearms.” First Amended Complaint (FAC)
6 ¶ 238. In their supplemental brief, they argue that “[b]y prohibiting the sale (and,
7 by extension, the purchase) of lawful ‘firearm-related products’ at the Fairgrounds
8 and other state venues, the State’s gun show ban implicates the ‘plain text’ of the
9 Second Amendment.” Pls.’ Supplemental Br., ECF No. 27 at 8-9. Yet under SB
10 264 and SB 915, the purchase or sale of firearms or ammunition is prohibited *only*
11 on state property—and such items may be sold and are readily accessible in ample
12 alternative locations. *See* Defs.’ Supplemental Br., ECF No. 26 at 1, 4-5.¹
13 Plaintiffs have never identified the source of any right to sell firearms on state
14 property, and there is none. The challenged laws thus do not regulate conduct that
15 is protected by the Second Amendment. *Cf. Oakland Tactical Supply, LLC v.*
16 *Howell Township*, No. 2:18-cv-13443 (E.D. Mich. Feb. 17, 2023), ECF No. 117 at
17 10 (holding that township’s zoning ordinance, which did not prohibit “‘training
18 with firearms,’” but rather “the construction and use of an outdoor, open-air 1,000-
19 yard shooting range,” did not bar a “proposed course of conduct . . . covered by the
20 plain text of the Second Amendment”); *United States v. Tilotta*, No. 3:19-CR-
21 04768-GPC, 2022 WL 3924282, at *6 (S.D. Cal. Aug. 30, 2022) (“[S]imply
22 because a law involves firearms does not mean that the Second Amendment is
23 necessarily implicated.”).

24 While Plaintiffs’ failure to allege proposed conduct covered by the Second
25 Amendment is dispositive, this brief addresses “‘the difficult historical questions
26 posed by *Bruen*.’” Order for Additional Supplemental Briefing, ECF No. 28 at 2

27 ¹ Nor do the laws enact a “gun show ban,” Pls.’ Supplemental Br., ECF No.
28 27 at 8-9, as Defendants previously explained. *See* Defs.’ Opp’n to Mot. for
Prelim. Inj., ECF No. 22 at 10-11.

1 (quoting Defs.’ Supplemental Br., ECF No. 26 at 15 n.5). In conducting this
2 analysis, the brief discusses three relevant historical traditions. First, over many
3 centuries, Anglo-American law has recognized that the government, like any
4 property owner, has the right to control activities on its property—and specifically,
5 the right to impose conditions on the use of its land—when it is acting as a
6 proprietor. Second, dating back to the Founding and earlier, state and local
7 governments commonly enacted laws regulating commercial products—including
8 firearms and ammunition—for the purpose of promoting public safety. Third, as
9 detailed in Defendants’ first supplemental brief, the government has long regulated
10 firearms in sensitive places, including in public spaces and at large gatherings. This
11 brief provides additional examples of such regulations. The historical analogues
12 discussed below, like SB 264 and 915, are representative of these well-worn
13 American traditions, and they served a comparable legislative purpose: to preserve
14 the peace and welfare of the community, particularly for activities and events held
15 on government property. Because SB 264 and SB 915 are “consistent with the
16 Nation’s historical tradition of firearm regulation,” *New York State Rifle & Pistol*
17 *Ass’n v. Bruen*, 142 S. Ct. 2111, 2126 (2022), Plaintiffs are unlikely to prevail on
18 their Second Amendment claim, and their motion for preliminary injunction should
19 be denied.²

20 ARGUMENT

21 I. THE GOVERNMENT HAS HISTORICALLY ENJOYED BROAD AUTHORITY 22 TO REGULATE CONDUCT ON ITS OWN PROPERTY

23 The right of landowners to control and exercise domain over their own
24 property is a well-established American legal principle deeply rooted in English
25 tradition. In the seventeenth century, the English philosopher John Locke
26 considered at length the right to property, and in particular the right to appropriate

27 _____
28 ² This brief incorporates the arguments made in Defendants’ two prior briefs
opposing Plaintiffs’ motion for a preliminary injunction. See ECF Nos. 22 and 26.

1 and exercise control over land and other material resources. *See, e.g.*, John Locke,
2 *The Second Treatise of Government*, chp. V. (1689). In the same vein, Sir William
3 Blackstone later observed that “[t]here is nothing which . . . engages the affections
4 of mankind, as the right of property; or that sole despotic dominion which one man
5 claims and exercise over the external things of the world, in total exclusion of the
6 right of any other individual[.]” 2 William Blackstone, *Commentaries on the Laws*
7 *of England*, chp. 1 (1765). In particular, Blackstone recognized that a license
8 holder who enters private property does not have the same right as a property
9 owner, and a guest remains on the property only at the owner’s permission. *See id.*
10 The Founding Fathers adopted these tenets, and “through the Constitution and the
11 Bill of Rights, sought to *protect* the fundamental right of private property, not to
12 eviscerate it.” *Georgia Carry.Org, Inc. v. Georgia*, 687 F.3d 1244, 1265 (11th Cir.
13 2012), *abrogated by Bruen*, 142 S. Ct. 2111. Because “[t]he Founding Fathers
14 placed the right to private property upon the highest pedestals, standing side by side
15 with the right to personal security that underscores the Second Amendment,” “[a]n
16 individual’s right to bear arms as enshrined in the Second Amendment, whatever its
17 full scope, certainly must be limited by the equally fundamental right of a private
18 property owner to exercise exclusive dominion and control over its land.” *Id.*

19 This right of a property owner to control conduct on its own land applies to the
20 government when it operates as a proprietor. “[T]here is both precedent and reason
21 for allowing the government acting as proprietor extra power to restrict the exercise
22 of many constitutional rights on its property.” Eugene Volokh, *Implementing the*
23 *Right to Keep and Bear Arms for Self-Defense*, 56 UCLA L. Rev. 1443, 1474
24 (2009); *see also* Joseph Blocher & Reva B. Siegel, *Second-Amendment Sensitive*
25 *Places: Protecting Democratic Community and Commerce*, 98 NYU L. Rev. *5
26 (forthcoming 2023). This “separate government-as-proprietor standard[.]” may
27 apply in government buildings, government-owned parks, and other government-
28 owned property. *See* Volokh, at 1475.

1 Courts have regularly recognized this principle. In *Bonidy v. U.S. Postal*
2 *Service*, 790 F.3d 1121 (10th Cir. 2015), the court held that it was constitutional to
3 prohibit the carrying of firearms in a postal parking lot because the government
4 “often has more flexibility to regulate when it is acting as a proprietor (such as
5 when it manages a post office) than when it is acting as a sovereign (such as when it
6 regulates private activity unconnected to a government service).” *Id.* at 1126. In
7 such situations, the government “has broad discretion to govern its business
8 operations according to the rules it deems appropriate.” *Id.* In *United States v.*
9 *Class*, 930 F.3d 460 (D.C. Cir. 2019), *abrogated by Bruen*, 142 S. Ct. 2111, the
10 court held that it was permissible to prohibit firearms on the government-owned
11 parking lot on United States Capitol Grounds. *Id.* at 464 (“[A]s the owner of the
12 Maryland Avenue lot, the government—like private property owners—has the
13 power to regulate conduct on its property.”). And in *GeorgiaCarry.org, Inc. v. U.S.*
14 *Army Corps of Engineers*, 212 F. Supp. 3d 1348 (N.D. Ga. 2016), the court upheld
15 a regulation restricting the use of firearms on United States Army Corps of
16 Engineers property. *Id.* at 1363 (principle that private property owners may
17 exclude guns from their property is relevant to the analysis, as “[i]t would be an
18 awkward holding to find that, though Defendant Army Corps may exclude civilians
19 from its property altogether, if it chooses to allow them access, it must also allow
20 them to carry firearms”).

21 History confirms numerous laws dating back to the seventeenth century
22 regulating firearms on government-owned property. Some examples include:

- 23
- 24 • In 1650, Maryland barred “any gun[s] or weapon[s]” from the state legislatures. 1650 Md. Laws 273.
 - 25 • In 1773, Maryland prohibited bringing any weapon into the House of
26 Assembly. 63 Proceedings and Acts of the General Assembly 338, § 5 (June
27 15-July 3, 1773).
- 28

- 1 • In 1870, Georgia provided that “no person in said State of Georgia be
2 permitted or allowed to carry about his or her person any . . . pistol or
3 revolver, or any kind of deadly weapon, to any Court of justice, or any
4 election ground, or precinct, or any place of public worship, or any other
5 public gathering in this State” 1870 Ga. Laws 421.³
- 6 • In 1873, Georgia prohibited carrying weapons “to any court of justice or any
7 election ground or precinct, or any place of public worship, or any other
8 public gathering in this state, except militia muster grounds.” Code of the
9 State of Georgia 818 (§ 4528) (1873).
- 10 • In 1879, Missouri prohibited carrying concealed weapons “into any school
11 room or place where people are assembled for educational, literary or social
12 purposes, or to any election precinct on any election day, or into any court
13 room during the sitting of court, or into any other public assemblage of
14 persons met for any lawful purpose.” *Revised Statutes of the State of
15 Missouri 1879*, at 224 (§ 1274).

16 Similar laws demonstrating the government’s authority to regulate not only on
17 government property, but in a range of sensitive places where people gather, are
18 discussed later in this brief. *See infra*, Argument III.

19 Here, the State acts as a proprietor when it allows private parties to host
20 certain events on its land, including gun shows at the Orange County Fair & Event
21 Center (Fairgrounds). Consistent with centuries of English and American legal
22 tradition, the State has the right to place certain conditions on the use of its
23 property—including by prohibiting the commercial sale of firearms, ammunition,
24 and precursor parts. In short, there is no Second Amendment right to enter onto
25 another’s private property, including government property, to sell firearms and
26 ammunition without permission of the landowner.

27 _____
28 ³ This law, among others referenced here, was also cited in Defendants’ first
supplemental brief.

1 **II. THE GOVERNMENT HAS HISTORICALLY ENJOYED BROAD AUTHORITY**
2 **TO REGULATE THE COMMERCIAL SALE OF PRODUCTS, INCLUDING**
3 **FIREARMS, TO PROMOTE PUBLIC SAFETY**

4 The government has also preserved the peace and welfare of the community
5 by exercising its sovereign power to regulate the commercial sale of products,
6 including firearms and ammunition. “[D]espite historical depictions of free trade,
7 ‘laggard’ regulation, and the opening of American society, the early nineteenth
8 century was home to a deluge of formal economic regulations and vigorous
9 defenses of the power of the state over trade and commerce.” William J. Novak,
10 *The People’s Welfare, Law and Regulation in Nineteenth Century America* 87
11 (University of North Carolina Press 1996); *see also id.* at 85 (contrasting the “‘myth
12 of laissez-faire’” with “the myriad ways that law and active state governments
13 furnished the necessary conditions for early American economic development”).
14 Thus, “early Americans understood the economy as simply another part of their
15 well-regulated society, intertwined with public safety, morals, health, and welfare
16 and subject to the same kinds of legal controls.” *Id.* at 84.

17 Consistent with these principles, “[n]early all state legislatures in the early
18 nineteenth century passed laws directing ‘trades to be conducted, and wares and
19 goods to be fabricated, and put up for market in a certain manner.’” Novak, at 88
20 (citing Nathan Dane, *A General Abridgment and Digest of American Law* vol. VI
21 749 (Cummings, Hillard & Co. 1823)). Between 1780 and 1835, the Massachusetts
22 legislature passed regulations that closely specified and controlled the way
23 numerous products were manufactured and sold, including gunpowder and
24 firearms. *Id.* (citation omitted) (listing a total of 49 regulated products, from boards
25 and shingles to beef and pork). Maryland, South Carolina, Michigan, and Ohio
26 enacted similar legal schemes. *Id.* Aside from such product and inspection laws,
27 nineteenth-century legislators also used licensing “to regulate and control a host of
28 economic activities, trades, callings, and professions . . . for the public good and the
people’s welfare.” *Id.* at 90. In 1827, Maryland enacted a series of statutes

1 requiring a “license to trade,” and Tennessee, Missouri, Pennsylvania, and
2 California passed similar statutes in the midcentury “requiring the licensing of
3 merchants, retailers, and wholesalers.” *Id.* at 90-91. And in 1868, Alabama
4 required licenses for over thirty occupations and businesses, including for “dealers
5 in firearms.” *Id.* at 91 (citing *Alabama Acts of the General Assembly* 329-35
6 (1868)).

7 Regulation of commerce was strict on government property, as well. In local
8 public marketplaces where foods were sold, such as Philadelphia’s High Street
9 Market and Boston’s Faneuil Hall, “states and municipalities used their police
10 powers to . . . protect their populations from high prices, unhealthy goods,
11 unsanitary conditions, fraud and cheating, and the adverse effects of simple
12 profiteering by hucksters, forestallers, middlemen, and other second hand sellers.”
13 *Id.* at 96. Lawmakers recognized that leaving such products unregulated would be
14 “an abdication of public responsibility,” *id.*, and “a chorus of judicial opinion
15 support[ed] urban market regulations,” *id.* at 101.

16 Firearms and ammunition were no exception; they have been regulated “from
17 the dawn of American history.” Declaration of Saul Cornell (Cornell Decl.), ¶ 21.
18 Of course, “the Founding generation did not confront a gun violence problem
19 similar in nature or scope to the ills that plague modern America.” *Id.* ¶ 28.
20 Indeed, “[t]he pressing problem Americans faced at the time of the Second
21 Amendment” was “reluctance to purchase the type of weapons needed to
22 effectively arm their militias.” *Id.* ¶¶ 25, 29. Because local gunsmiths had close
23 ties to the community, as they were both responsible for selling firearms and
24 keeping these dangerous products in good working order, “much of the supervision
25 of this market was achieved through [] informal means.” *Id.* ¶ 31.

26 Nonetheless, it was well understood that state and local governments
27 possessed the inherent police power to regulate firearms commerce to address both
28 “longstanding issues and novel problems created by firearms in American

1 society.” *Id.* ¶ 11. Indeed, no less than seventeen state constitutions adopted during
2 the Reconstruction era employed “expansive language” providing that the right to
3 keep and bear arms was subject to state regulation. *Id.* ¶ 41 (citing, e.g., Texas
4 Constitution of 1868, Art. I, § 13, which stated, “Every person shall have the right
5 to keep and bear arms, in the lawful defence of himself or the government, *under*
6 *such regulations as the Legislature may prescribe*” (emphasis added)).

7 In accordance with technological and social norms and the needs of the day,
8 gunpowder—which was inherently dangerous (especially in urban areas with
9 wooden infrastructure) and was manufactured by a rapidly growing industry—was
10 highly regulated in early America. *See generally* Novak, at 60-67. States regularly
11 enacted laws regulating gunpowder, including prohibitions of where one may sell
12 gunpowder:

- 13 • An Act to Regulate the Keeping and Selling, and Transporting of
14 Gunpowder, 1825 N.H. Laws 74, chap. 61, § 5 (penalizing the selling or
15 offer for sale of gunpowder in any highway, street, lane, alley, wharf, parade,
16 or common)
- 17 • An Act in Addition to an Act, entitled “An Act to Provide for the Proof of
18 Fire Arms, Manufactured within this Commonwealth,” 1814 Mass. Acts 464,
19 ch. 192, § 2 (January Session) (requiring inspection of musket barrels and
20 pistol barrels)
- 21 • An Act for the Prevention of Damage by Fire, and the Safe Keeping of Gun
22 Powder, 1821 Me. Laws 98, chap. 25, § 5 (power to inspect storage of
23 gunpowder);
- 24 • An Act to Regulate Gun Powder Manufactories and Magazines within this
25 State, 1811 N.J. Laws 300, § 1 (limitations on gunpowder factory locations);
- 26 • An Act to Provide for the Appointment of Inspectors and Regulating the
27 Manufacture of Gunpowder, 1820 N.H. Laws 274, chap XXV, §§ 1-9 (duty
28 of inspectors, quality control, storage specifications);
- An Act to Amend an Act Entitled “An Act to Incorporate the Village of
Rutland” 1865 Vt. Acts & Resolves 213 § 10 (November 15, 1847) (fire
wardens’ authority to inspect manufacturing and storage).

1 States also enacted laws delegating to cities the authority to regulate
2 gunpowder, including:

- 3
- 4 • An Act to Incorporate and Establish the City of Dubuque, 1845 Iowa Laws
5 119, chap 123, § 12 (delegating authority to cities “to regulate by ordinance
6 the keeping and sale of gunpowder within the city”);
 - 7 • An Act Incorporating the Cities of Hartford, New Haven, New London,
8 Norwich and Middletown, 1836 Conn. Acts 105 (Reg. Sess.), chap. 1, § 20,
9 (delegating authority to “prohibit[] and regulat[e] the bringing in, and
10 conveying out” of gunpowder); and
 - 11 • An Act to Reduce the Law Incorporating the City of Madison, and the
12 Several Acts Amendatory thereto Into One Act, and to Amend the Same,
13 1847 Ind. Acts 93, chap 61, § 8, pt. 4 (delegating authority “[t]o regulate and
14 license, or provide by ordinance for regulating and licensing . . . the keepers
15 of gunpowder”).

13 In the mid-nineteenth century, as firearms became more common, state and
14 local governments began to regulate shooting galleries, again to protect the public
15 from danger. Cornell Decl., ¶ 37. Such regulations required licensure to open a
16 shooting gallery, and oftentimes set limitations on the location of galleries.

17 Examples of such laws include:

- 18
- 19 • In 1847, the East Feliciana Parish, Louisiana forbid “shooting of guns,
20 pistols, or any other fire arms within the limits of the town of Clinton”
21 *Id.* citing *Digest of the Laws and Ordinances of the Parish of East Feliciana,*
22 *Adopted by the Police Jury of the Parish*, sec. 1. (September session, 1847),
23 at 80 (John C. White, Whig Office, September 1, 1848);
 - 24 • In 1851, Rhode Island barred any pistol or rifle gallery in the “compact part
25 of the town of Newport” *Id.* citing 1851 R.I. Pub. Laws 9, An Act in
26 Amendment of an Act Entitled an Act Relating to Theatrical Exhibitions and
27 Places of Amusement, §§ 1-2, in *The Revised Statutes of the State of Rhode*
28 *Island and Providence Plantations: To Which are Prefixed, The*
Constitutions of the United States and of the State, chp. 80, section 2
(January Session 1857), at 204-205 (Samuel Ames, Chairman, Sayles, Miller
and Simons 1857) (same).

- 1 • In 1853, San Francisco required a license to operate a pistol or rifle shooting
2 gallery. *Id.* (citing *Ordinances and Joint Resolutions of the City of San*
3 *Francisco: Together with a List of the Officers of the City and County, and*
4 *Rules and Orders of the Common Council 220*, Ordinance No. 498, section
5 13 (December 29, 1853), at 220 (Monson & Valentine 1854)).
- 6 • In 1841, Burlington, Iowa required an application for erecting a shooting
7 battery. *Id.* (citing *Ordinances of the City of Burlington, with Head Notes*
8 *and an Analytic Index*, § 1 (1841), at 149-150 (Chas. Ben. Darwin,
9 Thompson & Co. Printers, 1856) (listing other conditions)).
- 10 • In 1863, Memphis, Tennessee required a license to set up a pistol gallery, and
11 prohibited such galleries “in the first story of any building in [the] city[.]” *Id.*
12 (citing *Digest of the Charters and Ordinances of the City of Memphis,*
13 *Together with the Acts of the Legislature Relating to the City, with an*
14 *Appendix Page*, Chp. 5, Art. VI., at 147-148 (October 7, 1863) (WM. H.
15 Bridges, Argus Book and Job Office 1863)).
- 16 • In 1870, New Orleans, Louisiana prohibited anyone from operating “any
17 pistol or shooting gallery within the limits of the city of New Orleans without
18 having first obtained the consent of” residents and common council. *Id.*
19 (citing *The Laws and General Ordinances of the City of New Orleans:*
20 *Together with the Acts of the Legislature, Decisions of the Supreme Court,*
21 *and Constitutional Provisions Relating to the City Government: Revised and*
22 *Digested, Pursuant to an Order of the Common Council*, Section 1, art. 636
23 (5), at 257 (Henry Jefferson Leovy, Simmons & Co. New Ed. 1870)).

24 Thus, from the Founding era through the nineteenth century, state and local
25 governments fully exercised their police powers to enact commercial firearms
26 regulations based on the needs at the time. Cornell Decl., ¶ 11; *see also United*
27 *States v. Holton*, No. 3:21-CR-0482-B, 2022 WL 16701935, at *5 (N.D. Tex. Nov.
28 3, 2022) (relying in part on “commercial firearms regulations” dating back to
colonial times to reject Second Amendment challenge, and favorably citing the
historical discussion of such regulations in *Teixeira v. Cty. of Alameda*, 873 F.3d
670, 685 (9th Cir. 2017)).⁴ Those analogues are representative of a broader

⁴ As the court observed in *Holton*, several commercial regulations of this era were enacted “to address the illegal trading and trafficking of arms and

1 tradition of regulating commercial sales of a host of products more generally. The
2 challenged laws here fit well within this historical tradition. SB 264 and SB 915,
3 like early American laws restricting where gunpowder could be sold and where
4 shooting galleries could be located, regulate firearms-related commercial activity in
5 specific locations to promote public safety—and in doing so, they are no more
6 burdensome than their predecessors. *See* Defs.’ Supplemental Br., ECF No. 26 at
7 14.

8 **III. THE GOVERNMENT HAS HISTORICALLY ENJOYED BROAD AUTHORITY**
9 **TO REGULATE FIREARMS IN SENSITIVE PLACES, PARTICULARLY IN**
10 **PUBLIC SPACES**

11 The Supreme Court has “assume[d] it settled” that certain areas are “‘sensitive
12 places’ where arms carrying could be prohibited consistent with the Second
13 Amendment.” *Bruen*, 142 S. Ct. at 2133; *District of Columbia v. Heller*, 554 U.S.
14 570, 626 (2008) (“[N]othing in our opinion should be taken to cast doubt on
15 longstanding prohibitions on . . . laws forbidding the carrying of firearms in
16 sensitive places such as schools and government buildings.”). Indeed, courts have
17 affirmed the validity of sensitive places laws for well over a century. *E.g.*, *English*
18 *v. State*, 35 Tex. 473, 478–79 (1872), *abrogated by Bruen*, 142 S. Ct. 2111 (“We
19 confess it appears to us little short of ridiculous, that any one should claim the right
20 to carry upon his person any of the mischievous devices [i.e., deadly weapons]
21 inhibited by the statute, into a peaceable public assembly, as, for instance into a
22 church, a lecture room, a ball room, or any other place where ladies and gentlemen
23 are congregated together.”); *Hill v. State*, 53 Ga. 472, 475 (1874) (upholding state
24 ban on the carrying of firearms in any court of justice).

25 The sensitive places doctrine is grounded in English tradition. In England
26 from the thirteenth to eighteenth centuries, “what constituted a ‘sensitive place’ in
27 ammunition.” *Holton*, 2022 WL 16701935, at *5; *see also* Defs.’ Supplemental
28 Br., ECF No. 26 at 8-9, 10-11. These historical analogues thus have comparable
justifications to SB 264 and SB 915—“(1) controlling and tracing the sale of
firearms and (2) ensuring dangerous individuals d[o] not obtain firearms.” *Id.* at
14-15 (citing *Holton*, at *5).

1 which arms bearing could be prohibited was rather broad, encompass[ing] densely
2 populated areas, as well as areas where people regularly congregated or conducted
3 commerce.” Declaration of Patrick Charles (Charles Decl.), ¶ 9. In addition to the
4 Statute of Northampton, which regulated firearms in “fairs” and “markets” (2 Edw.
5 3, c. 3 (1328) (Eng.)), English laws of that era prohibited the carrying of firearms
6 throughout London, among other locations. *Id.* Because “English prohibitions on
7 going armed in “sensitive places” were worded quite broadly,” “there was no need
8 for the law to carve out individual locations.” *Id.* ¶ 11.⁵

9 It is “unequivocal” “that armed carriage restrictions and the English common
10 law against ‘going armed’ indeed made their way into the American Colonies and
11 subsequent United States.” Charles Decl., ¶ 13 (citing Patrick J. Charles, *The Faces*
12 *of the Second Amendment outside the Home: History Versus Ahistorical Standards*
13 *of Review*, 60 Clev. St. L. Rev. 1, 31-32 (2012)). “Additionally, historians can state
14 with certainty that state and local governments were well within their authority to
15 prohibit armed assemblies circa the late eighteenth century, no matter whether said
16 assemblies were deemed the militia or not.” *Id.* (citing Patrick J. Charles, *The 1792*
17 *National Militia Act, the Second Amendment, and Individual Militia Rights: A*
18 *Legal and Historical Perspective*, 9 Geo. J.L. & Pub. Pol’y 323, 326-27, 374-90
19 (2011)). “This is because it had long been understood that any armed assemblage
20 required the consent of government officials.” *Id.*⁶

21 “In America, . . . laws expressly prohibiting dangerous weapons at specific
22 locations date back to the mid-seventeenth century[,]” such as two Maryland laws
23 that prohibited dangerous weapons within legislative assemblies (1647 Md. Laws
24 216; 1650 Md. Laws 273). Charles Decl., ¶ 14 & n.2. An example from the

25 ⁵ Churches or places of worship were “the one notable exception.” Charles
26 Decl. ¶ 11 (citing 4 Hen 4, c. 29 (1403) (Eng.)) (“no Man be armed nor bear
27 defensible armor to Merchant Towns Churches nor Congregations in the same, nor
28 in the Highways, in affray of the Peace or the King’s Liege people”).

⁶ As the Supreme Court noted in *Bruen*, “there is no evidence indicating that
these common-law limitations impaired the right of the general population to
peaceable public carry.” *Bruen*, 142 S. Ct. at 2145.

1 eighteenth century is a 1786 Virginia law that prohibited “rid[ing] armed by night
2 nor by day in fairs or markets.” 1786 Va. Laws 25.

3 In the early to mid-nineteenth century, many sensitive places laws regulated
4 institutions of higher learning. *Id.* ¶ 14. Examples include:

- 5
- 6 • In 1810, the University of Georgia prohibited all students from “keep[ing]
7 any gun, pistol, Dagger, Dirk sword cane or any other offensive weapon in
8 College or elsewhere[.]” *The Minutes of the Senate Academicus of the State
9 of Georgia, 1799-1842*, at 86 (1810).
 - 10 • In 1824, the University of Virginia prohibited all students “within the
11 precincts of the University, [from] introduce[ing], keep[ing] or us[ing]
12 any...weapons or arms of any kind[.]” *University of Virginia Board of
13 Visitors Minutes 6-7* (October 4-5, 1824).
 - 14 • In 1832, Waterville College prohibited all students from “keep[ing] firearms,
15 or any deadly weapon whatever” and “bring[ing] [] gunpowder upon the
16 College premises[.]” *Laws of Waterville College, Maine* 11 (1832).

17 As local and state government regulations of sensitive places became more
18 commonplace in the mid-to-late nineteenth century, *see id.* ¶ 15, the categories of
19 sensitive places expanded to include (1) places where large public assemblies
20 generally took place (parks, town squares, and the like); (2) places where events of
21 amusement (large planned events) were held; (3) churches and places of worship;
22 (4) polling places and other buildings where political activity generally took place;
23 (5) schools and institutions of higher learning; and (6) bars, clubs, social venues, or
24 anywhere in which alcohol or psychoactive or mood altering drugs were purchased
25 or consumed. *Id.* ¶ 22. Examples include:

- 26
- 27 • In 1869, Tennessee prohibited the carrying of dangerous weapons into “any
28 election . . . fair, race course, or other public assembly of the people.” *Id.*
¶ 15 (citing *Public Statutes of the State of Tennessee since the Year 1858*, at
108 (James H. Shankland ed., 1871)).
 - In 1870, Texas prohibited the carrying of dangerous weapons “into any . . .
religious assembly, any school-room or other place where persons assembled
for educational, literary, or scientific purposes, or into a ball room, social

1 party, or other social gathering, composed of ladies and gentlemen, or to any
2 election precinct on the day or days of any election, . . . or to any other place
3 where people may be assembled to muster or to perform any other public
4 duty, or any other public assembly” *Id.* ¶ 16 (citing An Act Regulating
5 the Right to Keep and Bear Arms, Aug. 12, 1870, *reprinted in 2 A Digest of*
6 *the Laws of Texas: Containing the Laws in Force, and the Repealed Laws on*
7 *Which Rights Rest from 1864 TO 1872*, at 1322 (George W. Paschal 1873)).

- 8 • In 1871, Texas further prohibited firearms in any “place where persons are
9 assembled for amusement or for educational or scientific purposes, or into
10 any circus, show, or public exhibition of any kind.” Art. 320, Tex. Act of
11 April 12, 1871.
- 12 • In 1874, Missouri prohibited persons from “go[ing] into any church or place
13 where people have assembled for religious worship” with “any kind of fire-
14 arms” or “deadly weapon”. Charles Decl., ¶ 20 n. 6 (citing An Act to
15 Prevent the Carrying of Weapons in Public Assemblies of the People, Acts of
16 the . . . General Assembly of the State of Missouri 43 (1874)).⁷
- 17 • In 1887, Stockton, Kansas prohibited the carrying of dangerous weapons
18 “into any church . . . , or into any school room or place where people have
19 assembled for educational, literary or social purposes, or to any election on
20 any election day, or into any court room . . . , or into any other public
21 assemblage of persons . . . or shall go upon the public streets or public places
22 of the city[.]” *Id.* ¶ 21 (citing Ordinance No. 76: An Ordinance Prohibiting
23 Deadly Weapons, July 1, 1887, *reprinted in Stockton Review and Rooks*
24 *County Record* (KS) 1 (July 1, 1887)).
- 25 • In 1889, Arizona provided that “[i]f any person shall go into any church or
26 religious assembly, any school room, or other place where persons are
27 assembled for amusement or for educational or scientific purposes, or into
28 any circus, show or public exhibition of any kind, or into a ball room, social
party or social gathering, or to any election precinct on the day or days of any
election, . . . or to any other place where people may be assembled to minister
or to perform any other public duty, or to any other public assembly, and
shall have or carry about his person a pistol or other firearm . . . he shall be

⁷ In 1883, the Missouri state law was amended to increase the fine. Charles Decl., ¶ 20 n. 6 (citing *Laws of Missouri Passed at the Session of the Thirty-Second General Assembly* 76 (1883)); see also *The Supreme Court: On Carrying Concealed Weapons*, STATE JOURNAL (Jefferson City, MO), Apr. 12, 1878, at 2 regarding *State v. Reando* (Mo. 1878) (upholding 1874 law as constitutional, describing it as “nothing more than a police regulation, made in the interest of peace and good order, perfectly within the power of the legislature to make”).

1 punished by a fine not less than fifty nor more than five hundred dollars, and
2 shall forfeit to the County the weapon or weapons so found on his person.”
3 *Id.* ¶ 18 (citing 1889 Ariz. Sess. Laws 16-17, No. 13, § 3).

- 4 • In 1890, Oklahoma prohibited the carrying of dangerous weapons “into any
5 church or religious assembly, any school room or other place where persons
6 are assembled for public worship, for amusement, or for educational or
7 scientific purposes, or into any circus, show or public exhibition of any kind,
8 or into any ball room, or to any social party or social gathering, or to any
9 election, or to any place where intoxicating liquors are sold, or to any
10 political convention, or to any other public assembly” *Id.* ¶ 19 (citing
11 Article 47: Concealed Weapons, undated, *Statutes of Oklahoma 1890*, at 495-
12 96 (Will T. Little, L.G. Pitman, & R.J. Barker eds., 1891)).
- 13 • In 1890, Columbia, Missouri prohibited the carrying of dangerous weapons
14 “into any church . . . ; or into any school room, or place where people are
15 assembled for educational, literary or social purposes; or into any court
16 room, . . . or to any election precinct on any election day; or into any other
17 public assemblage of persons met for any lawful purpose” *Id.* ¶ 19
18 (citing Chapter XVII: Carrying Concealed Weapons—Firing Guns, Pistols,
19 Fire Crackers, Etc., May 22, 1890, reprinted in *General Ordinances of the*
20 *Town of Columbia, in Boone County, Missouri*, at 34, 35 (Lewis M. Switzler
21 ed., 1890)).

17 And many cities passed ordinances that regulated firearms in parks:

- 18 • In 1857, the Board of Commissioners of the Central Park in New York City
19 prohibited all persons from “carry[ing] firearms” within Central Park. *First*
20 *Annual Report of the Improvement of the Central Park, New York* (January 1,
21 1857) Appendix A, 106 (Chas. W. Baker 1857).⁸
- 22 • In 1873, Chicago forbid all persons “to carry firearms or to throw stones or
23 other missiles within any one of the public parks[.]” *Laws and Ordinances*
24 *Governing the City of Chicago*, Part I, Chp. 31, § 6, 88-89 (Murray F. Tuley,
25 Bulletin Printing Company 1873).
- 26 • In 1868, Philadelphia required that “No persons shall carry firearms, or shoot
27 birds, in the park, or within fifty yards thereof, or throw stones or other

27 ⁸ Defendants’ first supplemental brief provides a later example for Central
28 Park, in the *Fourth Annual Report of the Board of Commissioners of the Central*
Park, 106 (1861). See Defs.’ Supplemental Br., ECF No 26, at Argument III.B.3.

1 missiles therein.” *A Digest of the Laws and Ordinances of the City of*
2 *Philadelphia from the Year 1701 to the 21 Day of June, 1887*, A.14 ap. 1868
3 § 21 P.L. 10851 VII. 57, 2, at 513 (Frank F. Brightley, Kay & Brother, 1887).

- 4 • In 1891, Saint Paul required that “No person shall carry firearms or shoot
5 birds in any park, or within fifty yards thereof, or throw stones or other
6 missiles therein.” *Proceedings of the Common Council of the City of Saint*
7 *Paul, June 2, 1891*, at 133 (St. Paul: The Herald Print 1892).
- 8 • In 1892, Lynn, Massachusetts prohibited the “discharge or carry[ing] [of]
9 firearms” “within the limits of Lynn Woods and Meadow Park” *Annual*
10 *Report of the Park Commissioners of the City of Lynn for the Year Ending*
11 *December 20, 1892*, at 45 (United States: Whitten & Cass 1893).
- 12 • In 1893, Pittsburgh, Pennsylvania provided that “No person shall be allowed
13 to carry firearms, or to shoot or throw stones at or to set snares for birds, . . .
14 within the limits of the parks or within one hundred yards thereof.” *A Digest*
15 *of the Acts of Assembly Relating to and the General Ordinances of the City of*
16 *Pittsburgh, from 1804 to Jan. 1, 1897, with References to Decision Thereon*,
17 496, § 5 (July 27, 1893) (W.W. Thomson, W. T. Nicholson Sons, Printers
18 and Binders 2d ed. 1897).

15 These and other sensitive places laws regulating the carrying of firearms have
16 been historically accepted as constitutional. *See, e.g., Eng. v. State*, 35 Tex. at 478-
17 79; *Hill v. State*, 53 Ga. at 475; *see also* Charles Decl., ¶ 23. And there should be
18 no dispute that they are no less restrictive than SB 264 and SB 915, which merely
19 prohibit the *sale* of firearms, ammunition and precursor parts on state property. The
20 challenged laws here also share a similar purpose to the analogues identified—
21 protecting the public welfare in locations where a large group of people gather—
22 and thus are comparably justified.

23 CONCLUSION

24 The Court should deny Plaintiffs’ motion for a preliminary injunction.
25
26
27
28

1 Dated: February 24, 2023

Respectfully submitted,

2

ROB BONTA
Attorney General of California

3

R. MATTHEW WISE
Supervising Deputy Attorney General

4

5

/s/Nicole J. Kau
Nicole J. Kau

6

Deputy Attorney General
*Attorneys for Defendants Governor
Gavin Newsom, Attorney General
Rob Bonta, Secretary Karen Ross,
and 32nd District Agricultural
Association*

7

8

9

10 SA2022303648
65773790.docx

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for the State Defendants certifies that this brief contains 5,730 words, which:

 x complies with the word limit of L.R. 11-6.1.

 complies with the word limit set by court order dated [date].

Dated: February 24, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
R. MATTHEW WISE
Supervising Deputy Attorney General

/s/Nicole J. Kau
Nicole J. Kau
Deputy Attorney General
*Attorneys for Defendants Governor
Gavin Newsom, Attorney General
Rob Bonta, Secretary Karen Ross,
and 32nd District Agricultural
Association*

Case 8:22-cv-01518-JWH-JDE Document 31 Filed 02/24/23 Page 27 of 27 Page ID #:1681

CERTIFICATE OF SERVICE

Case **B&L Productions, Inc., et al. v.** No. **8:22-cv-01518 JWH (JDEx)**
Name: **Gavin Newsom, et al.**

I hereby certify that on February 24, 2023, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

STATE DEFENDANTS' SECOND SUPPLEMENTAL BRIEF IN OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on February 24, 2023, at Los Angeles, California.

Carol Chow
Declarant

/s/Carol Chow
Signature

SA2022303648

SER-0081

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ROB BONTA
Attorney General of California
R. MATTHEW WISE
Supervising Deputy Attorney General
NICOLE J. KAU
Deputy Attorney General
State Bar No. 292026
300 South Spring Street, Suite 1702
Los Angeles, CA 90013-1230
Telephone: (213) 269-6220
Fax: (916) 731-2125
E-mail: Nicole.Kau@doj.ca.gov
*Attorneys for Defendants Governor Gavin Newsom,
Attorney General Rob Bonta, Secretary Karen Ross,
and 32nd District Agricultural Association*

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

GAVIN NEWSOM, et al.,

Defendants.

8:22-cv-01518 JWH (JDEx)

**STATE DEFENDANTS'
OPPOSITION TO MOTION FOR
PRELIMINARY INJUNCTION**

Date: January 6, 2023
Time: 9:00 a.m.
Courtroom: 9D
Judge: The Honorable John W.
Holcomb
Trial Date: TBD
Action Filed: August 12, 2022

1 acknowledgement that gun stores “are materially different from other retail
2 businesses” due to the regulations such stores must follow).¹⁰

3 Rational basis review thus applies to this claim, *Nordyke 2012*, 681 F.3d at
4 1043 n.2—which, for the reasons previously discussed, is satisfied here. *Ante*
5 Argument I.B.1.

6 **D. Plaintiffs Are Not Likely to Succeed on the Merits of Their**
7 **Second Amendment Claim**

8 **1. New Analytical Framework for Second Amendment Claims**

9 In *New York State Rifle & Pistol Assoc., Inc. v. Bruen*, 142 S. Ct. 2111 (2022)
10 (*Bruen*) the Supreme Court set forth a new analytical framework for Second
11 Amendment claims. The Court rejected the use of means-end scrutiny in the “two-
12 step test” that most federal courts of appeals had adopted for resolving those claims.
13 *Bruen*, 142 S. Ct. at 2126-2127. Instead, *Bruen* held that courts must initially
14 assess whether the “Second Amendment’s plain text covers” an individual’s
15 “proposed course of conduct,” in other words, whether the regulation at issue
16 prevents any “people” from “keep[ing]” or “bear[ing]” “Arms.” *Id.* at 2126, 2134.
17 If the answer is no, there is no violation of the Second Amendment. If the answer
18 is yes, the government can still justify its regulation—and overcome a
19 constitutional challenge—by showing that the challenged law is “consistent with
20 the Nation’s historical tradition of firearm regulation.” *Id.* at 2130.

21 While *Bruen* announced a new rubric for analyzing Second Amendment
22 claims, it also made clear that governments may continue to adopt reasonable gun
23 safety regulations. The Court recognized that the Second Amendment is not a
24 “regulatory straightjacket.” *Bruen*, 142 S. Ct. at 2133. Nor is it a right to “keep
25 and carry any weapon whatsoever in any manner whatsoever and for whatever
26 purposes.” *Id.* at 2128 (quoting *District of Columbia v. Heller*, 554 U.S. 570, 626

27 ¹⁰ An en banc panel of the Ninth Circuit affirmed the district court’s rejection
28 of the equal protection claim “for the reasons given in the panel opinion.” *Teixeira*
v. Cty. of Alameda, 873 F.3d 670, 676 n.7 (9th Cir. 2017).

1 (2008)). And Justice Kavanaugh—joined by Chief Justice Roberts—wrote
2 separately to underscore the “limits of the Court’s decision.” *Id.* at 2161
3 (Kavanaugh, J., concurring). Justice Kavanaugh reiterated *Heller*’s observation that
4 “the Second Amendment allows a ‘variety’ of gun regulations.” *Id.* at 2162
5 (quoting *Heller*, 554 U.S. at 636). And he emphasized that the “presumptively
6 lawful regulatory measures” that *Heller* identified—including laws “imposing
7 conditions and qualifications on the commercial sale of arms,” “longstanding
8 prohibitions on the possession of firearms by felons and the mentally ill,” laws
9 “forbidding the carrying of firearms in sensitive places,” and laws prohibiting the
10 keeping and carrying of “dangerous and unusual weapons”—remained
11 constitutional, and that this was not an “exhaustive” list. *Id.* at 2162 (quoting
12 *Heller*, 554 U.S. at 626-627, 627 n.26).¹¹

13 2. SB 264 and SB 915 Do Not Meaningfully Restrict Plaintiffs’ 14 Access to Firearms

15 It is undisputed that SB 264 and SB 915 “do[] not bar the possession of
16 firearms, ammunition, or firearm precursor parts” FAC ¶ 147. Instead,
17 Plaintiffs allege that SB 264 and SB 915 violate their “right to *buy and sell* firearms
18 and the ammunition and parts necessary for the effective operation of those
19 firearms.” FAC ¶¶ 238, emphasis added. Plaintiffs rely on case law addressing the
20 acquisition of arms, ammunition, and accessories (MPI at 22-23, citing *Jackson v.*
21 *City & Cty. of San Francisco*, 746 F.3d 953, 967-68 (9th Cir. 2014), and *Duncan v.*
22 *Becerra*, 970 F.3d 1133 (9th Cir. 2020)), but “gun buyers have no right to have a
23 gun store in a particular location, at least as long as their access is not meaningfully
24 constrained.” *Teixeira v. Cty. of Alameda*, 873 F.3d 670, 680 (9th Cir. 2017).

25 ¹¹ Justice Kavanaugh’s observations in concurrence, with which Chief Justice
26 Roberts joined, warrant special consideration because his and the Chief Justice’s
27 votes were necessary to secure a majority for the lead *Bruen* opinion. *See also*
28 *Bruen*, 142 S. Ct. at 2157 (Alito, J., concurring) (“Our holding decides nothing
about who may lawfully possess a firearm or the requirements that must be met to
buy a gun. Nor does it decide anything about the kinds of weapons that people may
possess.”).

1 In *Teixeira*, a business partnership sought to open a gun store in an
2 unincorporated area of Alameda County. *Teixeira*, 873 F.3d at 673-674. Before
3 opening the store, the partnership had to obtain a conditional use permit from the
4 county and comply with a county zoning ordinance. *Id.* The ordinance required
5 that any business selling firearms be at least 500 feet away from a residentially
6 zoned district, school, other gun store, and other specified properties. *Id.* Because
7 the planned location for the partnership’s gun store was less than 500 feet away
8 from a residentially zoned district, the conditional use permit was ultimately denied.
9 *Id.* at 674-676. The partnership was unable to identify another suitable location in
10 unincorporated Alameda County and subsequently sued the county claiming that
11 the ordinance infringed the Second Amendment rights of the partnership to sell
12 firearms and the rights of the potential customers to buy firearms. *Id.* at 673, 676.

13 An en banc panel of the Ninth Circuit held that the county zoning ordinance
14 “survive[d] constitutional scrutiny.” *Teixeira*, 873 F.3d at 673. The Ninth Circuit
15 separately analyzed the claims of a Second Amendment right to sell firearms and a
16 right to purchase firearms. As to the former, the Ninth Circuit conducted a textual
17 and historical analysis of the Second Amendment to evaluate whether there was a
18 freestanding right to sell firearms. *Id.* at 681-683. Beginning with the Second
19 Amendment’s text, the Court concluded that “[n]othing in the specific language of
20 the Amendment suggests that sellers fall within the scope of its protection.” *Id.* at
21 683. Specifically, the operative language of “keep” and “bear” arms confers a right
22 to have and carry weapons, but does not “confer[] an independent right to sell or
23 trade weapons.” *Id.* The Court’s historical analysis “confirm[ed] that the right to
24 sell firearms was not within” the historical understanding of the Second
25 Amendment’s scope. *Id.* After highlighting the relevant historical evidence, the
26 Ninth Circuit concluded that “no historical authority suggests that the Second
27 Amendment protects an individual’s right to sell a firearm unconnected to the rights
28 of citizens to ‘keep and bear’ arms.” *Id.* at 684-687.

1 guns, the point at which they move from the somewhat-regulated legal market to
2 the shadowy, no-questions-asked illegal market.” MPI, RJN, Ex. 2 at 3, Ex. 10 at
3 2, Ex. 17 at 2.¹³ Gun shows “are [also] a common venue for straw purchases and
4 illegal gun transfers.” MPI, RJN, Ex. 10. at 3; Ex. 17 at 4.¹⁴

5 Given the rationale for the challenged statutes, “[t]he costs of being mistaken[]
6 on the issue of whether the injunction would have a detrimental effect on []gun
7 crime, violence . . . would be grave. These costs would affect members of the
8 public, and they would affect the Government which is tasked with managing []gun
9 violence.” *Tracy Rifle & Pistol LLC v. Harris*, 118 F. Supp. 3d 1182, 1193 (E.D.
10 Cal. 2015), *aff’d*, 637 F. App’x 401 (9th Cir. 2016). In contrast, without an
11 injunction, the public can still engage in gun-related activities and speech, and can
12 still purchase and bear arms.

13 CONCLUSION

14 This Court should deny the motion for preliminary injunction.

15 Dated: December 9, 2022

16 Respectfully submitted,

17 ROB BONTA
18 Attorney General of California
19 R. MATTHEW WISE
20 Supervising Deputy Attorney General

21 /s/NICOLE J. KAU
22 Deputy Attorney General
23 *Attorneys for Defendants Governor*
24 *Gavin Newsom, Attorney General*
25 *Rob Bonta, Secretary Karen Ross,*
26 *and 32nd District Agricultural*
27 *Association*

28 SA2022303648; 65562519_3

¹³ Citing the Center for American Progress and the Bureau of Alcohol, Tobacco, and Firearms, which states that gun shows are a “major trafficking channel” and “were the second largest source of illegally trafficked firearms.”

¹⁴ Citing the Giffords Law Center to Prevent Gun Violence.

EXHIBIT 1

**Assembly Bill No. 893**

CHAPTER 731

An act to add Section 4158 to the Food and Agricultural Code, relating to agricultural districts.

[Approved by Governor October 11, 2019. Filed with Secretary of State October 11, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 893, Gloria. 22nd District Agricultural Association: firearm and ammunition sales at the Del Mar Fairgrounds.

Existing law generally regulates the transfer of firearms and divides the state into agricultural districts. The 22nd District Agricultural Association is comprised of the County of San Diego and includes the Cities of Del Mar and San Diego. A violation of the statutes governing agricultural districts is generally a misdemeanor.

This bill would, on and after January 1, 2021, prohibit the sale of firearms and ammunition at the Del Mar Fairgrounds property located in the 22nd District Agricultural Association, as specified, and would thereby make a violation of that prohibition a misdemeanor. The bill would exclude from its provisions a gun buyback event held by a law enforcement agency.

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

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

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The property known as the Del Mar Fairgrounds (DMFG) is owned by the State of California and managed by the Board of Directors of the 22nd District Agricultural Association (22nd DAA). The 22nd DAA has leased a portion of the DMFG to entities that sponsor marketplaces popularly known as "gun shows," at which firearms and ammunition and other items are sold to the public approximately five times a year.

(b) The United States has experienced many gun-related tragedies with increasing severity and frequency in the last 30 years, including mass murders at Columbine High School, Sandy Hook Elementary School, and

Ch. 731

— 2 —

Marjory Stoneman Douglas High School, and an increasing rate of suicide by gun among all levels of society.

(c) The Cities of Del Mar, Solana Beach, and Encinitas have adopted resolutions requesting that the DMFG Board discontinue leasing any portion of its property for use as a gun show. A committee appointed by the Board of Directors of the 22nd DAA to study gun shows conducted research, including inspection tours of the Del Mar Gun Show by members of the committee as well as by several other members of the DMFG Board.

(d) On September 11, 2018, the DMFG Board, by a vote of eight in favor and one against, adopted a recommendation to consider the feasibility of conducting gun shows for only educational and safety training purposes and to prohibit the possession of guns and ammunition on state property.

(e) Gun shows bring grave danger to a community, and the following dangerous incidents, among others, have occurred at gun shows, including, but not limited to, an official vendor accused of trafficking illegal firearms, sales of firearms to individuals registered in the Department of Justice Bureau of Firearms Armed Prohibited Persons System, and illegal importation of large-capacity magazines.

(f) Each of the foregoing arrests was based on gun show enforcement efforts under the Armed Prohibited Persons System, and the department announced in late 2018 that these gun show enforcement efforts had been discontinued and, between the years 2013 and 2017, the San Diego County Sheriff recorded 14 crimes at the Crossroads of the West Gun Shows at the DMFG.

(g) Promoters maintain relationships with a core group of vendors, some selling guns and some selling other merchandise, who travel as the schedule dictates from city to city and state to state and in the West, for example, many of the same vendors can be seen at Crossroads of the West Gun Shows from San Francisco, California, to Tucson, Arizona.

SEC. 2. Section 4158 is added to the Food and Agricultural Code, to read:

4158. (a) Notwithstanding any other law, an officer, employee, operator, lessee, or licensee of the 22nd District Agricultural Association, as defined in Section 3873, shall not contract for, authorize, or allow the sale of any firearm or ammunition on the property or in the buildings that comprise the Del Mar Fairgrounds in the County of San Diego, the City of Del Mar, the City of San Diego, or any successor or additional property owned, leased, or otherwise occupied or operated by the district.

(b) For purposes of this section:

(1) The definition of “firearm” means the term as included in Section 12001 of the Penal Code.

(2) The term “ammunition” includes assembled ammunition for use in a firearm and components of ammunition, including smokeless and black powder, and any projectile capable of being fired from a firearm with deadly consequence.

(c) This section does not apply to a gun buyback event held by a law enforcement agency.

(d) This section shall become operative on January 1, 2021.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

EXHIBIT 3

ASSEMBLY THIRD READING
AB 893 (Gloria)
As Introduced February 20, 2019
Majority vote

SUMMARY:

Prohibits, as of January 1, 2021, the sale of firearms and ammunitions at the Del Mar Fairgrounds in the County of San Diego and the City of Del Mar and thereby creates a misdemeanor offense for a violation of that prohibition.

Major Provisions

- 1) Prohibits any officer, employee, operator, or lessee of the 22nd District Agricultural Association, as defined, from authorizing, or allowing the sale of any firearm or ammunition on the property or in the buildings that comprise the Del Mar Fairgrounds in the County of San Diego and the City of Del Mar or any successor or additional property owned, leased, or otherwise occupied or operated by the district.
- 2) Provides that the term "ammunition" includes assembled ammunition for use in a firearm and components of ammunition, including smokeless and black powder, and any projectile capable of being fired from a firearm with deadly consequence.
- 3) Provides that the prohibition on firearms and ammunitions sales at the Del Mar Fairgrounds does not apply to gun buy-back events held by a law enforcement agency.
- 4) States that this section will become operative on January 1, 2021.

COMMENTS:**According to the Author:**

"There is an ever apparent link between the gun violence we see virtually every week and the number of guns in our communities. Additionally, the State of California should not be profiting or benefitting from the sale of firearms. This bill demonstrates that we value people over guns and public safety above all

"Fundamentally, I believe it is wrong for the State of California to profit or to benefit from the sale of firearms and ammunition. I acknowledge that gun ownership is a Constitutional right in the United States, and I know that there are plenty of responsible gun owners out there. However, the fact remains that widespread accessibility to these deadly weapons produces a public safety threat that we must address."

Arguments in Support:

According to the *NeverAgainCA*: "NeverAgainCA organized large, peaceful protests at every gun show at the Del Mar Fairgrounds, attended and spoke at every meeting of the 22nd District Agricultural Association Board, and joined students protesting gun violence and gun shows at many area schools. NeverAgainCA presented resolutions calling for the elimination of the gun shows at the Del Mar Fairgrounds to the City Councils of the adjacent cities of Del Mar, Solana Beach and Encinitas; these resolutions were adopted and are part of the record of this hearing. Candidate and now Congressman Mike Levin addressed several of our rallies against the gun shows. At the request of NeverAgainCA, then Lt. Governor, now Governor, Gavin Newsom,

called on the Fair Board to end gun shows and put an end to valuing the sale of firearms above the value of lives.

"NeverAgainCA is proud to support AB 893. The residents of the 78th AD and adjacent districts, and their elected representatives, have demonstrated the broad public support for ending gun shows at the Del Mar Fair Grounds on a permanent basis."

Arguments in Opposition:

According to the *California Rifle and Pistol Association, Inc.*: "Promoters and operators of gun shows in California must comply with no less than 26 sections of the penal code. Gun sales are highly-regulated in California and the rules are no less stringent for those vendors at gun shows (Refer Exhibit #2 attached). Vendors that participate in gun shows may not do so unless all their licenses have been submitted to the California Department of Justice before the event for the purposes of determining whether the vendors possess the proper valid licenses. If they do not pass the review of the California DOJ, they are prohibited from participating.

"Gun shows are very much a family event. Many of them have training and education, guest speakers, lifestyle vendors, safety training, and more. Ever hear of a shooting spree at a gun show? No, because people that attend gun shows are the law-abiding citizens that attend for the educational value and to stay up on new products that are available. It is no different than any other trade show that occurs in other industries across the state. Criminals would never subject themselves to this much scrutiny and regulation in the hopes of getting their hands on a firearm. These types of false and scare-tactic narratives have no place in modern discourse."

FISCAL COMMENTS:

According to the Assembly Appropriations Committee:

- 1) Minor costs (general fund) for the Department of Justice to update its records to reflect the criminal penalty for sales of firearms and ammunition at the Del Mar Fairgrounds, since it is a violation of the Food and Agricultural Code.
- 2) No direct cost to the California Department of Food and Agriculture (CDFA).

Please see the policy committee analysis for a full discussion of this bill.

VOTES:

ASM PUBLIC SAFETY: 5-2-1

YES: Jones-Sawyer, Bauer-Kahan, Kamlager-Dove, Santiago, Wicks

NO: Lackey, Diep

ABS, ABST OR NV: Quirk

ASM APPROPRIATIONS: 12-5-1

YES: Gonzalez, Bloom, Bonta, Calderon, Carrillo, Chau, Eggman, Gabriel, Friedman,

Petrie-Norris, Quirk, Robert Rivas

NO: Bigelow, Brough, Diep, Fong, Obernolte

ABS, ABST OR NV: Maienschein

UPDATED:

VERSION: February 20, 2019

CONSULTANT: Matthew Fleming (Counsel) / PUB. S. / (916) 319-3744

FN: 0000097

EXHIBIT 5

SENATE COMMITTEE ON APPROPRIATIONS
Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

AB 893 (Gloria) - 22nd District Agricultural Association: firearm and ammunition sales at the Del Mar Fairgrounds

Version: May 15, 2019

Urgency: No

Hearing Date: June 24, 2019

Policy Vote: PUB. S. 5 - 2

Mandate: Yes

Consultant: Shaun Naidu

Bill Summary: AB 893 would prohibit the sale of firearms and ammunition at the Del Mar Fairgrounds.

Fiscal Impact:

- Annual revenue loss in the low hundreds of thousands of dollars to the extent that the 22nd District Agricultural Association is unable to secure alternative events to gun shows (that would not have taken place at the fairgrounds already) that could generate similar levels of revenue. (Special fund)
- Unknown loss of sales tax revenue if firearm and ammunition sales that would have taken place at the Del Mar Fairgrounds do not occur at another location within the state. (General Fund, local funds)

Background: On September 11, 2018, the 22nd District Agricultural Association's Board of Directors voted to refuse considering any contracts with producers of gun shows beyond December 31, 2018 until it adopts a more thorough policy regarding the conduct of gun shows. Consequently, B&L Productions, Inc., the operator of Crossroads of the West Gun Shows, filed a lawsuit challenging the board's decision on the grounds that it violates the U.S. Constitution's First Amendment guarantee to free expression. On June 18, 2019, the U.S. District Court for the Southern District of California issued a preliminary injunction prohibiting the district from enforcing the policy adopted in September 2018 of refusing to allow any gun show events at the fairgrounds for the 2019 calendar year. The court ordered the district, upon the request of B&L Productions, Inc., to "make available the next available date for a gun show and allow B&L to reserve dates for gun show events (and to hold such events) at the Fairgrounds as the District would any other show promoters who have previously held events at the Fairgrounds."

Proposed Law: This bill would prohibit, as of January 1, 2021, an officer, employee, lessee, or licensee of the 22nd District Agricultural Association from contracting for, or allowing the sale of firearms and ammunitions at the Del Mar Fairgrounds in the County of San Diego, the City of Del Mar, the City of San Diego. This measure would exclude gun buyback events held by a law enforcement agency.

Related Legislation: A number of bills in a number of legislative sessions have sought to prohibit firearms and ammunition sales at the Cow Palace. These bills are SB 281 (Wiener, 2019); SB 221 (Wiener, 2017); SB 475 (Leno, 2013); and SB 585 (Leno, 2009). SB 281 is pending in this Committee. Senate bills 221, 475, and 585 were vetoed by previous governors.

AB 893 (Gloria)

Page 2 of 2

Staff Comments: The 22nd District Agricultural Association collects a number of fees associated with gun shows held at the Del Mar Fairgrounds. Namely, it collects rental fees, food concessions, parking fees, and ancillary revenue. Gun show revenue generated at the fairgrounds varies annually depending on the number of events held and the number of people in attendance. For example, it appears that there were five gun shows held at the fairgrounds in 2017 that resulted in net revenue of approximately \$304,000. In 2018, there were three gun shows held at the fairgrounds that generated a total net revenue of roughly \$146,000.

-- END --

EXHIBIT 6

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

AB 893

THIRD READING

Bill No: AB 893
Author: Gloria (D), et al.
Amended: 8/30/19 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-2, 6/11/19
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Moorlach, Morrell

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/30/19
AYES: Portantino, Bradford, Durazo, Hill, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 52-22, 4/25/19 - See last page for vote

SUBJECT: 22nd District Agricultural Association: firearm and ammunition sales at the Del Mar Fairgrounds

SOURCE: NeverAgainCA

DIGEST: This bill prohibits, as of January 1, 2021, the sale of firearms and ammunitions at the Del Mar Fairgrounds in the County of San Diego, the City of Del Mar, the City of San Diego and thereby creates a misdemeanor offense for a violation of that prohibition.

ANALYSIS:

Existing law:

- 1) Divides the state in agricultural districts and designates District 22 as San Diego County. (Food and Agr. Code, §§ 3851, 3873.)
- 2) Allows for the establishment of District Agricultural Associations within each agricultural district, for the purposes of holding fairs, expositions and

exhibitions, and constructing, maintaining, and operating recreational and cultural facilities of general public interest. (Food & Agr. Code, § 3951.)

- 3) Provides that bringing or possessing a firearm within any state or local public building is punishable by imprisonment in a county jail for not more than one year, or in the state prison, unless a person brings any weapon that may be lawfully transferred into a gun show for the purpose of sale or trade. (Pen. Code §§ 171b subd. (a), 171b subd. (b)(7)(A).)
- 4) Prohibits the sale, lease, or transfer of firearms without a license, unless the sale, lease, or transfer is pursuant to operation of law or a court order, made by a person who obtains the firearm by intestate succession or bequest, or is an infrequent sale, transfer, or transfer, as defined. (Pen. Code § 26500, 26505, 26520.)
- 5) Excludes persons with a valid federal firearms license and a current certificate of eligibility issued by the Department of Justice from the prohibitions on the sale, lease, or transfer of used firearms, other than handguns, at gun shows or events. (Pen. Code § 26525.)
- 6) Permits licensed dealers to sell firearms only from their licensed premises and at gun shows. (Pen. Code § 26805.)
- 7) States that a dealer operating at a gun show must comply with all applicable laws, including California's waiting period law, laws governing the transfer of firearms by dealers, and all local ordinances, regulations, and fees. (Pen. Code § 26805.)
- 8) States that no person shall produce, promote, sponsor, operate, or otherwise organize a gun show, unless that person possesses a valid certificate of eligibility from the Department of Justice. (Pen. Code § 27200.)
- 9) Specifies the requirements that gun show operators must comply with at gun shows, including entering into a written contract with each gun show vendor selling firearms at the show, ensuring that liability insurance is in effect for the duration of a gun show, posting visible signs pertaining to gun show laws at the entrances of the event, and submitting a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to the Department of Justice, as specified. (Pen. Code §§ 27200, 27245.)

- 10) Specifies that unless a different penalty is expressly provided, a violation of any provision of the Food and Agricultural Code is a misdemeanor. (Food and Agr. Code, § 9.)

This bill:

- 1) Prohibits any officer, employee, operator, or lessee of the 22nd District Agricultural Association, as defined, from authorizing, or allowing the sale of any firearm or ammunition on the property or in the buildings that comprise the Del Mar Fairgrounds in the County of San Diego the City of Del Mar, the City of San Diego; or any successor or additional property owned, leased, or otherwise occupied or operated by the district.
- 2) Provides that the term “ammunition” includes assembled ammunition for use in a firearm and components of ammunition, including smokeless and black powder, and any projectile capable of being fired from a firearm with deadly consequence.
- 3) Provides that the prohibition on firearms and ammunitions sales at the Del Mar Fairgrounds does not apply to gun buy-back events held by a law enforcement agency.
- 4) States that this section will become operative on January 1, 2021.
- 5) Finds and declares the following:
 - a) The Del Mar Fairgrounds is owned by the State of California.
 - b) The United States has experienced increased gun-related tragedies over the last 30 years.
 - c) The Cities of Del Mar, Solana Beach, and Encinitas have adopted resolutions asking the Del Mar Fairgrounds to discontinue gun shows.
 - d) The Del Mar Fairgrounds Board of Directors voted on September 11, 2018, to continue hosting gun shows.
 - e) Gun shows bring grave danger to the community, and arrests have resulted from the activities of the gun shows, as specified.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- Annual revenue loss in the low hundreds of thousands of dollars to the extent that the 22nd District Agricultural Association is unable to secure alternative events to gun shows (that would not have taken place at the fairgrounds already) that could generate similar levels of revenue. (Special fund)
- Unknown loss of sales tax revenue if firearm and ammunition sales that would have taken place at the Del Mar Fairgrounds do not occur at another location within the state. (General Fund, local funds)

SUPPORT: (Verified 8/30/19)

NeverAgainCA (source)
Bay Area Student Activists
Brady United Against Gun Violence
City of Del Mar
City of Encinitas
City of Solana Beach
League of Women Voters
San Diegans for Gun Violence Prevention

OPPOSITION: (Verified 8/30/19)

California Rifle and Pistol Association, Inc.
California Sportsman's Lobby
Crossroads of the West
Firearms Policy Coalition
Gun Owners of California
National Rifle Association
National Shooting Sports Foundation
Outdoor Sportsmen's Coalition of California
Safari Club International
Safari Club International Foundation
Western Fairs Association

ARGUMENTS IN SUPPORT: According to NeverAgainCA, "NeverAgainCA organized large, peaceful protests at every gun show at the Del Mar Fairgrounds attended and spoke at every meeting of the 22nd District Agricultural Association Board, and joined students protesting gun violence and gun shows at many area schools. NeverAgainCA presented resolutions calling for the elimination of the gun shows at the Del Mar Fairgrounds to the City Councils of the adjacent cities of

Del Mar, Solana Beach and Encinitas; these resolutions were adopted and are part of the record of this hearing. Candidate and now Congressman Mike Levin addressed several of our rallies against the gun shows. At the request of NeverAGainCA, then Lt. Governor, now Governor, Gavin Newsom, called on the Fair Board to end gun shows and put an end to valuing the sale of firearms above the value of lives.

“NeverAgainCA is proud to support AB 893. The residents of the 78th AD and adjacent districts, and their elected representatives, have demonstrated the broad public support for ending gun shows at the Del Mar Fair Grounds on a permanent basis.”

ARGUMENTS IN OPPOSITION: According to the California Rifle and Pistol Association, Inc., “Promoters and operators of gun shows in California must comply with no less than twenty-six sections of the penal code. Gun sales are highly-regulated in California and the rules are no less stringent for those vendors at gun shows (Refer Exhibit #2 attached). Vendors that participate in gun shows may not do so unless all their licenses have been submitted to the California Department of Justice before the event for the purposes of determining whether the vendors possess the proper valid licenses. If they do not pass the review of the California DOJ, they are prohibited from participating.”

ASSEMBLY FLOOR: 52-22, 4/25/19

AYES: Aguiar-Curry, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Chau, Chiu, Chu, Daly, Eggman, Friedman, Gabriel, Cristina Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

NOES: Bigelow, Brough, Cervantes, Choi, Cooley, Cunningham, Dahle, Diep, Flora, Fong, Frazier, Gallagher, Kiley, Lackey, Mathis, Mayes, Melendez, Obernolte, Patterson, Salas, Voepel, Waldron

NO VOTE RECORDED: Arambula, Chen, Cooper, Eduardo Garcia, Gray, Rodriguez

Prepared by: Gabe Caswell / PUB. S. /
9/3/19 11:05:18

**** END ****

EXHIBIT 7

SENATE RULES COMMITTEE

AB 893

Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 893
Author: Gloria (D), et al.
Amended: 9/6/19 in Senate
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-2, 6/11/19
AYES: Skinner, Bradford, Jackson, Mitchell, Wiener
NOES: Moorlach, Morrell

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/30/19
AYES: Portantino, Bradford, Durazo, Hill, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 52-22, 4/25/19 - See last page for vote

SUBJECT: 22nd District Agricultural Association: firearm and ammunition sales at the Del Mar Fairgrounds

SOURCE: NeverAgainCA

DIGEST: This bill prohibits, as of January 1, 2021, the sale of firearms and ammunitions at the Del Mar Fairgrounds in the County of San Diego, the City of Del Mar, the City of San Diego and thereby creates a misdemeanor offense for a violation of that prohibition.

Senate Floor Amendments of 9/6/19 delete a finding and declaration related to a specific group of firearms dealers.

ANALYSIS:

Existing law:

- 1) Divides the state in agricultural districts and designates District 22 as San Diego County. (Food and Agr. Code, §§ 3851, 3873.)
- 2) Allows for the establishment of District Agricultural Associations within each agricultural district, for the purposes of holding fairs, expositions and exhibitions, and constructing, maintaining, and operating recreational and cultural facilities of general public interest. (Food & Agr. Code, § 3951.)
- 3) Provides that bringing or possessing a firearm within any state or local public building is punishable by imprisonment in a county jail for not more than one year, or in the state prison, unless a person brings any weapon that may be lawfully transferred into a gun show for the purpose of sale or trade. (Pen. Code §§ 171b subd. (a), 171b subd. (b)(7)(A).)
- 4) Prohibits the sale, lease, or transfer of firearms without a license, unless the sale, lease, or transfer is pursuant to operation of law or a court order, made by a person who obtains the firearm by intestate succession or bequest, or is an infrequent sale, transfer, or transfer, as defined. (Pen. Code § 26500, 26505, 26520.)
- 5) Excludes persons with a valid federal firearms license and a current certificate of eligibility issued by the Department of Justice from the prohibitions on the sale, lease, or transfer of used firearms, other than handguns, at gun shows or events. (Pen. Code § 26525.)
- 6) Permits licensed dealers to sell firearms only from their licensed premises and at gun shows. (Pen. Code § 26805.)
- 7) States that a dealer operating at a gun show must comply with all applicable laws, including California's waiting period law, laws governing the transfer of firearms by dealers, and all local ordinances, regulations, and fees. (Pen. Code § 26805.)
- 8) States that no person shall produce, promote, sponsor, operate, or otherwise organize a gun show, unless that person possesses a valid certificate of eligibility from the Department of Justice. (Pen. Code § 27200.)

- 9) Specifies the requirements that gun show operators must comply with at gun shows, including entering into a written contract with each gun show vendor selling firearms at the show, ensuring that liability insurance is in effect for the duration of a gun show, posting visible signs pertaining to gun show laws at the entrances of the event, and submitting a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to the Department of Justice, as specified. (Pen. Code §§ 27200, 27245.)
- 10) Specifies that unless a different penalty is expressly provided, a violation of any provision of the Food and Agricultural Code is a misdemeanor. (Food and Agr. Code, § 9.)

This bill:

- 1) Prohibits any officer, employee, operator, or lessee of the 22nd District Agricultural Association, as defined, from authorizing, or allowing the sale of any firearm or ammunition on the property or in the buildings that comprise the Del Mar Fairgrounds in the County of San Diego the City of Del Mar, the City of San Diego; or any successor or additional property owned, leased, or otherwise occupied or operated by the district.
- 2) Provides that the term “ammunition” includes assembled ammunition for use in a firearm and components of ammunition, including smokeless and black powder, and any projectile capable of being fired from a firearm with deadly consequence.
- 3) Provides that the prohibition on firearms and ammunitions sales at the Del Mar Fairgrounds does not apply to gun buy-back events held by a law enforcement agency.
- 4) States that this section will become operative on January 1, 2021.
- 5) Finds and declares the following:
 - a) The Del Mar Fairgrounds is owned by the State of California.
 - b) The United States has experienced increased gun-related tragedies over the last 30 years.
 - c) The Cities of Del Mar, Solana Beach, and Encinitas have adopted resolutions asking the Del Mar Fairgrounds to discontinue gun shows.

- d) The Del Mar Fairgrounds Board of Directors voted on September 11, 2018, to continue hosting gun shows.
- e) Gun shows bring grave danger to the community, and arrests have resulted from the activities of the gun shows, as specified.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- Annual revenue loss in the low hundreds of thousands of dollars to the extent that the 22nd District Agricultural Association is unable to secure alternative events to gun shows (that would not have taken place at the fairgrounds already) that could generate similar levels of revenue. (Special fund)
- Unknown loss of sales tax revenue if firearm and ammunition sales that would have taken place at the Del Mar Fairgrounds do not occur at another location within the state. (General Fund, local funds)

SUPPORT: (Verified 9/6/19)

NeverAgainCA (source)
Bay Area Student Activists
Brady United Against Gun Violence
City of Del Mar
City of Encinitas
City of Solana Beach
League of Women Voters
San Diegans for Gun Violence Prevention

OPPOSITION: (Verified 9/6/19)

California Rifle and Pistol Association, Inc.
California Sportsman's Lobby
Crossroads of the West
Firearms Policy Coalition
Gun Owners of California
National Rifle Association
National Shooting Sports Foundation
Outdoor Sportsmen's Coalition of California
Safari Club International
Safari Club International Foundation
Western Fairs Association

ARGUMENTS IN SUPPORT: According to NeverAgainCA, “NeverAgainCA organized large, peaceful protests at every gun show at the Del Mar Fairgrounds attended and spoke at every meeting of the 22nd District Agricultural Association Board, and joined students protesting gun violence and gun shows at many area schools. NeverAgainCA presented resolutions calling for the elimination of the gun shows at the Del Mar Fairgrounds to the City Councils of the adjacent cities of Del Mar, Solana Beach and Encinitas; these resolutions were adopted and are part of the record of this hearing. Candidate and now Congressman Mike Levin addressed several of our rallies against the gun shows. At the request of NeverAGainCA, then Lt. Governor, now Governor, Gavin Newsom, called on the Fair Board to end gun shows and put an end to valuing the sale of firearms above the value of lives.

“NeverAgainCA is proud to support AB 893. The residents of the 78th AD and adjacent districts, and their elected representatives, have demonstrated the broad public support for ending gun shows at the Del Mar Fair Grounds on a permanent basis.”

ARGUMENTS IN OPPOSITION: According to the California Rifle and Pistol Association, Inc., “Promoters and operators of gun shows in California must comply with no less than twenty-six sections of the penal code. Gun sales are highly-regulated in California and the rules are no less stringent for those vendors at gun shows (Refer Exhibit #2 attached). Vendors that participate in gun shows may not do so unless all their licenses have been submitted to the California Department of Justice before the event for the purposes of determining whether the vendors possess the proper valid licenses. If they do not pass the review of the California DOJ, they are prohibited from participating.”

ASSEMBLY FLOOR: 52-22, 4/25/19

AYES: Aguiar-Curry, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Chau, Chiu, Chu, Daly, Eggman, Friedman, Gabriel, Cristina Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

NOES: Bigelow, Brough, Cervantes, Choi, Cooley, Cunningham, Dahle, Diep, Flora, Fong, Frazier, Gallagher, Kiley, Lackey, Mathis, Mayes, Melendez, Obernolte, Patterson, Salas, Voepel, Waldron

NO VOTE RECORDED: Arambula, Chen, Cooper, Eduardo Garcia, Gray,
Rodriguez

Prepared by: Gabe Caswell / PUB. S. /
9/9/19 18:24:01

**** **END** ****

EXHIBIT 8

CONCURRENCE IN SENATE AMENDMENTS

AB 893 (Gloria)

As Amended September 6, 2019

Majority vote

SUMMARY:

Prohibits, as of January 1, 2021, the sale of firearms and ammunitions at the Del Mar Fairgrounds property in the County of San Diego and the cities of San Diego and Del Mar and thereby creates a misdemeanor offense for a violation of that prohibition.

The Senate Amendments:

- 1) Make minor clarifying changes to this bill.
- 2) Add legislative findings and declarations.

COMMENTS:**According to the Author:**

"There is an ever apparent link between the gun violence we see virtually every week and the number of guns in our communities. Additionally, the State of California should not be profiting or benefitting from the sale of firearms. This bill demonstrates that we value people over guns and public safety above all

"Fundamentally, I believe it is wrong for the State of California to profit or to benefit from the sale of firearms and ammunition. I acknowledge that gun ownership is a Constitutional right in the United States, and I know that there are plenty of responsible gun owners out there. However, the fact remains that widespread accessibility to these deadly weapons produces a public safety threat that we must address."

Arguments in Support:

According to the *NeverAgainCA*: "NeverAgainCA organized large, peaceful protests at every gun show at the Del Mar Fairgrounds. attended and spoke at every meeting of the 22nd District Agricultural Association Board, and joined students protesting gun violence and gun shows at many area schools. NeverAgainCA presented resolutions calling for the elimination of the gun shows at the Del Mar Fairgrounds to the City Councils of the adjacent cities of Del Mar, Solana Beach and Encinitas; these resolutions were adopted and are part of the record of this hearing. Candidate and now Congressman Mike Levin addressed several of our rallies against the gun shows. At the request of NeverAGainCA, then Lt. Governor, now Governor, Gavin Newsom, called on the Fair Board to end gun shows and put an end to valuing the sale of firearms above the value of lives.

"NeverAgainCA is proud to support AB 893. The residents of the 78th AD and adjacent districts, and their elected representatives, have demonstrated the broad public support for ending gun shows at the Del Mar Fair Grounds on a permanent basis."

Arguments in Opposition:

According to the *California Rifle and Pistol Association, Inc.*: "Promoters and operators of gun shows in California must comply with no less than twenty-six sections of the penal code. Gun sales are highly-regulated in California and the rules are no less stringent for those vendors at gun shows (Refer Exhibit #2 attached). Vendors that participate in gun shows may not do so unless all their licenses have been submitted to the California Department of Justice before the event for the purposes of determining whether the vendors possess the proper valid licenses. If they do not pass the review of the California DOJ, they are prohibited from participating.

...

"Gun shows are very much a family event. Many of them have training and education, guest speakers, lifestyle vendors, safety training, and more. Ever hear of a shooting spree at a gun show? No, because people that attend gun shows are the law-abiding citizens that attend for the educational value and to stay up on new products that are available. It is no different than any other trade show that occurs in other industries across the state. Criminals would never subject themselves to this much scrutiny and regulation in the hopes of getting their hands on a firearm. These types of false and scare-tactic narratives have no place in modern discourse."

FISCAL COMMENTS:

According to the Senate Appropriations Committee:

- 1) Annual revenue loss in the low hundreds of thousands of dollars to the extent that the 22nd District Agricultural Association is unable to secure alternative events to gun shows (that would not have taken place at the fairgrounds already) that could generate similar levels of revenue. (Special fund)
- 2) Unknown loss of sales tax revenue if firearm and ammunition sales that would have taken place at the Del Mar Fairgrounds do not occur at another location within the state. (General Fund, local funds)

VOTES:**ASM PUBLIC SAFETY: 5-2-1**

YES: Jones-Sawyer, Bauer-Kahan, Kamlager-Dove, Santiago, Wicks

NO: Lackey, Diep

ABS, ABST OR NV: Quirk

ASM APPROPRIATIONS: 12-5-1

YES: Gonzalez, Bloom, Bonta, Calderon, Carrillo, Chau, Eggman, Gabriel, Friedman, Petrie-Norris, Quirk, Robert Rivas

NO: Bigelow, Brough, Diep, Fong, Obernolte

ABS, ABST OR NV: Maienschein

ASSEMBLY FLOOR: 52-22-6

YES: Aguiar-Curry, Bauer-Kahan, Berman, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Chau, Chiu, Chu, Daly, Eggman, Friedman, Gabriel, Cristina Garcia, Gipson, Gloria, Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk,

Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Smith, Mark Stone, Ting, Weber, Wicks, Wood, Rendon

NO: Bigelow, Brough, Cervantes, Choi, Cooley, Cunningham, Dahle, Diep, Flora, Fong, Frazier, Gallagher, Kiley, Lackey, Mathis, Mayes, Melendez, Obernolte, Patterson, Salas, Voepel, Waldron

ABS, ABST OR NV: Arambula, Chen, Cooper, Eduardo Garcia, Gray, Rodriguez

SENATE FLOOR: 27-11-2

YES: Allen, Archuleta, Atkins, Beall, Bradford, Caballero, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Hertzberg, Hill, Hueso, Jackson, Leyva, McGuire, Mitchell, Monning, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Bates, Borgeas, Chang, Dahle, Grove, Jones, Moorlach, Morrell, Nielsen, Stone, Wilk

ABS, ABST OR NV: Hurtado, Roth

UPDATED:

VERSION: September 6, 2019

CONSULTANT: Matthew Fleming (Counsel) / PUB. S. / (916) 319-3744

FN: 0002324

EXHIBIT 9

**Senate Bill No. 264**

CHAPTER 684

An act to add Section 27575 to the Penal Code, relating to firearms.

[Approved by Governor October 8, 2021. Filed with Secretary of State October 8, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 264, Min. Firearms: the OC Fair and Event Center.

Existing law generally regulates the sale and transfer of firearms, including, among other things, requiring transactions of firearms to be completed through a licensed firearms dealer. Existing law generally makes a violation of the requirements relating to the sale, lease, or transfer of a firearm a misdemeanor.

This bill would prohibit an officer, employee, operator, lessee, or licensee of the 32nd District Agricultural Association, as defined, from contracting for, authorizing, or allowing the sale of any firearm, firearm precursor part, or ammunition on the property or in the buildings that comprise the OC Fair and Event Center, as specified. The bill would exempt from its provisions a gun buyback event held by a law enforcement agency, the sale of a firearm by a public administrator, public guardian, or public conservator within the course of their duties, a sale that occurs pursuant to a contract that was entered into before January 1, 2022, and the purchase of ammunition on state property by a law enforcement agency in the course of its regular duties. Because a violation of this prohibition would be a crime, this bill would impose a state-mandated local program.

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

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Some state properties, such as fairgrounds in District Agricultural Associations (DAAs), lease a portion of their fairgrounds to entities that sponsor marketplaces popularly known as "gun shows," at which firearms and ammunition and other items are sold to the public approximately five times a year on average among state fairgrounds.

(b) The United States has experienced many gun-related tragedies with increasing severity and frequency in the last 30 years, including mass

Ch. 684

— 2 —

murders at Columbine High School, Sandy Hook Elementary School, and Marjory Stoneman Douglas High School, and an increasing rate of suicide by gun among all levels of society.

(c) Various California cities, such as the Cities of Del Mar, Solana Beach, and Encinitas have adopted resolutions requesting that their local Del Mar Fairgrounds (DMFG) Board discontinue leasing any portion of its property for use as a gun show. A committee appointed by the Board of Directors of the 22nd DAA to study gun shows conducted research, including inspection tours of the Del Mar Gun Show by members of the committee as well as by several other members of the DMFG Board.

(d) In direct response to this community concern, Assembly Member Todd Gloria passed AB 893 into law, banning gun shows from the DMFG, setting a precedent for gun show legislation in California.

(e) Gun shows bring grave danger to a community, and the following dangerous incidents, among others, have occurred at gun shows, including, but not limited to, an official vendor accused of trafficking illegal firearms, sales of firearms to individuals registered in the Department of Justice Bureau of Firearms Armed Prohibited Persons System, and illegal importation of large-capacity magazines.

(f) Promoters maintain relationships with a core group of vendors, some selling guns and some selling other merchandise, who travel as the schedule dictates from city to city and state to state and in the west, for example, many of the same vendors can be seen at Crossroads of the West Gun Shows from San Francisco, California, to Tucson, Arizona.

SEC. 2. Section 27575 is added to the Penal Code, to read:

27575. (a) Notwithstanding any other law, an officer, employee, operator, lessee, or licensee of the 32nd District Agricultural Association, as defined in Section 3884 of the Food and Agricultural Code, shall not contract for, authorize, or allow the sale of any firearm, firearm precursor part, or ammunition on the property or in the buildings that comprise the OC Fair and Event Center, in the County of Orange, the City of Costa Mesa, or any successor or additional property owned, leased, or otherwise occupied or operated by the district.

(b) This section does not apply to any of the following:

- (1) A gun buyback event held by a law enforcement agency.
- (2) The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties.
- (3) The sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before January 1, 2022.

(4) The purchase of ammunition on state property by a law enforcement agency in the course of its regular duties.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of

Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

EXHIBIT 11

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

SB 264

THIRD READING

Bill No: SB 264
Author: Min (D), et al.
Amended: 4/19/21
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 3/16/21
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SUBJECT: Firearms: state and county property

SOURCE: Author

DIGEST: This bill prohibits the sale of firearms on state property.

ANALYSIS:

Existing law:

- 1) Provides that bringing or possessing a firearm within any state or local public building is punishable by imprisonment in a county jail for not more than one year, or in the state prison, unless a person brings any weapon that may be lawfully transferred into a gun show for the purpose of sale or trade. (Pen. Code §§ 171b subd. (a), 171b subd. (b)(7)(A).)
- 2) Prohibits the sale, lease, or transfer of firearms without a license, unless the sale, lease, or transfer is pursuant to operation of law or a court order, made by a person who obtains the firearm by intestate succession or bequest, or is an infrequent sale, transfer, or transfer, as defined. (Pen. Code § 26500, 26505, 26520.)

- 3) Excludes persons with a valid federal firearms license and a current certificate of eligibility issued by the Department of Justice (DOJ) from the prohibitions on the sale, lease, or transfer of used firearms, other than handguns, at gun shows or events. (Pen. Code § 26525.)
- 4) Permits licensed dealers to sell firearms only from their licensed premises and at gun shows. (Pen. Code § 26805.)
- 5) States that a dealer operating at a gun show must comply with all applicable laws, including California's waiting period law, laws governing the transfer of firearms by dealers, and all local ordinances, regulations, and fees. (Pen. Code § 26805.)
- 6) States that no person shall produce, promote, sponsor, operate, or otherwise organize a gun show, unless that person possesses a valid certificate of eligibility from the DOJ. (Pen. Code § 27200.)
- 7) Specifies the requirements that gun show operators must comply with at gun shows, including entering into a written contract with each gun show vendor selling firearms at the show, ensuring that liability insurance is in effect for the duration of a gun show, posting visible signs pertaining to gun show laws at the entrances of the event, and submitting a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to the DOJ, as specified. (Pen. Code §§ 27200, 27245.)
- 8) Specifies that unless a different penalty is expressly provided, a violation of any provision of the Food and Agricultural code is a misdemeanor. (Food and Agr. Code, § 9.)

This bill:

- 1) Prohibits a state officer or employee, or operator, lessee, or licensee of any state or county property, from contracting for, authorizing, or allowing the sale of any firearm, firearm precursor part, or ammunition on state property or in the buildings that sit on state property or property otherwise owned, leased, occupied, or operated by the state.
- 2) Makes findings and declarations.

Background

Gun shows are essentially a flea market for firearms. At gun shows, individuals may buy, sale, and trade firearms and fire-arms related accessories. These events

typically attract several thousand people, and a single gun show can have sales of over 1,000 firearms over the course of one weekend.¹

According to the NRA's Institute for Legislative Action, less than one percent of inmates incarcerated in state prisons for gun crimes acquired their firearms at a gun show.² However, gun shows rank second to corrupt dealers as a source for illegally trafficked firearms. Though violent criminals do not buy most of their guns directly from gun shows, gun shows are "the critical moment in the chain of custody for many guns, the point at which they move from the somewhat-regulated legal market to the shadowy, no-questions-asked illegal market."³

Concerns about gun shows extend beyond the state. A report by the Government Accountability Office regarding gun trafficking to Mexico confirmed that many traffickers buy guns at gun shows.⁴ 87 percent of firearms seized by Mexican authorities and traced in the last five years originated in the United States, according to data from DOJ's Bureau of Alcohol, Tobacco, Firearms and Explosives. According to United States and Mexican government officials, these firearms have been increasingly more powerful and lethal in recent years. Many of these firearms come from gun shops and gun shows in south-west border-states.⁵

AB 295 (Corbett, Chapter 247, Statutes of 1999), the Gun Show Enforcement and Security Act of 2000, added a number of requirements for gun shows. To obtain a certificate of eligibility from the DOJ, a promoter must certify that he or she is familiar with existing law regarding gun shows; obtain at least \$1 million of liability insurance; provide an annual list of gun shows the applicant plans to promote; pay an annual fee; make available to local law enforcement a complete list of all entities that have rented any space at the show; submit not later than 15 days before the start of the show an event and security plan; submit a list to DOJ of prospective vendors and designated firearms transfer agents who are licensed dealers; provide photo identification of each vendor and vendor's employee; prepare an annual event and security plan; and require all firearms carried onto the premises of a show to be checked, cleared of ammunition, secured in a way that they cannot be operated, and have an identification tag or sticker attached. AB 295 also provided for a number of penalties for a gun show producer's willful failure to comply with the specified requirements. California's strict gun show regulations may help to prevent increases in firearm deaths and injuries following gun shows.

¹ Bureau of Alcohol, Tobacco, Firearms and Explosives, <https://www.atf.gov/file/57506/download>.

² NRA-ILA, <https://www.nra.org/get-the-facts/background-checks-nics>.

³ Center for American Progress, <http://www.americanprogress.org/issues/guns-crime/report/2013/12/13/80795/the-gun-debate-1-year-after-newtown/>.

⁴ <https://www.gao.gov/assets/680/674570.pdf>.

⁵ <https://www.ucdmc.ucdavis.edu/vprp/pdf/IGS/IGS1web.pdf>.

(See Ellicott C. Matthey, et al., “*In-State and Interstate Associations Between Gun Shows and Firearm Deaths and Injuries*,” *Annals of Internal Medicine* (2017) Vol. 1 Iss. 8.)

In addition to state laws regulating gun shows, a total ban on gun shows on county property is within the scope of a county’s authority. “Under California Government Code section 23004(d), a county is given substantial authority to manage its property, including the most fundamental decision as to how the property will be used and that nothing in the gun show statutes evince intent to override that authority. The gun show statutes do not mandate that counties use their property for such shows. If the county does allow such shows, it may impose more stringent restrictions on the sale of firearms than state law prescribes.”

(*Nordyke v. Santa Clara County* (9th Cir. Cal. 1997) 110 F.3d 707, 766.)

However, counties do not have authority to prohibit gun shows on state property such as Cow Palace.

There have been several legislative attempts to regulate gun shows on State Agricultural Land—most notably, SB 475 (Leno, 2014) and SB 585 (Leno, 2010), which were both vetoed.

SB 585 would have prohibited gun shows at Cow Palace. SB 585 would have additionally required the Cow Palace DAA to replace gun show events with non-firearm or non-ammunition related events. In his veto message, Governor Schwarzenegger stated that SB 585 would “set a confusing precedent at the state level by statutorily prohibiting one [DAA] from selling firearms and ammunition, a legal and regulated activity, while allowing other DAAs to continue to do so. In addition, [SB 585] would result in decreased state and local tax revenues by restricting events at the Cow Palace.” Unlike SB 585, this bill will not impair any of Cow Palace’s ongoing contracts because, if chaptered, it will not become operative until January 1, 2020.

Another attempt to prohibit gun sales at Cow Palace was similarly vetoed by Governor Brown. SB 475 would have permitted gun shows at Cow Palace only upon prior approval by resolution adopted by both the Board of Supervisors of the County of San Mateo and the Board of Supervisors of the City and County of San Francisco. SB 475 was vetoed because it required the Cow Palace DAA to obtain approval from the County of San Mateo and the City and County of San Francisco prior to entering into a contract for a gun show on state property. In his veto message, Governor Brown stated, “I encourage all [DAAs] to work with their local communities when determining their operations and events. [SB 475], however, totally pre-empts the Board of Directors of the Cow Palace from

exercising its contracting authority whenever a gun show is involved. I prefer to leave these decisions to the sound discretion of the Board.” Under SB 475, the Cow Palace DAA would have been permitted to host gun shows, but only at the discretion of San Francisco and San Mateo counties. In practice, SB 475 would have allowed the Board of Cow Palace to permit some approved gun shows, and required it to prohibit other non-county-approved gun shows. In comparison, this bill instead completely prohibits all gun shows at Cow Palace.

In 2018, SB 221 (Wiener) contained very similar provisions to this bill. SB 221 would have prohibited any officer, employee, operator, or lessee of Agriculture District 1-A, from contracting for, authorizing, or allowing the sale of any firearm or ammunition at the Cow Palace property in San Mateo County and San Francisco County. Like this bill, SB 221 had an implementation date in 2020 and exempted law enforcement firearm buy-back events. Unlike this bill, SB 221 failed to exempt existing contracts to host firearms events. SB 221 was vetoed by Governor Brown with the following veto message:

This bill would prohibit the sale of firearms and ammunition at the District Agricultural Association 1A, commonly known as the Cow Palace.

This bill has been vetoed twice over the last ten years, once by myself, and once by Governor Schwarzenegger.

The decision on what kind of shows occur at the Cow Palace rests with the local board of directors which, incidentally, represents a broad cross section of the community. They are in the best position to make these decisions.

Then, in 2019 AB 893 (Gloria) added a section to the Food and Agricultural Code that prohibits the sale of firearms and ammunitions at the Del Mar Fairgrounds. By default, a violation of any provision of the Food and Agricultural Code is a misdemeanor, unless otherwise specified. Therefore, the bill would effectively terminate the possibility for future gun shows at the Del Mar Fairgrounds. The bill was signed into law by Governor Newsom and Chaptered as 731 in the Statutes of 2019.

This bill adds state property to the provisions of SB 893 (Gloria).

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- Annual revenue loss, potentially in the low millions of dollars in the aggregate to the extent that the 13 District Agricultural Associations that currently allow

gun shows at their fairgrounds are unable to secure alternative events (that would not have taken place at the fairgrounds already) that could generate similar levels of revenue. For illustrative purposes, before the prohibition on the sale of firearms and ammunition at the Del Mar Fairgrounds, there were five gun shows on the property in 2017 that resulted in approximately \$304,000 in net revenue and there were three gun shows in 2018 that collected \$146,000 in gross revenue. (Special funds)

- Unknown loss of sales tax revenue if firearm, firearm precursor parts, and ammunition sales that would have taken place on state property do not occur at other locations within the state. (General Fund, local funds)
- Additionally, this bill could result in the loss of tax revenue for use by state-designated fairs that meet specified working conditions to the extent that gun shows are not replaced by other events that bring in similar amounts of revenue that would not take place on fair property already. (Special fund*)

*Fair and Exposition Fund

SUPPORT: (Verified 5/20/21)

American Academy of Pediatrics, California
 Brady Orange County
 Canyon Democrats
 City of San Diego
 City of Solana Beach
 Democrats of Greater Irvine
 Hb Huddle
 Laguna Beach Democratic Club
 Laguna Woods Democratic Club
 League of Women Voters of California
 Neveragainca
 Office of Chair Nathan Fletcher, San Diego County Board of Supervisors
 Peace and Justice Commission from St Mark Presbyterian Church in Newport Beach
 San Diegans for Gun Violence Prevention
 Santa Barbara Women's Political Committee
 The Violence Prevention Coalition of Orange County
 Women for American Values and Ethics Action Fund
 Women For: Orange County

OPPOSITION: (Verified 5/20/21)

Black Brant Group
California Bowmen Hunters/State Archery Association
California Deer Association
California Houndsmen for Conservation
California Rifle and Pistol Association, INC.
California Sportsman's Lobby, INC.
California Statewide Law Enforcement Association
California Waterfowl Association
Cal-Ore Wetlands and Waterfowl Council
Gun Owners of California, INC.
National Rifle Association - Institute for Legislative Action
National Shooting Sports Foundation, INC.
Nor-Cal Guides and Sportsmen's Association
Outdoor Sportsmen's Coalition of California
Peace Officers Research Association of California
Rural County Representatives of California
Safari Club International - California Chapters
Safari Club International, California Coalition
San Diego County Wildlife Federation
San Francisco Bay Area Chapter - Safari Club International
Tulare Basin Wetlands Association
Western Fairs Association
Wild Sheep Foundation, California Chapter

ARGUMENTS IN SUPPORT: According to the Santa Barbara Women's Political Committee:

We support legislation that promotes community safety and are aware that under current law gun shows have brought dangerous incidents to our community. These include but are not limited to the following: an official vendor being accused of trafficking illegal firearms, sales of firearms to individuals registered in the Department of Justice Bureau of Firearms Prohibited Persons System, and illegal importation of large-capacity magazines. Recent years have seen an alarming increase of gun violence including mass murders that have devastated communities at large. By prohibiting gun shows on state properties, SB 264 would open these properties to more family-friendly venues and avoid the use of taxpayer dollars to facilitate placing more guns on our streets.

ARGUMENTS IN OPPOSITION: According to the Western Fairs Association:

SB 264 would prohibit all sales of firearms and ammunition at events held at all District Agricultural Associations and county fairgrounds beginning in 2022. This prohibition will not enhance public safety as current law already requires all firearm transactions at events hosted at fairgrounds to be subject to the same stringent standards as required in a dealer's store. All firearms transactions that take place on a fairground are subject to the ten-day waiting period while requiring the firearm to remain in the possession of the transacting dealer until that period ends and the Department of Justice has completed the required background check. District Agricultural Associations (DAAs) and county fairs receive minimal support annually from the State Budget. Fairs are expected to generate their own revenues from trade shows, livestock auctions, concerts, etc. Each fair hosts events of interest to the communities they serve. Prohibiting gun shows on state and county property not only eliminates a legal venue for the sale of firearms and ammunition under the watchful eye of law enforcement and in full compliance with state law, but it also harms the finances of California's Fair Network.

Prepared by: Gabe Caswell / PUB. S. /
5/22/21 12:55:14

**** **END** ****

EXHIBIT 12

Date of Hearing: July 13, 2021
Counsel: Matthew Fleming

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

SB 264 (Min) – As Amended June 15, 2021

SUMMARY: Prohibits the sale of any firearm, firearm precursor part, or ammunition on state property. Specifically, **this bill:**

- 1) Prohibits a state officer or employee, or operator, lessee, or licensee of any state property, shall not contract for, authorize, or allow the sale of any firearm, firearm precursor part, or ammunition on state property or in the buildings that sit on state property or property otherwise owned, leased, occupied, or operated by the state.
- 2) Provides that the prohibition does not apply to any of the following:
 - a) A gun buyback event held by a law enforcement agency;
 - b) The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties;
 - c) The sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before January 1, 2022; and,
 - d) The purchase of ammunition on state property by a law enforcement agency in the course of its regular duties.
- 3) Makes Legislative findings and declarations.

EXISTING LAW:

- 1) Prohibits the sale, lease, or transfer of firearms without a license, unless the sale, lease, or transfer is pursuant to operation of law or a court order, made by a person who obtains the firearm by intestate succession or bequest, or is an infrequent sale, transfer, or transfer, as defined. (Pen. Code, §§ 26500, 26505, & 26520.)
- 2) Excludes persons with a valid federal firearms license and a current certificate of eligibility issued by the Department of Justice (DOJ) from the prohibitions on the sale, lease, or transfer of used firearms, other than handguns, at gun shows or events. (Pen. Code, § 26525.)
- 3) Permits licensed dealers to sell firearms only from their licensed premises and at gun shows. (Pen. Code, § 26805.)
- 4) States that a dealer operating at a gun show must comply with all applicable laws, including California's waiting period law, laws governing the transfer of firearms by dealers, and all

local ordinances, regulations, and fees. (Pen. Code, § 26805.)

- 5) Specifies the requirements that gun show operators must comply with at gun shows, including entering into a written contract with each gun show vendor selling firearms at the show, ensuring that liability insurance is in effect for the duration of a gun show, posting visible signs pertaining to gun show laws at the entrances of the event, and submitting a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to the Department of Justice, as specified. (Pen. Code, §§ 27200, 27245.)
- 6) States that no person shall produce, promote, sponsor, operate, or otherwise organize a gun show, unless that person possesses a valid certificate of eligibility from the DOJ. (Pen. Code, § 27200.)

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) **Author's Statement:** According to the author, “County fairgrounds are intended to be family friendly venues. Instead, they’ve become known for hosting gun shows. While the Second Amendment protects the rights of individuals to bear arms, it does not require our great State of California to use taxpayer-owned property to disseminate more deadly firearms into our communities. Given the clear linkage between the sale of guns and the likelihood of gun violence in a community, our state must stop being in the business of selling guns. Unfortunately, all too often this year, we’ve seen headline after headline of terrible tragedies throughout the nation and California — two shootings in my district and in San Jose in May. Enough is enough.”
- 2) **Gun Shows:** A “gun show” is a trade show for firearms. At gun shows, individuals may buy, sell, and trade firearms and firearms-related accessories. These events typically attract several thousand people, and a single gun show can have sales of over 1,000 firearms over the course of one weekend. (Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), *Gun Shows: Brady Checks and Crime Gun Traces*, January 1999, available at: <https://www.atf.gov/file/57506/download>, [as of March 18, 2019].)

According to the NRA’s Institute for Legislative Action (NRA-ILA), less than one percent of persons incarcerated in state prisons for gun crimes acquired their firearms at a gun show. (NRA-ILA, <https://www.nra-ila.org/get-the-facts/background-checks-nics>.) However, according to a report published by UC Davis, gun shows have been identified as a source for illegally trafficked firearms. (<https://www.ucdmc.ucdavis.edu/vprp/pdf/IGS/IGS1web.pdf>, [as of March 20, 2019].) Though violent criminals do not appear to regularly purchase their guns directly from gun shows, gun shows have received criticism as being “the critical moment in the chain of custody for many guns, the point at which they move from the somewhat-regulated legal market to the shadowy, no-questions-asked illegal market.” (Gerney, *The Gun Debate 1 Year After Newtown*, Center for American Progress, December 13, 2013, available at: <http://www.americanprogress.org/issues/guns-crime/report/2013/12/13/80795/the-gun-debate-1-year-after-newtown/>, [as of March 18, 2019].)

In 1999, California enacted the nation's broadest legislation to increase oversight at gun shows. AB 295 (Corbett), Chapter 247, Statutes of 1999, the Gun Show Enforcement and Security Act of 2000, added a plethora of requirements for gun shows. To obtain a certificate of eligibility from the DOJ, a promoter must certify that he or she is familiar with existing law regarding gun shows; obtain at least \$1,000,000 of liability insurance; provide an annual list of gun shows the applicant plans to promote; pay an annual fee; make available to local law enforcement a complete list of all entities that have rented any space at the show; submit not later than 15 days before the start of the show an event and security plan; submit a list to DOJ of prospective vendors and designated firearms transfer agents who are licensed dealers; provide photo identification of each vendor and vendor's employee; prepare an annual event and security plan; and require all firearms carried onto the premises of a show to be checked, cleared of ammunition, secured in a way that they cannot be operated, and have an identification tag or sticker attached. AB 295 also provided for a number of penalties for a gun show producer's willful failure to comply with the specified requirements.

In California, gun transactions at gun shows are treated no differently than any other private party transaction. This means that such transfers must be completed through a licensed California dealer. Such a transfer requires a background check and is subject to the mandatory ten day waiting period prior to delivering the firearm to the purchaser. California's strict gun show regulations may help to prevent increases in firearm deaths and injuries following gun shows. (See Ellicott C. Matthay, et al., "In-State and Interstate Associations Between Gun Shows and Firearm Deaths and Injuries," *Annals of Internal Medicine* (2017) Vol. 1 Iss. 8.)

- 3) **Banning Gun Shows on State Agricultural Land:** There have been several legislative attempts to regulate gun shows in Agricultural District 1A in San Mateo and San Francisco Counties at a location commonly known as the "Cow Palace." SB 221 (Wiener) of 2018, SB 475 (Leno) of 2013, SB 585 (Leno) of 2009, and others, all attempted to either ban gun shows at the Cow Palace altogether, or require prior approval from the county Board Supervisors prior to entering into a contract for holding a gun show there. All three attempts were vetoed by then-Governors Schwarzenegger and Brown.

Then, in 2019, AB 893 (Gloria) Chapter 731, Statutes of 2019, added a section to the Food and Agricultural Code that prohibits the sale of firearms and ammunition at the Del Mar Fairgrounds, effectively terminating the possibility for future gun shows at the Del Mar Fairgrounds. AB 893 was signed into law by Governor Newsom. This bill would expand the provisions of AB 893 by including all state property within the prohibition on the sale or transfer of firearms and ammunition.

- 4) **Constitutional Implications:** A federal judge recently ruled that California's ban on the AR-15 assault rifle is unconstitutional. (*See Miller v. Bonta*, (June 4, 2021) U.S. Dist. LEXIS 105640.) *Miller* becomes the third federal district court decision to find a California firearms regulation unconstitutional under the Second Amendment to the United States Constitution, joining *Rhode v. Becerra* (S.D. Cal., 2020) 445 F. Supp. 3d 902 (ammunition background checks), and *Duncan v. Becerra* (9th Cir., 2020) 970 F.3d 1133 (high-capacity magazines). All three of these decisions were made by the same federal judge. *Duncan* was upheld by the Ninth Circuit Court of Appeals, but is now pending a rehearing *en banc*. *Rhode* and *Miller* have been stayed pending further proceedings.

This bill is also likely to generate constitutional challenges. Opponents to the bill have cited to the Ninth Circuit Court of Appeals, which has held that “an offer to sell firearms or ammunition” is constitutionally protected commercial speech under the First Amendment to the United States Constitution. (*Nordyke v. Santa Clara County* (2009) 110 F.3d 707, 710.) This bill does not specifically prohibit “an offer” to sell guns or ammunition, but it does prohibit contracting for such a transaction. Opponents assert that such a prohibition constitutes impermissible viewpoint discrimination. They also state that this bill unduly burdens rights guaranteed by the Second Amendment.

- 5) **Argument in Support:** According to >
- 6) **Argument in Opposition:** According to >
- 7) **Related Legislation:** AB 311 (Ward) would prohibit a vendor at a gun show or event from possessing, displaying, offering to sell, selling, or transferring a firearm precursor part. AB 311 was held in the Assembly Appropriations Committee suspense file.
- 8) **Prior Legislation:**
 - a) AB 893 (Gloria) Chapter 731, Statutes of 2019, prohibited the sale of firearms and ammunitions at the Del Mar Fairgrounds in the County of San Diego and the City of Del Mar.
 - b) SB 221 (Wiener) of the 2017-18 Legislative Session, would have prohibited the sale of firearms and ammunitions at the Cow Palace located in San Mateo County and San Francisco County. SB 221 was vetoed by Governor Brown.
 - c) SB 475 (Leno), of the 2013-14 Legislative Session, would have required gun shows at the Cow Palace to have prior approval of both the Board of Supervisors of the County of San Mateo and the City and County of San Francisco, as specified. SB 475 was vetoed by Governor Brown.
 - d) SB 585 (Leno), of the 2009-10 Legislative Session, would have prohibited events at which any firearm or ammunition is sold at the Cow Palace, as specified. SB 585 was vetoed by Governor Schwarzenegger.
 - e) AB 2948 (Leno), of the 2007-08 Legislative Session, would have prohibited the sale of firearms or ammunition at the Cow Palace. AB 2948 failed passage on the Senate Floor.
 - f) SB 1733 (Speier), of the 2003-04 Legislative Session, would have required gun shows at the Cow Palace to have prior approval of both the Board of Supervisors of the County of San Mateo and the City and County of San Francisco, as specified. SB 1733 failed passage on the Assembly Floor.
 - g) AB 295 (Corbett), Chapter 247, Statutes of 1999, established the Gun Show Enforcement and Security Act of 2000, which includes a number of requirements for producers that promote gun shows.

- h) AB 1107 (Ortiz), of the 1997-98 Legislative Session, would have authorized any city, county or agricultural association to prohibit gun sales at gun shows or events. AB 1107 failed in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

American Academy of Pediatrics, California
Brady Orange County
Canyon Democrats
City of Solana Beach
Democrats of Greater Irvine
Hb Huddle
Laguna Beach Democratic Club
Laguna Woods Democratic Club
League of Women Voters of California
Neveragainca
Office of Chair Nathan Fletcher, San Diego County Board of Supervisors
Peace and Justice Commission From St Mark Presbyterian Church in Newport Beach
San Diegans for Gun Violence Prevention
San Diego; City of
Santa Barbara Women's Political Committee
The Violence Prevention Coalition of Orange County
Women for American Values and Ethics Action Fund
Women For: Orange County

Oppose

Black Brant Group, the
Cal-ore Wetlands and Waterfowl Council
California Bowmen Hunters/state Archery Association
California Deer Association
California Houndsmen for Conservation
California Rifle and Pistol Association, INC.
California Sportsman's Lobby, INC.
California Statewide Law Enforcement Association
California Waterfowl Association
Gun Owners of California, INC.
National Rifle Association - Institute for Legislative Action
National Shooting Sports Foundation, INC.
Nor-cal Guides and Sportsmen's Association
Outdoor Sportsmen's Coalition of California
Peace Officers Research Association of California (PORAC)
Rural County Representatives of California
Safari Club International - California Chapters
San Diego County Wildlife Federation
San Francisco Bay Area Chapter - Safari Club International

Tulare Basin Wetlands Association
Western Fairs Association

1 private individual

Analysis Prepared by: Matthew Fleming / PUB. S. / (916) 319-3744

EXHIBIT 13

Date of Hearing: August 19, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
SB 264 (Min) – As Amended June 15, 2021

Policy Committee: Public Safety Vote: 5 - 2

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY:

This bill prohibits the sale of any firearm, firearm precursor part or ammunition on state property, except as specified.

FISCAL EFFECT:

Possible loss of revenue (Fair and Exposition Fund) in the millions of dollars across all district agricultural associations that currently allow gun shows on their property, to the extent they are unable to secure alternative events that could generate similar levels of revenue. The District of Agricultural Association is a part of California Department of Food and Agriculture. Before the enactment of AB 893 (Chiu), Chapter 731, Statutes of 2020, which prohibited the sale of firearms and ammunition at the Del Mar Fairgrounds, there were five gun shows on the Del Mar property in 2017 that resulted in approximately \$304,000 in net revenue and three gun shows in 2018 that collected \$146,000 in gross revenue. The Fair and Exposition Fund is funded by a portion of state sales taxes generated at state fairs and events and is used to improve facilities at fairgrounds. This bill may result in General Fund costs to the extent the state is required to backfill any revenue lost as a result of this bill.

COMMENTS:

1) **Purpose.** According to the author:

While the Second Amendment protects the rights of individuals to bear arms, it does not require our great State of California to use taxpayer-owned property to disseminate more deadly firearms into our communities. Given the clear linkage between the sale of guns and the likelihood of gun violence in a community, our state must stop being in the business of selling guns.

2) **Gun Shows.** AB 295 (Corbett), Chapter 247, Statutes of 1999 requires gun shows to obtain a certificate of eligibility to operate from the Department of Justice (DOJ). To obtain a certificate of eligibility from the DOJ, a promoter must certify that they are familiar with existing law regarding gun shows; obtain at least \$1 million of liability insurance; provide an annual list of gun shows the applicant plans to promote; pay an annual fee; make available to local law enforcement a complete list of all entities that have rented any space at the show; submit not later than 15 days before the start of the show an event and security plan; submit a list to DOJ of prospective vendors and designated firearms transfer agents who are licensed

dealers; provide photo identification of each vendor and vendor's employee; prepare an annual event and security plan; and require every firearm carried onto the premises of a show to be checked, cleared of ammunition, secured in a way that it cannot be operated, and have an identification tag or sticker attached. Gun show certificates of eligibility must be requested online via the DOJ Firearms Application Reporting System. Fees associated with obtaining a certificate of eligibility include the cost of the initial COE Application (\$71). Renewal applications cost \$22. DOJ does not anticipate any costs as a result of this bill, however, prohibiting gun shows at state fairgrounds may result in loss of application revenue.

There have been several legislative attempts to regulate gun shows in San Mateo and San Francisco counties at a location commonly known as the "Cow Palace." SB 221 (Wiener) of the 2017-18 Legislative Session, SB 475 (Leno) of the 2013-14 Legislative Session, SB 585 (Leno) of the 2009-10 Legislative Session and others, all attempted to either ban gun shows at the Cow Palace altogether, or require prior approval from the county San Mateo and San Francisco boards of supervisors prior to entering into a contract for holding a gun show there. All three attempts were vetoed by then-Governors Schwarzenegger and Brown.

3) **Argument in Support.** According to American Academy of Pediatrics California:

Gun violence is among the greatest public health crises facing children and youth. Nearly 7,000 children younger than 18 are killed or wounded by gunshots each year. Firearm-related deaths are the third leading cause of death for children ages 1 to 17, outpaced only by death from car crashes and drownings and illnesses like cancer. ...SB 264 is one more step in protecting California's children from gun violence.

4) **Argument in Opposition.** According to the Rural County Representatives of California:

Over the past two decades, District Agriculture Association (DAA)/county fairs have been financially struggling and are at a near breaking point. California's fairgrounds play a major role in the economies of the communities/counties where they are located. Beyond the annual "fair" event filled with corndogs and Ferris wheels, fair facilities host hundreds of events year-round. These facilities are home to various events such as gun shows, dog shows, RV shows, bridal shows, and other retail opportunities. SB 264 would prohibit these fairs from holding gun shows and as a result erode the revenue stream that would be derived from legal gun shows on these premises.

Analysis Prepared by: Kimberly Horiuchi / APPR. / (916) 319-2081

EXHIBIT 14

SENATE THIRD READING
SB 264 (Min)
As Amended August 30, 2021
Majority vote

SUMMARY

Prohibits the sale of any firearm, firearm precursor part, or ammunition on the property of the 32nd District Agricultural Association.

Major Provisions

- 1) Prohibits a an officer, employee, operator, lessee, or licensee of the 32nd District Agricultural Association, as defined, from contracting for, authorizing, or allowing the sale of any firearm, firearm precursor part, or ammunition on the property or in the buildings that comprise the Orange County Fair and Event Center, as specified..
- 2) Provides that the prohibition does not apply to any of the following:
 - a) A gun buyback event held by a law enforcement agency;
 - b) The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties;
 - c) The sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before January 1, 2022; and,
 - d) The purchase of ammunition on state property by a law enforcement agency in the course of its regular duties.
- 2) Makes Legislative findings and declarations.

COMMENTS

According to the Author

"County fairgrounds are intended to be family friendly venues. Instead, they've become known for hosting gun shows. While the Second Amendment protects the rights of individuals to bear arms, it does not require our great State of California to use taxpayer-owned property to disseminate more deadly firearms into our communities. Given the clear linkage between the sale of guns and the likelihood of gun violence in a community, our state must stop being in the business of selling guns. Unfortunately, all too often this year, we've seen headline after headline of terrible tragedies throughout the nation and California – two shootings in my district and in San Jose in May. Enough is enough."

Arguments in Support

According to the *American Academy of Pediatrics California*: "Gun violence is among the greatest public health crises facing children and youth. Nearly 7,000 children younger than 18 are killed or wounded by gunshots each year. Firearm-related deaths are the third leading cause

of death for children ages 1 to 17, outpaced only by death from car crashes and drownings and illnesses like cancer.

"In 2018, Governor Gavin Newsom (then Lt. Governor) supported AB 893 (Gloria) Chapter 731 , a bill which ended gun shows at the Del Mar State Fairground. At that time, Newsom stated, "permitting the sale of firearms and ammunition on state-owned property only perpetuates America's gun culture at a time when 73 percent of Californians support gun reform measures." AB 893 was signed into law on October 11, 2019. SB 264 seeks to extend the prohibition of firearm and ammunition sales to all state-owned and county-owned properties.

"The American Academy of Pediatrics (AAP) policy states, "the absence of guns from children's homes and communities is the most reliable and effective measure to prevent firearm-related injuries to children and adolescents." SB 264 is one more step in protecting California's children from gun violence. AAP-CA strongly supports SB 264. Thank you for your public service and leadership on behalf of the health and wellbeing of children, youth, and families in California."

Arguments in Opposition

According to the National Rifle Association: "California has stringent laws when it comes to the purchase, possession, and transfer of all firearms. In order for a person to purchase any firearm in California, they must possess a firearm safety certificate, pass a criminal background check and wait 10 days prior to receipt. The involvement of a licensed dealer is generally required for all firearms sales/transfers in addition to the sale or transfer of firearm precursor parts or ammunition, absent very narrow and limited circumstances. The restrictions on the sale and transfer of firearms, firearm precursor parts and ammunition applies to gun shows as well. Transactions at these events require strict adherence to the law and the process for completing the transfer is no different than if it had occurred at a nearby brick and mortar shop.

"Studies have shown that firearms acquired at gun shows are not any more likely to be used in crime. This legislation fails to adequately balance the need to prohibit all gun shows at state controlled property versus the interests of the gun shows' promoters, vendors and attendees – individuals who will now be left with limited venues to convene to share in their mutual interest in the shooting sports in a commercial setting.

"We encourage the author to explore proposals that go after the criminal misuse of firearms instead of putting forward proposals that place further restrictions on the rights of law-abiding citizens."

FISCAL COMMENTS

According to the Assembly Appropriations Committee, possible loss of revenue (Fair and Exposition Fund) in the low hundreds of thousands of dollars to the 32nd Agricultural District, to the extent its facilities are unable to secure alternative events that could generate similar levels of revenue as gun shows.

VOTES

SENATE FLOOR: 29-9-2

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk

ABS, ABST OR NV: Hurtado, Roth

ASM PUBLIC SAFETY: 5-2-1

YES: Jones-Sawyer, Bauer-Kahan, Lee, Santiago, Wicks

NO: Lackey, Seyarto

ABS, ABST OR NV: Quirk

ASM APPROPRIATIONS: 12-4-0

YES: Lorena Gonzalez, Bryan, Calderon, Carrillo, Chau, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Kalra

NO: Bigelow, Megan Dahle, Davies, Fong

UPDATED

VERSION: August 30, 2021

CONSULTANT: Matthew Fleming / PUB. S. / (916) 319-3744

FN: 0001299

EXHIBIT 15

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

SB 264

UNFINISHED BUSINESS

Bill No: SB 264
Author: Min (D), et al.
Amended: 8/30/21
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 3/16/21
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/20/21
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 29-9, 6/1/21
AYES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Hurtado, Roth

ASSEMBLY FLOOR: 51-21, 9/2/21 - See last page for vote

SUBJECT: Firearms: state and county property

SOURCE: Author

DIGEST: This bill prohibits the sale of firearms, firearm precursor parts, or ammunition on the property of the 32nd District Agricultural Association (Orange County Fair and Event Center).

Assembly Amendments limit the provisions of the bill to the Orange County Fair and Event Center. The version that was voted off of the Senate Floor covered all state property.

ANALYSIS:

Existing law:

- 1) Provides that bringing or possessing a firearm within any state or local public building is punishable by imprisonment in a county jail for not more than one year, or in the state prison, unless a person brings any weapon that may be lawfully transferred into a gun show for the purpose of sale or trade. (Pen. Code §§ 171b subd. (a), 171b subd. (b)(7)(A).)
- 2) Prohibits the sale, lease, or transfer of firearms without a license, unless the sale, lease, or transfer is pursuant to operation of law or a court order, made by a person who obtains the firearm by intestate succession or bequest, or is an infrequent sale, transfer, or transfer, as defined. (Pen. Code § 26500, 26505, 26520.)
- 3) Excludes persons with a valid federal firearms license and a current certificate of eligibility issued by the Department of Justice (DOJ) from the prohibitions on the sale, lease, or transfer of used firearms, other than handguns, at gun shows or events. (Pen. Code § 26525.)
- 4) Permits licensed dealers to sell firearms only from their licensed premises and at gun shows. (Pen. Code § 26805.)
- 5) States that a dealer operating at a gun show must comply with all applicable laws, including California's waiting period law, laws governing the transfer of firearms by dealers, and all local ordinances, regulations, and fees. (Pen. Code § 26805.)
- 6) States that no person shall produce, promote, sponsor, operate, or otherwise organize a gun show, unless that person possesses a valid certificate of eligibility from DOJ. (Pen. Code § 27200.)
- 7) Specifies the requirements that gun show operators must comply with at gun shows, including entering into a written contract with each gun show vendor selling firearms at the show, ensuring that liability insurance is in effect for the duration of a gun show, posting visible signs pertaining to gun show laws at the entrances of the event, and submitting a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to the DOJ, as specified. (Pen. Code §§ 27200, 27245.)

- 8) Specifies that unless a different penalty is expressly provided, a violation of any provision of the Food and Agricultural code is a misdemeanor. (Food and Agr. Code, § 9.)

This bill:

- 1) Prohibits an officer, employee, operator, lessee, or licensee of the 32nd District Agricultural Association, as defined, from contracting for, authorizing, or allowing the sale of any firearm, firearm precursor part, or ammunition on the property or in the buildings that comprise the Orange County Fair and Event Center, as specified.
- 2) Exempts from its provisions a gun buyback event held by a law enforcement agency, the sale of a firearm by a public administrator, public guardian, or public conservator within the course of their duties, a sale that occurs pursuant to a contract that was entered into before January 1, 2022, and the purchase of ammunition on state property by a law enforcement agency in the course of its regular duties. Because a violation of this prohibition would be a crime, this bill imposes a state-mandated local program.
- 3) Makes findings and declarations.

Background

Gun shows are essentially a flea market for firearms. At gun shows, individuals may buy, sell, and trade firearms and fire-arms related accessories. These events typically attract several thousand people, and a single gun show can have sales of over 1,000 firearms over the course of one weekend.¹

According to the NRA's Institute for Legislative Action, less than one percent of inmates incarcerated in state prisons for gun crimes acquired their firearms at a gun show.² However, gun shows rank second to corrupt dealers as a source for illegally trafficked firearms. Though violent criminals do not buy most of their guns directly from gun shows, gun shows are "the critical moment in the chain of custody for many guns, the point at which they move from the somewhat-regulated legal market to the shadowy, no-questions-asked illegal market."³

Concerns about gun shows extend beyond the state. A report by the Government Accountability Office regarding gun trafficking to Mexico confirmed that many

¹ Bureau of Alcohol, Tobacco, Firearms and Explosives, <https://www.atf.gov/file/57506/download>.

² NRA-ILA, <https://www.nra.org/get-the-facts/background-checks-nics>.

³ Center for American Progress, <http://www.americanprogress.org/issues/guns-crime/report/2013/12/13/80795/the-gun-debate-1-year-after-newtown/>.

traffickers buy guns at gun shows.⁴ 87 percent of firearms seized by Mexican authorities and traced in the last five years originated in the United States, according to data from DOJ's Bureau of Alcohol, Tobacco, Firearms and Explosives. According to United States and Mexican government officials, these firearms have been increasingly more powerful and lethal in recent years. Many of these firearms come from gun shops and gun shows in south-west border-states.⁵

AB 295 (Corbett, Chapter 247, Statutes of 1999), the Gun Show Enforcement and Security Act of 2000, added a number of requirements for gun shows. To obtain a certificate of eligibility from the DOJ, a promoter must certify that he or she is familiar with existing law regarding gun shows; obtain at least \$1 million of liability insurance; provide an annual list of gun shows the applicant plans to promote; pay an annual fee; make available to local law enforcement a complete list of all entities that have rented any space at the show; submit not later than 15 days before the start of the show an event and security plan; submit a list to DOJ of prospective vendors and designated firearms transfer agents who are licensed dealers; provide photo identification of each vendor and vendor's employee; prepare an annual event and security plan; and require all firearms carried onto the premises of a show to be checked, cleared of ammunition, secured in a way that they cannot be operated, and have an identification tag or sticker attached. AB 295 also provided for a number of penalties for a gun show producer's willful failure to comply with the specified requirements. California's strict gun show regulations may help to prevent increases in firearm deaths and injuries following gun shows. (See Ellicott C. Matthay, et al., "*In-State and Interstate Associations Between Gun Shows and Firearm Deaths and Injuries*," *Annals of Internal Medicine* (2017) Vol. 1 Iss. 8.)

In addition to state laws regulating gun shows, a total ban on gun shows on county property is within the scope of a county's authority. "Under California Government Code section 23004(d), a county is given substantial authority to manage its property, including the most fundamental decision as to how the property will be used and that nothing in the gun show statutes evince intent to override that authority. The gun show statutes do not mandate that counties use their property for such shows. If the county does allow such shows, it may impose more stringent restrictions on the sale of firearms than state law prescribes." (*Nordyke v. Santa Clara County* (9th Cir. Cal. 1997) 110 F.3d 707, 766.) However, counties do not have authority to prohibit gun shows on state property such as Cow Palace.

⁴ <https://www.gao.gov/assets/680/674570.pdf>.

⁵ <https://www.ucdmc.ucdavis.edu/vprp/pdf/IGS/IGS1web.pdf>.

There have been several legislative attempts to regulate gun shows on State Agricultural Land—most notably, SB 475 (Leno, 2014) and SB 585 (Leno, 2010), which were both vetoed.

SB 585 would have prohibited gun shows at Cow Palace. SB 585 would have additionally required the Cow Palace DAA to replace gun show events with non-firearm or non-ammunition related events. In his veto message, Governor Schwarzenegger stated that SB 585 would “set a confusing precedent at the state level by statutorily prohibiting one [DAA] from selling firearms and ammunition, a legal and regulated activity, while allowing other DAAs to continue to do so. In addition, [SB 585] would result in decreased state and local tax revenues by restricting events at the Cow Palace.” Unlike SB 585, this bill will not impair any of Cow Palace’s ongoing contracts because, if chaptered, it will not become operative until January 1, 2020.

Another attempt to prohibit gun sales at Cow Palace was similarly vetoed by Governor Brown. SB 475 would have permitted gun shows at Cow Palace only upon prior approval by resolution adopted by both the Board of Supervisors of the County of San Mateo and the Board of Supervisors of the City and County of San Francisco. SB 475 was vetoed because it required the Cow Palace DAA to obtain approval from the County of San Mateo and the City and County of San Francisco prior to entering into a contract for a gun show on state property. In his veto message, Governor Brown stated, “I encourage all [DAAs] to work with their local communities when determining their operations and events. [SB 475], however, totally pre-empts the Board of Directors of the Cow Palace from exercising its contracting authority whenever a gun show is involved. I prefer to leave these decisions to the sound discretion of the Board.” Under SB 475, the Cow Palace DAA would have been permitted to host gun shows, but only at the discretion of San Francisco and San Mateo counties. In practice, SB 475 would have allowed the Board of Cow Palace to permit some approved gun shows, and required it to prohibit other non-county-approved gun shows. In comparison, this bill instead completely prohibits all gun shows at Cow Palace.

In 2018, SB 221 (Wiener) contained very similar provisions to this bill. SB 221 would have prohibited any officer, employee, operator, or lessee of Agriculture District 1-A, from contracting for, authorizing, or allowing the sale of any firearm or ammunition at the Cow Palace property in San Mateo County and San Francisco County. Like this bill, SB 221 had an implementation date in 2020 and exempted law enforcement firearm buy-back events. Unlike this bill, SB 221 failed to exempt existing contracts to host firearms events. SB 221 was vetoed by Governor Brown with the following veto message:

This bill would prohibit the sale of firearms and ammunition at the District Agricultural Association 1A, commonly known as the Cow Palace.

This bill has been vetoed twice over the last ten years, once by myself, and once by Governor Schwarzenegger.

The decision on what kind of shows occur at the Cow Palace rests with the local board of directors which, incidentally, represents a broad cross section of the community. They are in the best position to make these decisions.

Then, in 2019, AB 893 (Gloria) added a section to the Food and Agricultural Code that prohibits the sale of firearms and ammunitions at the Del Mar Fairgrounds. By default, a violation of any provision of the Food and Agricultural code is a misdemeanor, unless otherwise specified. Therefore, the bill effectively terminated the possibility for future gun shows at the Del Mar Fairgrounds. The bill was signed into law by Governor Newsom and Chaptered as 731 in the Statutes of 2019.

This bill adds the property of the 32nd District Agricultural Association to the provisions of SB 893 (Gloria).

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, possible loss of revenue (Fair and Exposition Fund) in the millions of dollars across all district agricultural associations that currently allow gun shows on their property, to the extent they are unable to secure alternative events that could generate similar levels of revenue. The District of Agricultural Association is a part of California Department of Food and Agriculture. Before the enactment of AB 893 (Gloria, Chapter 731, Statutes of 2020), which prohibited the sale of firearms and ammunition at the Del Mar Fairgrounds, there were five gun shows on the Del Mar property in 2017 that resulted in approximately \$304,000 in net revenue and three gun shows in 2018 that collected \$146,000 in gross revenue. The Fair and Exposition Fund is funded by a portion of state sales taxes generated at state fairs and events and is used to improve facilities at fairgrounds. This bill may result in General Fund costs to the extent the state is required to backfill any revenue lost as a result of this bill.

SUPPORT: (Verified 9/2/21)

American Academy of Pediatrics, California
Brady Orange County
Canyon Democrats
City of San Diego

City of Solana Beach
Democrats of Greater Irvine
HB Huddle
Laguna Beach Democratic Club
Laguna Woods Democratic Club
League of Women Voters of California
NeverAgainCA
Office of Chair Nathan Fletcher, San Diego County Board of Supervisors
Peace and Justice Commission - St Mark Presbyterian Church in Newport Beach
San Diegans for Gun Violence Prevention
Santa Barbara Women's Political Committee
The Violence Prevention Coalition of Orange County
Women for American Values and Ethics Action Fund
Women For: Orange County

OPPOSITION: (Verified 9/2/21)

Black Brant Group
California Bowmen Hunters/State Archery Association
California Deer Association
California Houndsmen for Conservation
California Rifle and Pistol Association, INC.
California Sportsman's Lobby
California Statewide Law Enforcement Association
California Waterfowl Association
Cal-Ore Wetlands and Waterfowl Council
Gun Owners of California, INC.
National Rifle Association - Institute for Legislative Action
National Shooting Sports Foundation, INC.
Nor-Cal Guides and Sportsmen's Association
Outdoor Sportsmen's Coalition of California
Peace Officers Research Association of California
Rural County Representatives of California
Safari Club International - California Chapters
Safari Club International, California Coalition
San Diego County Wildlife Federation
San Francisco Bay Area Chapter - Safari Club International
Tulare Basin Wetlands Association
Western Fairs Association
Wild Sheep Foundation, California Chapter

ASSEMBLY FLOOR: 51-21, 9/2/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Bryan, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood

NOES: Bigelow, Chen, Choi, Cooley, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Patterson, Salas, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Cooper, Frazier, Low, Mayes, Nguyen, Rodriguez, Rendon

Prepared by: Gabe Caswell / PUB. S. /
9/2/21 18:49:46

**** END ****

EXHIBIT 16

**Senate Bill No. 915**

CHAPTER 145

An act to add Section 27573 to the Penal Code, relating to firearms.

[Approved by Governor July 21, 2022. Filed with Secretary of State July 21, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 915, Min. Firearms: state property.

Existing law generally regulates the sale and transfer of firearms, including, among other things, requiring transactions of firearms to be completed through a licensed firearms dealer. Existing law generally makes a violation of the requirements relating to the sale, lease, or transfer of a firearm a misdemeanor.

Existing law, except as specifically exempted, prohibits an officer, employee, operator, lessee, or licensee of the 32nd District Agricultural Association, as defined, from contracting for, authorizing, or allowing the sale of any firearm, firearm precursor part, or ammunition on the property or in the buildings that comprise the OC Fair and Event Center, as specified.

This bill would, except as exempted, prohibit a state officer or employee, or operator, lessee, or licensee of any state-owned property, from contracting for, authorizing, or allowing the sale of any firearm, firearm precursor part, or ammunition on state property, as specified. Because a violation of this prohibition would be a crime, this bill would impose a state-mandated local program.

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

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

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

SECTION 1. Section 27573 is added to the Penal Code, to read:

27573. (a) A state officer or employee, or operator, lessee, or licensee of any state property, shall not contract for, authorize, or allow the sale of any firearm, firearm precursor part, or ammunition on state property or in the buildings that sit on state property or property otherwise owned, leased, occupied, or operated by the state.

(b) This section does not apply to any of the following:

(1) A gun buyback event held by a law enforcement agency.

Ch. 145

— 2 —

(2) The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties.

(3) The sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before January 1, 2023.

(4) The purchase of firearms, firearm precursor parts, or ammunition on state property by a law enforcement agency in the course of its regular duties.

(5) The sale or purchase of a firearm pursuant to subdivision (b) or (c) of Section 10334 of the Public Contract Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

O

EXHIBIT 18

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

SB 915

THIRD READING

Bill No: SB 915
Author: Min (D), et al.
Introduced: 2/2/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 3/8/22
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SUBJECT: Firearms: state property

SOURCE: Author

DIGEST: This bill prohibits the sale of firearms, firearm precursor parts and ammunition on state property.

ANALYSIS:

Existing law:

- 1) Provides that bringing or possessing a firearm within any state or local public building is punishable by imprisonment in a county jail for not more than one year, or in the state prison, unless a person brings any weapon that may be lawfully transferred into a gun show for the purpose of sale or trade. (Pen. Code §§ 171b subd. (a), 171b subd. (b)(7)(A).)
- 2) Prohibits the sale, lease, or transfer of firearms without a license, unless the sale, lease, or transfer is pursuant to operation of law or a court order, made by a person who obtains the firearm by intestate succession or bequest, or is an infrequent sale, transfer, or transfer, as defined. (Pen. Code § 26500, 26505, 26520.)

- 3) Excludes persons with a valid federal firearms license and a current certificate of eligibility issued by the Department of Justice from the prohibitions on the sale, lease, or transfer of used firearms, other than handguns, at gun shows or events. (Pen. Code § 26525.)
- 4) Permits licensed dealers to sell firearms only from their licensed premises and at gun shows. (Pen. Code § 26805.)
- 5) States that a dealer operating at a gun show must comply with all applicable laws, including California's waiting period law, laws governing the transfer of firearms by dealers, and all local ordinances, regulations, and fees. (Pen. Code § 26805.)
- 6) States that no person shall produce, promote, sponsor, operate, or otherwise organize a gun show, unless that person possesses a valid certificate of eligibility from the Department of Justice. (Pen. Code § 27200.)
- 7) Specifies the requirements that gun show operators must comply with at gun shows, including entering into a written contract with each gun show vendor selling firearms at the show, ensuring that liability insurance is in effect for the duration of a gun show, posting visible signs pertaining to gun show laws at the entrances of the event, and submitting a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to the Department of Justice, as specified. (Pen. Code §§ 27200, 27245.)
- 8) Provides that an officer, employee, operator, lessee or licensee of the 32nd District Agricultural Association shall not contract for, authorize, or allow the sale of any firearm, firearm precursor part, or ammunition on the property or in the buildings that comprise the Orange County Fair and Event Center, in the County of Orange, the City of Costa Mesa, or any successor or additional property owned, leased or otherwise occupied or operated by the district. (Pen. Code §27575(a).)
- 9) Exempts the following from the prohibition in Penal Code § 27575(a):
 - a) A gun buyback event held by a law enforcement agency.
 - b) The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties.
 - c) The sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before January 1, 2022.

d) The purchase of ammunition on state property by a law enforcement agency in the course of its regular duties. (Pen. Code §27575(b).)

10) Specifies that unless a different penalty is expressly provided, a violation of any provision of the Food and Agricultural Code is a misdemeanor. (Food and Ag. Code, § 9.)

This bill:

- 1) Prohibits a state officer or employee, or operator, lessee, or licensee of any state property from contracting for, authorizing, or allowing the sale of any firearm, firearm precursor part, or ammunition on state property or property otherwise owned, leased, occupied, or operated by the state.
- 2) Exempts the following from the prohibition above:
 - a) A gun buyback event held by a law enforcement agency.
 - b) The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties.
 - c) The sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before January 1, 2023.
 - d) The purchase of ammunition on state property by a law enforcement agency in the course of its regular duties.

Co n

According to the author, “County fairgrounds are meant to be a safe and welcome space for community gatherings. Instead, these tax-payer owned properties are used to facilitate the sales of guns and ammunition. According to the Giffords Law Center to Prevent Gun Violence, gun shows often create the opportunity to “circumvent gun safety laws” and are a common venue for straw purchases and illegal gun transfers.

“Additionally, a Bureau of Alcohol, Tobacco, and Firearms report described gun shows as a “major trafficking channel” and found that gun shows were the second largest source of illegally trafficked firearms. The state should not play a role in facilitating or profiting off of the sales of these deadly weapons. Instead, the creation of statewide safeguards is necessary to ensure fairgrounds remain safe, family-friendly venues.”

AB 295 (Corbett, Chapter 247, Statutes of 1999), the Gun Show Enforcement and Security Act of 2000, added a number of requirements for gun shows. To obtain a certificate of eligibility from the DOJ, a promoter must certify that he or she is familiar with existing law regarding gun shows; obtain at least \$1 million of liability insurance; provide an annual list of gun shows the applicant plans to promote; pay an annual fee; make available to local law enforcement a complete list of all entities that have rented any space at the show; submit not later than 15 days before the start of the show an event and security plan; submit a list to DOJ of prospective vendors and designated firearms transfer agents who are licensed dealers; provide photo identification of each vendor and vendor's employee; prepare an annual event and security plan; and require all firearms carried onto the premises of a show to be checked, cleared of ammunition, secured in a way that they cannot be operated, and have an identification tag or sticker attached. AB 295 also provided for a number of penalties for a gun show producer's willful failure to comply with the specified requirements. California's strict gun show regulations may help to prevent increases in firearm deaths and injuries following gun shows. (See Ellicott C. Matthay, et al., "*n State and nterstate Associations Between Gun Shows and irear Deaths and n uries*," *Annals of Internal Medicine* (2017) Vol. 1 Iss. 8.)

In addition to state laws regulating gun shows, a total ban on gun shows on county property is within the scope of a county's authority. "Under California Government Code section 23004(d), a county is given substantial authority to manage its property, including the most fundamental decision as to how the property will be used and that nothing in the gun show statutes evince intent to override that authority. The gun show statutes do not mandate that counties use their property for such shows. If the county does allow such shows, it may impose more stringent restrictions on the sale of firearms than state law prescribes."

(*ordy e v. Santa Clara County* (9th Cir. Cal. 1997) 110 F.3d 707, 766.)

However, counties do not have authority to prohibit gun shows on state property such as the Cow Palace in Daly City.

There have been several legislative attempts to regulate gun shows on State Agricultural Land—most notably, SB 475 (Leno, 2014) and SB 585 (Leno, 2010), which were both vetoed. In 2018, SB 221 (Wiener) contained very similar provisions to this bill. SB 221 would have prohibited any officer, employee, operator, or lessee of Agriculture District 1-A, from contracting for, authorizing, or allowing the sale of any firearm or ammunition at the Cow Palace property in San Mateo County and San Francisco County. Like this bill, SB 221 exempted law enforcement firearm buy-back events. Unlike this bill, SB 221 failed to exempt

existing contracts to host firearms events. SB 221 was vetoed by Governor Brown with the following veto message:

This bill would prohibit the sale of firearms and ammunition at the District Agricultural Association 1A, commonly known as the Cow Palace.

This bill has been vetoed twice over the last ten years, once by myself, and once by Governor Schwarzenegger.

The decision on what kind of shows occur at the Cow Palace rests with the local board of directors which, incidentally, represents a broad cross section of the community. They are in the best position to make these decisions.

Then, in 2019 AB 893 (Gloria) added a section to the Food and Agricultural Code that prohibits the sale of firearms and ammunitions at the Del Mar Fairgrounds. By default, a violation of any provision of the Food and Agricultural code is a misdemeanor, unless otherwise specified. Therefore, this bill effectively terminated the possibility for future gun shows at the Del Mar Fairgrounds. AB 893 was signed into law by Governor Newsom and Chaptered as 731 in the Statutes of 2019.

SB 264 (Min, Chapter 684, Statutes of 2021) as initially introduced was almost identical to this bill, and would have enacted a similar statewide ban on firearm and ammunition sales on state property. That measure was subsequently amended to include precursor parts – which can be assembled into so-called “ghost guns” – in the prohibition on sales, and to exempt several governmental functions and contractual obligations from the prohibition. The scope of SB 264 was ultimately limited by amendments taken in Assembly Appropriations Committee, confining the measure’s applicability to firearm, precursor part and ammunition sales in Orange County. This bill renews the author’s efforts to enact a statewide ban, and retains the exemptions and ban on precursor part sales from the final version of SB 264.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- Annual revenue loss, potentially in the low millions of dollars across all District Agricultural Associations that currently allow gun shows at their fairgrounds that currently allow gun shows on their property, to the extent they are unable to secure additional, alternative events that could generate similar levels of revenue. For illustrative purposes, before the prohibition on the sale of firearms and ammunition at the Del Mar Fairgrounds (AB 893 (Gloria, Chapter 731,

Statutes of 2019), there were five gun shows on the property in 2017 that resulted in approximately \$304,000 in net revenue and there were three gun shows in 2018 that collected \$146,000 in gross revenue (Fair and Exposition Fund).

- Unknown loss of sales tax revenue if firearm, firearm precursor parts, and ammunition sales that would have taken place on state property do not occur at other locations within the state (General Fund, local funds).

SUPPORT: (Verified 5/19/22)

Brady Orange County
 Brady United Against Gun Violence, Ventura County Chapter
 City of San Jose
 Democratic Club of Cornejo Valley
 Friends Committee on Legislation of California
 Laguna Woods Democratic Club
 Nathan Fletcher, San Diego County Supervisor
 NeverAgainCA
 Peace and Justice Commission, St. Mark Presbyterian Church Newport Beach
 San Diego County Board of Supervisors
 Santa Barbara Women's Political Committee
 Ventura County
 Violence Prevention Coalition of Orange County

OPPOSITION: (Verified 5/19/22)

Black Brant Group
 Cal-Ore Wetlands and Waterfowl Council
 California Bowmen Hunters/State Archery Association
 California Chapter Wild Sheep Foundation
 California Deer Association
 California Houndsmen for Conservation
 California Rifle and Pistol Association
 California Sportsman's Lobby, Inc.
 California Waterfowl Association
 Gun Owners of California
 National Rifle Association – Institute for Legislative Action
 Nor-Cal Guides and Sportsmen's Association
 Outdoor Sportsmen's Coalition of California
 Peace Officers Research Association of California
 Rocky Mountain Elk Foundation

Safari Club International – California Chapters
Safari Club International – San Francisco Bay Area Chapter
San Diego County Wildlife Federation
Tulare Basin Wetlands Association
Western Fairs Association

Prepared by: Alex Barnett / PUB. S. /
5/21/22 15:43:03

**** **END** ****

EXHIBIT 19

Date of Hearing: June 8, 2022
Chief Counsel: Sandy Uribe

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

SB 915 (Min) – As Amended June 6, 2022

SUMMARY: Prohibits the sale of firearms, firearm precursor parts and ammunition on state property. Specifically, **this bill:**

- 1) Prohibits a state officer or employee, or operator, lessee, or licensee of any state property, from contracting for, authorizing, or allowing the sale of any firearm, firearm precursor part, or ammunition on state property or in the buildings that sit on state property or property otherwise owned, leased, occupied, or operated by the state.
- 2) Exempts the following from this prohibition:
 - a) A gun buyback event held by a law enforcement agency;
 - b) The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties;
 - c) The sale of a firearm, firearm precursor part, or ammunition that occurs pursuant to a contract that was entered into before January 1, 2023;
 - d) The purchase of a firearm, firearm precursor part, or ammunition on state property by a law enforcement agency in the course of its regular duties;
 - e) The purchase of a state-issued firearm by a retiring peace officer, as specified; and,
 - f) The purchase of a state-issued firearm by a peace officer if the person's department changes its state-issued weapon system, as specified.

EXISTING LAW:

- 1) Provides that bringing or possessing a firearm within any state or local public building is punishable by imprisonment in a county jail for not more than one year, or in the state prison, unless a person brings any weapon that may be lawfully transferred into a gun show for the purpose of sale or trade. (Pen. Code, §§ 171b subs. (a) & (b)(7)(A).)
- 2) Prohibits the sale, lease, or transfer of firearms without a license, unless the sale, lease, or transfer is pursuant to operation of law or a court order, made by a person acting pursuant to the Enforcement of Judgments Law, as specified, made by a person liquidating a personal firearm collection to satisfy a court judgment, or is an infrequent sale, lease, or transfer, as defined. Makes a violation of these provisions a misdemeanor. (Pen. Code, §§ 26500, 26505,

26520.)

- 3) Excludes persons with a valid federal firearms license and a current certificate of eligibility issued by the Department of Justice (DOJ) from the prohibitions on the sale, lease, or transfer of used firearms, other than handguns, at gun shows or events. (Pen. Code, § 26525.)
- 4) Permits licensed dealers to sell firearms only from their licensed premises and at gun shows. (Pen. Code, § 26805.)
- 5) States that a dealer operating at a gun show must comply with all applicable laws, including California's waiting period law, laws governing the transfer of firearms by dealers, and all local ordinances, regulations, and fees. (Pen. Code, § 26805.)
- 6) States that no person shall produce, promote, sponsor, operate, or otherwise organize a gun show, unless that person possesses a valid certificate of eligibility from the DOJ. (Pen. Code, § 27200.)
- 7) Specifies the requirements that gun show operators must comply with at gun shows, including entering into a written contract with each gun show vendor selling firearms at the show, ensuring that liability insurance is in effect for the duration of a gun show, posting visible signs pertaining to gun show laws at the entrances of the event, and submitting a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to the DOJ, as specified. (Pen. Code, § 27200.)
- 8) Makes a willful failure to comply with any of the gun show requirements a misdemeanor and renders the producer ineligible for a gun show producer license for one year from the date of the conviction. Multiple violations arising from more than one gun show or event are grounds to suspend a producer's certificate of eligibility pending adjudication of the violations. (Pen. Code, § 27245.)
- 9) Divides the state in agricultural districts and designates District 31 as Ventura County. (Food & Agr. Code, §§ 3851, 3883.)
- 10) Allows for the establishment of District Agricultural Associations within each agricultural district, for the purposes of holding fairs, expositions and exhibitions, and constructing, maintaining, and operating recreational and cultural facilities of general public interest. (Food & Agr. Code, § 3951.)
- 11) Prohibits the sale of firearms, firearm precursor parts, or ammunition on the property or in the buildings that comprise the 32nd District Agricultural Association (Orange County Fair and Event Center). (Pen. Code, § 27575.)
- 12) Prohibits the sale of firearms and ammunitions on the property or in the buildings that comprise the 22nd District Agricultural Association (Del Mar Fairgrounds). (Food & Agr. Code, § 4158.)
- 13) Specifies that unless a different penalty is expressly provided, a violation of any provision of the Food and Agricultural Code is a misdemeanor. (Food & Agr. Code, § 9.)

FISCAL EFFECT:**COMMENTS:**

- 1) **Author's Statement:** According to the author, “Within existing law, the sale and transfer of guns and ammunitions is generally regulated, requiring transactions of guns to be done through a licensed gun dealer, and requiring individuals who wish to purchase guns to undergo a background check, among other requirements. However, gun shows are often a venue for straw purchases. According to the Center for American Progress, gun shows are often “the critical moment in the chain of custody for many guns, the point at which they move from the somewhat-regulated legal market to the shadowy, no-questions-asked illegal market.”
- 2) **Banning Gun Shows on State Land:** There have been several legislative attempts to regulate gun shows in Agricultural District 1A in San Mateo and San Francisco Counties at a location commonly known as the “Cow Palace.” SB 221 (Wiener), of the 2017-2018 Legislative Session, SB 475 (Leno), of the 2013-2014 Legislative Session, SB 585 (Leno), of the 2009-2010 Legislative Session, and others, all attempted to either ban gun shows at the Cow Palace altogether, or require prior approval from the county Board Supervisors prior to entering into a contract for holding a gun show there. All three attempts were vetoed by then-Governors Schwarzenegger and Brown.

Then, in 2019, AB 893 (Gloria), Chapter 731, Statutes of 2019, added a section to the Food and Agricultural Code that prohibits the sale of firearms and ammunition at the Del Mar Fairgrounds, effectively terminating the possibility for future gun shows at the Del Mar Fairgrounds. SB 264 (Min), Chapter 684, Statutes of 2021, built upon the provisions of AB 893 by prohibiting the sale of firearms, firearm precursor parts, and ammunition at the Orange County Fair and Event Center.

As initially introduced, SB 264, was substantially similar to this bill, and would have enacted a statewide ban on firearm and ammunition sales on state property. The scope of SB 264 was ultimately limited by amendments taken in Assembly Appropriations Committee, confining the measure’s applicability to sales in on the Orange County Fairgrounds.

This bill would further expand upon these provisions by prohibiting the sale of firearms, firearm precursor parts, and ammunition on all state property, with specified exceptions, most of which deal with purchases by law enforcement or gun buy back events held by law enforcement.

- 3) **Gun Shows:** A “gun show” is a trade show for firearms. At gun shows, individuals may buy, sell, and trade firearms and firearms-related accessories. These events typically attract several thousand people, and a single gun show can have sales of over 1,000 firearms over the course of one weekend. (Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), *Gun Shows: Brady Checks and Crime Gun Traces*, January 1999, available at: <https://www.atf.gov/file/57506/download>, [as of June 2, 2022].)

In California, gun transactions at gun shows are treated no differently than any other private party transaction. This means that such transfers must be completed through a licensed California dealer. Such a transfer requires a background check and is subject to the

mandatory ten day waiting period prior to delivering the firearm to the purchaser. California's strict gun show regulations may help to prevent increases in firearm deaths and injuries following gun shows. (See Ellicott C. Matthay, et al., "In-State and Interstate Associations Between Gun Shows and Firearm Deaths and Injuries," *Annals of Internal Medicine* (2017) Vol. 1 Iss. 8.)

- 4) **Argument in Support:** According to the *Ventura County Chapter of Brady United Against Gun Violence*, "County fairgrounds are supposed to be family-friendly venues and have long been associated with events like county fairs, 4-H events, rodeos and music festivals. However, they have become equally well-known for gun shows. This needs to change, and this bill will finally get California out of the business of government-sponsored gun shows. While the Second Amendment allows for the well-regulated sales and purchase of firearms, the Constitution does not require that taxpayer-owned properties be used to facilitate those transactions!

"Further, we have studied the amount of income Fairgrounds derive from the Gun Shows. In normal (non-pandemic) years, it is an insignificant portion of the total, especially if one considers the increased exposure to litigation hosting Gun Shows entails. The shows could be easily replaced with some common-sense planning and marketing."

- 5) **Argument in Opposition:** According to the *Rural County Representatives of California (RCRC)*, "While RCRC generally does not engage on legislation dealing with firearms, we believe our involvement on this particular bill is warranted. RCRC is an association of thirty-eight rural California counties, and the RCRC Board of Directors is comprised of elected supervisors from each member county.

"In California's rural counties, fairgrounds play a major role in the economies of the communities/counties where they are located. Beyond the annual "fair" event filled with corndogs and Ferris wheels, fair facilities host hundreds of events year-round. These facilities are home to various events such as gun shows, dog shows, RV shows, bridal shows, and other retail opportunities. SB 915 would prohibit these fairs from holding gun shows and, as a result, erode the revenue stream that would be derived from legal gun shows on these premises.

"The health and viability of each county's local fair and fairgrounds – whether state-owned/operated or county-owned – is a high priority of our member counties. These fairs and fairgrounds are an integral asset to many counties throughout the state, particularly in rural California. They effectively serve as community centers for extreme weather events, emergency operations sites and similar critical community needs as well as event centers and for show events. Together these various revenue streams help in keeping operations of these facilities viable.

"It should also be noted that over the past two decades, District Agriculture Association (DAA)/county fairs have been financially struggling and are near a breaking point. These state-owned facilities have been under-invested in for years, if not decades, thus forcing the DAA's to look at creative ways to create revenue streams. Further aggravating the situation for the past two years are the effects of a COVID environment, depressing revenues at fair facilities.

“Given the above, and that firearms and firearm components are legal products that are already heavily regulated at both the federal and state level, further limiting the use of fair facilities for guns shows is a needlessly restrictive burden on these facilities. Throughout the nation, there has been no evidence of firearms being obtained improperly at a county fairground property. SB 915 simply creates winners and losers in the retail firearm industry, and would drive firearm consumers to other retailers, including those that operate out-of-state.

“Finally, we do not believe that a statewide approach is warranted. We believe each DAA operated fair should be able to make the decision on when, what, and how retail formats occur at each property. The inclusion of a prohibition on the sale of an otherwise legal product on county-owned property, primarily on county fairgrounds, discounts local authority, whether it the locally elected or state appointed body (responsible for stateowned fair facilities) that is making the decisions.”

6) Related Legislation:

- a) AB 311 (Ward) prohibits a vendor at a gun show or event on the property of the 22nd District Agricultural Association (Del Mar Fairgrounds) from selling firearm precursor parts. AB 311 is pending in the Senate Public Safety Committee.
- b) AB 1769 (Bennett) prohibits the sale of any firearm, firearm precursor part, or ammunition on the property of the 31st District Agricultural Association (Ventura County Fair and Event Center in Ventura County). AB 1769 is pending in the Senate Public Safety Committee.

7) Prior Legislation:

- a) SB 264 (Min) Chapter 684, Statutes of 2021, prohibited the sale of any firearm, firearm precursor part, or ammunition on the property of the 32nd District Agricultural Association (Orange County Fair and Event Center).
- b) AB 893 (Gloria) Chapter 731, Statutes of 2019, prohibited the sale of firearms and ammunitions on the property of the 22nd District Agricultural Association (Del Mar Fairgrounds) and created a misdemeanor offense for a violation of that prohibition.
- c) SB 221 (Wiener), of the 2017-2018 Legislative Session, would have prohibited the sale of firearms and ammunitions at the Cow Palace. SB 221 was vetoed by Governor Brown.
- d) SB 475 (Leno), of the 2013-2014 Legislative Session, would have required gun shows at the Cow Palace to have prior approval of both the Board of Supervisors of the County of San Mateo and the City and County of San Francisco, as specified. SB 475 was vetoed by Governor Brown.
- e) SB 585 (Leno), of the 2009-2010 Legislative Session, would have prohibited events at which any firearm or ammunition is sold at the Cow Palace, as specified. SB 585 was vetoed by Governor Schwarzenegger.

- f) AB 2948 (Leno), of the 2007-08 Legislative Session, would have prohibited the sale of firearms or ammunition at the Cow Palace. AB 2948 failed passage on the Senate Floor.
- g) SB 1733 (Speier), of the 2003-04 Legislative Session, would have required gun shows at the Cow Palace to have prior approval of both the Board of Supervisors of the County of San Mateo and the City and County of San Francisco, as specified. SB 1733 failed passage on the Assembly Floor.
- h) AB 295 (Corbett), Chapter 247, Statutes of 1999, established the Gun Show Enforcement and Security Act of 2000, which includes a number of requirements for producers that promote gun shows.
- i) AB 1107 (Ortiz), of the 1997-1998 Legislative Session, would have authorized any city, county or agricultural association to prohibit gun sales at gun shows or events. AB 1107 failed in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Brady Orange County
Brady United Against Gun Violence, Ventura County Chapter
City of San Jose
County of Ventura
Democratic Club of The Conejo Valley
Friends Committee on Legislation of California
Laguna Woods Democratic Club
Neveragainca
Office of Chair Nathan Fletcher, San Diego County Board of Supervisors
Peace and Justice Commission From St Mark Presbyterian Church in Newport Beach
Santa Barbara Women's Political Committee
The Violence Prevention Coalition of Orange County

Opposition

Black Brant Group, the
Cal-ore Wetlands and Waterfowl Council
California Bowmen Hunters/state Archery Association
California Chapter Wild Sheep Foundation
California Deer Association
California Houndsmen for Conservation
California Rifle and Pistol Association, INC.
California Sportsman's Lobby, INC.
California Waterfowl Association
Gun Owners of California, INC.
National Rifle Association - Institute for Legislative Action
Nor-cal Guides and Sportsmen's Association
Outdoor Sportsmen's Coalition of California
Peace Officers Research Association of California (PORAC)

Rocky Mountain Elk Foundation
Rural County Representatives of California
Safari Club International - California Chapters
Safari Club International - San Francisco Bay Area Chapter
San Diego County Wildlife Federation
Tulare Basin Wetlands Association

Analysis Prepared by: Sandy Uribe / PUB. S. / (916) 319-3744

EXHIBIT 20

Date of Hearing: June 22, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
SB 915 (Min) – As Amended June 6, 2022

Policy Committee: Public Safety Vote: 5 - 2

Urgency: No State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY:

This bill prohibits the sale of any firearm, firearm precursor part or ammunition on state property, except as specified.

FISCAL EFFECT:

- 1) Costs (General Fund (GF)) of \$229,000 in fiscal year (FY) 2022-23, \$396,000 in FY 2023-24, \$396,000 in FY 2024-25, \$216,000 in FY 2025-26, and \$8,000 annually thereafter to the Department of Justice (DOJ) in additional staff to handle increased litigation. Although litigation costs are speculative, DOJ is currently litigating the gun show prohibition in AB 893 (*B&L Productions v. 22nd District Agricultural Assoc.* (2019) 394 F.Supp.3d 1226).
- 2) Possible loss of revenue (Fair and Exposition Fund) in the millions of dollars annually across all district agricultural associations that currently allow gun shows on their property, to the extent they are unable to secure alternative events that could generate similar levels of revenue. The District of Agricultural Association is a part of California Department of Food and Agriculture. Before the enactment of AB 893 (Chiu), Chapter 731, Statutes of 2020, which prohibited the sale of firearms and ammunition at the Del Mar Fairgrounds, there were five gun shows on the Del Mar property in 2017 that resulted in approximately \$304,000 in net revenue and three gun shows in 2018 that collected \$146,000 in gross revenue. The Fair and Exposition Fund is funded by a portion of state sales taxes generated at state fairs and events and is used to improve facilities at fairgrounds. This bill may result in General Fund costs to the extent the state is required to backfill any revenue lost as a result of this bill.
- 3) Unknown loss of sales tax revenue (GF and local funds) if firearm, firearm precursor parts, and ammunition sales that would have taken place on state property do not occur at other locations within the state.

COMMENTS:

- 1) **Gun Shows.** AB 295 (Corbett), Chapter 247, Statutes of 1999 requires gun shows to obtain a certificate of eligibility to operate from the Department of Justice (DOJ). To obtain a certificate of eligibility from the DOJ, a promoter must certify that they are familiar with existing law regarding gun shows; obtain at least \$1 million of liability insurance; provide an annual list of gun shows the applicant plans to promote; pay an annual fee; make available to local law enforcement a complete list of all entities that have rented any space at the show;

submit not later than 15 days before the start of the show an event and security plan; submit a list to DOJ of prospective vendors and designated firearms transfer agents who are licensed dealers; provide photo identification of each vendor and vendor's employee; prepare an annual event and security plan; and require every firearm carried onto the premises of a show to be checked, cleared of ammunition, secured in a way that it cannot be operated, and have an identification tag or sticker attached. Gun show certificates of eligibility must be requested online via the DOJ Firearms Application Reporting System. Fees associated with obtaining a certificate of eligibility include the cost of the initial COE Application (\$71). Renewal applications cost \$22. DOJ does not anticipate any costs as a result of this bill, however, prohibiting gun shows at state fairgrounds may result in loss of application revenue.

There have been several legislative attempts to regulate gun shows in San Mateo and San Francisco counties at a location commonly known as the "Cow Palace." SB 221 (Wiener) of the 2017-18 Legislative Session, SB 475 (Leno), of the 2013-14 Legislative Session, SB 585 (Leno), of the 2009-10 Legislative Session, and others, all attempted to either ban gun shows at the Cow Palace altogether, or require prior approval from the county San Mateo and San Francisco boards of supervisors prior to entering into a contract for holding a gun show there. All three attempts were vetoed by then-Governors Schwarzenegger or Brown.

As noted above, any person who seeks to purchase a firearm at a gun show must still clear a DOJ background check and wait any statutory period before accepting the firearm. Gun show visitors are not generally allowed to just walk off with a firearm purchased at a gun show. California has numerous regulations and statutes in place to avoid straw purchases in California even at gun shows. Finally, there are multiple lawsuits pending against the state for prior legislation to ban the sale of firearms at the Del Mar and the Orange County fairgrounds. Plaintiffs in those lawsuits allege that prohibiting the sale of firearms at agricultural district violates both the First and Second amendments of U.S. Constitution.

2) **Argument in Support.** According to the Orange County Chapter of the Brady Campaign:

With surges in gun violence during the pandemic, California needs to take swift action. While the sale and transfer of guns and ammunitions is generally regulated, the policy does not go far enough to protect the safety of Californians against gun violence and ghost guns. California needs to continue to lead the nation in gun legislation by passing SB 915 to further regulate the sale of guns and ammunition on state-owned property.

3) **Argument in Opposition.** According to the Tulare Basin Wetlands Association:

Proponents of similar legislation in the past have tried to falsely argue that gun shows enjoy a "loophole" that allows them to sell firearms and ammunition without complying with the countless laws and regulations which overwhelmingly govern their sale and transfer. However, that claim is untrue. First, promoters and operators of gun shows in California must comply with twenty-six sections of the Penal Code. Second, gun sales are heavily regulated

in California and the rules are no less stringent for vendors at gun shows. Vendors that participate in gun shows may not do so unless all their licenses have been submitted to the California Department of Justice (DOJ) before the event for the purposes of determining whether the vendors possess the proper valid licenses and comply with all relevant laws. If they do not pass the review of the DOJ, they are prohibited from participating.

4) Related Legislation.

- a) AB 264 (Min), Chapter 684, Statutes of 2021, prohibits the sale of firearms, firearm precursor parts, or ammunition on the property of the 32nd District Agricultural Association (Orange County Fair and Event Center).
- b) AB 1769 (Bennett) prohibits the sale of firearms, ammunition or precursor parts on any property within the 31st District Agricultural Association. AB 1769 is pending on the Senate floor.

Analysis Prepared by: Kimberly Horiuchi / APPR. / (916) 319-2081

EXHIBIT 21

SENATE THIRD READING
SB 915 (Min)
As Amended June 6, 2022
Majority vote

SUMMARY

Prohibits the sale of firearms, firearm precursor parts and ammunition on state property.

Major Provisions

- 1) Prohibits a state officer or employee, or operator, lessee, or licensee of any state property, from contracting for, authorizing, or allowing the sale of any firearm, firearm precursor part, or ammunition on state property or in the buildings that sit on state property or property otherwise owned, leased, occupied, or operated by the state.
- 2) Exempts the following from this prohibition:
 - a) A gun buyback event held by a law enforcement agency;
 - b) The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties;
 - c) The sale of a firearm, firearm precursor part, or ammunition that occurs pursuant to a contract that was entered into before January 1, 2023;
 - d) The purchase of a firearm, firearm precursor part, or ammunition on state property by a law enforcement agency in the course of its regular duties;
 - e) The purchase of a state-issued firearm by a retiring peace officer, as specified; and,
 - f) The purchase of a state-issued firearm by a peace officer if the person's department changes its state-issued weapon system, as specified.

COMMENTS

Banning Gun Shows on State Land: There have been several legislative attempts to regulate gun shows in Agricultural District 1A in San Mateo and San Francisco Counties at a location commonly known as the "Cow Palace." SB 221 (Wiener) of the 2017-18 Legislative Session, SB 475 (Leno) of the 2013-14 Legislative Session, SB 585 (Leno) of the 2009-10 Legislative Session, and others, all attempted to either ban gun shows at the Cow Palace altogether, or require prior approval from the county Board Supervisors prior to entering into a contract for holding a gun show there. All three attempts were vetoed by then-Governors Schwarzenegger and Brown.

Then, in 2019, AB 893 (Gloria), Chapter 731, Statutes of 2019, added a section to the Food and Agricultural Code that prohibits the sale of firearms and ammunition at the Del Mar Fairgrounds, effectively terminating the possibility for future gun shows at the Del Mar Fairgrounds. SB 264 (Min), Chapter 684, Statutes of 2021, built upon the provisions of AB 893 by prohibiting the sale of firearms, firearm precursor parts, and ammunition at the Orange County Fair and Event Center.

As initially introduced, SB 264, was substantially similar to this bill, and would have enacted a statewide ban on firearm and ammunition sales on state property. The scope of SB 264 was ultimately limited by amendments taken in Assembly Appropriations Committee, confining the measure's applicability to sales in on the Orange County Fairgrounds.

This bill would further expand upon these provisions by prohibiting the sale of firearms, firearm precursor parts, and ammunition on all state property, with specified exceptions, most of which deal with purchases by law enforcement or gun buy back events held by law enforcement.

According to the Author

"Within existing law, the sale and transfer of guns and ammunitions is generally regulated, requiring transactions of guns to be done through a licensed gun dealer, and requiring individuals who wish to purchase guns to undergo a background check, among other requirements. However, gun shows are often a venue for straw purchases. According to the Center for American Progress, gun shows are often "the critical moment in the chain of custody for many guns, the point at which they move from the somewhat-regulated legal market to the shadowy, no-questions-asked illegal market."

Arguments in Support

According to the *Ventura County Chapter of Brady United Against Gun Violence*, "County fairgrounds are supposed to be family-friendly venues and have long been associated with events like county fairs, 4-H events, rodeos and music festivals. However, they have become equally well-known for gun shows. This needs to change, and this bill will finally get California out of the business of government-sponsored gun shows. While the Second Amendment allows for the well-regulated sales and purchase of firearms, the Constitution does not require that taxpayer-owned properties be used to facilitate those transactions!

"Further, we have studied the amount of income Fairgrounds derive from the Gun Shows. In normal (non-pandemic) years, it is an insignificant portion of the total, especially if one considers the increased exposure to litigation hosting Gun Shows entails. The shows could be easily replaced with some common-sense planning and marketing."

Arguments in Opposition

According to the *Rural County Representatives of California* (RCRC), "While RCRC generally does not engage on legislation dealing with firearms, we believe our involvement on this particular bill is warranted. RCRC is an association of thirty-eight rural California counties, and the RCRC Board of Directors is comprised of elected supervisors from each member county.

"In California's rural counties, fairgrounds play a major role in the economies of the communities/counties where they are located. Beyond the annual "fair" event filled with corndogs and Ferris wheels, fair facilities host hundreds of events year-round. These facilities are home to various events such as gun shows, dog shows, RV shows, bridal shows, and other retail opportunities. SB 915 would prohibit these fairs from holding gun shows and, as a result, erode the revenue stream that would be derived from legal gun shows on these premises.

"The health and viability of each county's local fair and fairgrounds – whether state-owned/operated or county-owned – is a high priority of our member counties. These fairs and fairgrounds are an integral asset to many counties throughout the state, particularly in rural California. They effectively serve as community centers for extreme weather events, emergency operations sites and similar critical community needs as well as event centers and for show

events. Together these various revenue streams help in keeping operations of these facilities viable.

"It should also be noted that over the past two decades, District Agriculture Association (DAA)/county fairs have been financially struggling and are near a breaking point. These state-owned facilities have been under-invested in for years, if not decades, thus forcing the DAA's to look at creative ways to create revenue streams. Further aggravating the situation for the past two years are the effects of a COVID environment, depressing revenues at fair facilities.

"Given the above, and that firearms and firearm components are legal products that are already heavily regulated at both the federal and state level, further limiting the use of fair facilities for guns shows is a needlessly restrictive burden on these facilities. Throughout the nation, there has been no evidence of firearms being obtained improperly at a county fairground property. SB 915 simply creates winners and losers in the retail firearm industry, and would drive firearm consumers to other retailers, including those that operate out-of-state.

"Finally, we do not believe that a statewide approach is warranted. We believe each DAA operated fair should be able to make the decision on when, what, and how retail formats occur at each property. The inclusion of a prohibition on the sale of an otherwise legal product on county-owned property, primarily on county fairgrounds, discounts local authority, whether it the locally elected or state appointed body (responsible for stateowned fair facilities) that is making the decisions."

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) Costs (General Fund (GF)) of \$229,000 in fiscal year (FY) 2022-23, \$396,000 in FY 2023-24, \$396,000 in FY 2024-25, \$216,000 in FY 2025-26, and \$8,000 annually thereafter to the Department of Justice (DOJ) in additional staff to handle increased litigation. Although litigation costs are speculative, DOJ is currently litigating the gun show prohibition in AB 893 (*B&L Productions v. 22nd District Agricultural Assoc.* (2019) 394 F.Supp.3d 1226).
- 2) Possible loss of revenue (Fair and Exposition Fund) in the millions of dollars annually across all district agricultural associations that currently allow gun shows on their property, to the extent they are unable to secure alternative events that could generate similar levels of revenue. The District of Agricultural Association is a part of California Department of Food and Agriculture. Before the enactment of AB 893 (Chiu), Chapter 731, Statutes of 2020, which prohibited the sale of firearms and ammunition at the Del Mar Fairgrounds, there were five gun shows on the Del Mar property in 2017 that resulted in approximately \$304,000 in net revenue and three gun shows in 2018 that collected \$146,000 in gross revenue. The Fair and Exposition Fund is funded by a portion of state sales taxes generated at state fairs and events and is used to improve facilities at fairgrounds. This bill may result in General Fund costs to the extent the state is required to backfill any revenue lost as a result of this bill.
- 3) Unknown loss of sales tax revenue (GF and local funds) if firearm, firearm precursor parts, and ammunition sales that would have taken place on state property do not occur at other locations within the state.

VOTES

SENATE FLOOR: 25-9-6

YES: Allen, Atkins, Becker, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk

ABS, ABST OR NV: Archuleta, Bradford, Caballero, Hertzberg, Hurtado, Roth

ASM PUBLIC SAFETY: 5-2-0

YES: Jones-Sawyer, Mia Bonta, Bryan, Quirk, Santiago

NO: Lackey, Seyarto

ASM APPROPRIATIONS: 10-4-2

YES: Holden, Bryan, Calderon, Carrillo, Mike Fong, Gabriel, Levine, Robert Rivas, Akilah Weber, Wilson

NO: Bigelow, Megan Dahle, Davies, Fong

ABS, ABST OR NV: Eduardo Garcia, Quirk

UPDATED

VERSION: June 6, 2022

CONSULTANT: Sandy Uribe / PUB. S. / (916) 319-3744

FN: 0003024

EXHIBIT 22

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
(916) 651-1520 Fax: (916) 327-4478

SB 915

UNFINISHED BUSINESS

Bill No: SB 915
Author: Min (D), et al.
Amended: 6/6/22
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 3/8/22
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/19/22
AYES: Portantino, Bradford, Kamlager, Laird, Wieckowski
NOES: Bates, Jones

SENATE FLOOR: 25-9, 5/24/22
AYES: Allen, Atkins, Becker, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hueso, Kamlager, Laird, Leyva, Limón, McGuire, Min, Newman, Pan, Portantino, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener
NOES: Bates, Borgeas, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk
NO VOTE RECORDED: Archuleta, Bradford, Caballero, Hertzberg, Hurtado, Roth

ASSEMBLY FLOOR: 50-22, 6/27/22 - See last page for vote

SUBJECT: Firearms: state property

SOURCE: Author

DIGEST: This bill prohibits the sale of firearms, firearm precursor parts and ammunition on state property.

Assembly Amendments create exemptions for the purchase of firearms or firearm precursor parts by a law enforcement agency and related purchases by qualified law-enforcement personnel or their spouses.

ANALYSIS:

Existing law:

- 1) Provides that bringing or possessing a firearm within any state or local public building is punishable by imprisonment in a county jail for not more than one year, or in the state prison, unless a person brings any weapon that may be lawfully transferred into a gun show for the purpose of sale or trade. (Pen. Code §§ 171b subd. (a), 171b subd. (b)(7)(A).)
- 2) Prohibits the sale, lease, or transfer of firearms without a license, unless the sale, lease, or transfer is pursuant to operation of law or a court order, made by a person who obtains the firearm by intestate succession or bequest, or is an infrequent sale, transfer, or transfer, as defined. (Pen. Code § 26500, 26505, 26520.)
- 3) Excludes persons with a valid federal firearms license and a current certificate of eligibility issued by the Department of Justice from the prohibitions on the sale, lease, or transfer of used firearms, other than handguns, at gun shows or events. (Pen. Code § 26525.)
- 4) Permits licensed dealers to sell firearms only from their licensed premises and at gun shows. (Pen. Code § 26805.)
- 5) States that a dealer operating at a gun show must comply with all applicable laws, including California's waiting period law, laws governing the transfer of firearms by dealers, and all local ordinances, regulations, and fees. (Pen. Code § 26805.)
- 6) States that no person shall produce, promote, sponsor, operate, or otherwise organize a gun show, unless that person possesses a valid certificate of eligibility from the Department of Justice. (Pen. Code § 27200.)
- 7) Specifies the requirements that gun show operators must comply with at gun shows, including entering into a written contract with each gun show vendor selling firearms at the show, ensuring that liability insurance is in effect for the duration of a gun show, posting visible signs pertaining to gun show laws at the entrances of the event, and submitting a list of all prospective vendors and designated firearms transfer agents who are licensed firearms dealers to the Department of Justice, as specified. (Pen. Code §§ 27200, 27245.)

- 8) Provides that an officer, employee, operator, lessee or licensee of the 32nd District Agricultural Association shall not contract for, authorize, or allow the sale of any firearm, firearm precursor part, or ammunition on the property or in the buildings that comprise the Orange County Fair and Event Center, in the County of Orange, the City of Costa Mesa, or any successor or additional property owned, leased or otherwise occupied or operated by the district. (Pen. Code §27575(a).)
- 9) Exempts the following from the prohibition in Penal Code § 27575(a):
 - a) A gun buyback event held by a law enforcement agency.
 - b) The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties.
 - c) The sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before January 1, 2022.
 - d) The purchase of ammunition on state property by a law enforcement agency in the course of its regular duties. (Pen. Code §27575(b).)
- 10) Specifies that unless a different penalty is expressly provided, a violation of any provision of the Food and Agricultural Code is a misdemeanor. (Food and Ag. Code, § 9.)

This bill:

- 1) Prohibits a state officer or employee, or operator, lessee, or licensee of any state property from contracting for, authorizing, or allowing the sale of any firearm, firearm precursor part, or ammunition on state property or property otherwise owned, leased, occupied, or operated by the state.
- 2) Exempts the following from the prohibition above:
 - a) A gun buyback event held by a law enforcement agency.
 - b) The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties.
 - c) The sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before January 1, 2023.
 - d) The purchase of firearms, firearm precursor parts, or ammunition on state property by a law enforcement agency in the course of its regular duties.

- e) The purchase of a firearm pursuant to subdivision (b), (c), or (d) of Section 10334 of the Public Contracts Code, relating to the purchase of firearms by active and retired law enforcement officers and their spouses.

Co n

According to the author, “County fairgrounds are meant to be a safe and welcome space for community gatherings. Instead, these tax-payer owned properties are used to facilitate the sales of guns and ammunition. According to the Giffords Law Center to Prevent Gun Violence, gun shows often create the opportunity to “circumvent gun safety laws” and are a common venue for straw purchases and illegal gun transfers.

“Additionally, a Bureau of Alcohol, Tobacco, and Firearms report described gun shows as a “major trafficking channel” and found that gun shows were the second largest source of illegally trafficked firearms. The state should not play a role in facilitating or profiting off of the sales of these deadly weapons. Instead, the creation of statewide safeguards is necessary to ensure fairgrounds remain safe, family-friendly venues.”

AB 295 (Corbett, Chapter 247, Statutes of 1999), the Gun Show Enforcement and Security Act of 2000, added a number of requirements for gun shows. To obtain a certificate of eligibility from the DOJ, a promoter must certify that he or she is familiar with existing law regarding gun shows; obtain at least \$1 million of liability insurance; provide an annual list of gun shows the applicant plans to promote; pay an annual fee; make available to local law enforcement a complete list of all entities that have rented any space at the show; submit not later than 15 days before the start of the show an event and security plan; submit a list to DOJ of prospective vendors and designated firearms transfer agents who are licensed dealers; provide photo identification of each vendor and vendor’s employee; prepare an annual event and security plan; and require all firearms carried onto the premises of a show to be checked, cleared of ammunition, secured in a way that they cannot be operated, and have an identification tag or sticker attached. AB 295 also provided for a number of penalties for a gun show producer’s willful failure to comply with the specified requirements. California’s strict gun show regulations may help to prevent increases in firearm deaths and injuries following gun shows. (See Ellicott C. Matthay, et al., “*In-State and Interstate Associations Between Gun Shows and Firearm Deaths and Injuries*,” *Annals of Internal Medicine* (2017) Vol. 1 Iss. 8.)

In addition to state laws regulating gun shows, a total ban on gun shows on county property is within the scope of a county’s authority. “Under California

Government Code section 23004(d), a county is given substantial authority to manage its property, including the most fundamental decision as to how the property will be used and that nothing in the gun show statutes evince intent to override that authority. The gun show statutes do not mandate that counties use their property for such shows. If the county does allow such shows, it may impose more stringent restrictions on the sale of firearms than state law prescribes.” (*Nordyke v. Santa Clara County* (9th Cir. Cal. 1997) 110 F.3d 707, 766.) However, counties do not have authority to prohibit gun shows on state property such as the Cow Palace in Daly City.

There have been several legislative attempts to regulate gun shows on State Agricultural Land—most notably, SB 475 (Leno, 2014) and SB 585 (Leno, 2010), which were both vetoed. In 2018, SB 221 (Wiener) contained very similar provisions to this bill. SB 221 would have prohibited any officer, employee, operator, or lessee of Agriculture District 1-A, from contracting for, authorizing, or allowing the sale of any firearm or ammunition at the Cow Palace property in San Mateo County and San Francisco County. Like this bill, SB 221 exempted law enforcement firearm buy-back events. Unlike this bill, SB 221 failed to exempt existing contracts to host firearms events. SB 221 was vetoed by Governor Brown with the following veto message:

This bill would prohibit the sale of firearms and ammunition at the District Agricultural Association 1A, commonly known as the Cow Palace.

This bill has been vetoed twice over the last ten years, once by myself, and once by Governor Schwarzenegger.

The decision on what kind of shows occur at the Cow Palace rests with the local board of directors which, incidentally, represents a broad cross section of the community. They are in the best position to make these decisions.

Then, in 2019, AB 893 (Gloria, Chapter 731, Statutes of 2019) added a section to the Food and Agricultural Code that prohibits the sale of firearms and ammunitions at the Del Mar Fairgrounds. By default, a violation of any provision of the Food and Agricultural code is a misdemeanor, unless otherwise specified. Therefore, this bill effectively terminated the possibility for future gun shows at the Del Mar Fairgrounds.

SB 264 (Min, Chapter 684, Statutes of 2021) as initially introduced was almost identical to this bill, and would have enacted a similar statewide ban on firearm

and ammunition sales on state property. That measure was subsequently amended to include precursor parts – which can be assembled into so-called “ghost guns” – in the prohibition on sales, and to exempt several governmental functions and contractual obligations from the prohibition. The scope of SB 264 was ultimately limited by amendments taken in Assembly Appropriations Committee, confining the measure’s applicability to firearm, precursor part and ammunition sales in Orange County. This bill renews the author’s efforts to enact a statewide ban, and retains the exemptions and ban on precursor part sales from the final version of SB 264.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee:

- Costs (General Fund (GF)) of \$229,000 in fiscal year (FY) 2022-23, \$396,000 in FY 2023-24, \$396,000 in FY 2024-25, \$216,000 in FY 2025-26, and \$8,000 annually thereafter to the Department of Justice (DOJ) in additional staff to handle increased litigation. Although litigation costs are speculative, DOJ is currently litigating the gun show prohibition in AB 893 (*Restrictions v. District Agricultural Assoc.* (2019) 394 F.Supp.3d 1226).
- Possible loss of revenue (Fair and Exposition Fund) in the millions of dollars annually across all district agricultural associations that currently allow gun shows on their property, to the extent they are unable to secure alternative events that could generate similar levels of revenue. The District of Agricultural Association is a part of California Department of Food and Agriculture. Before the enactment of AB 893 (Chiu), Chapter 731, Statutes of 2020, which prohibited the sale of firearms and ammunition at the Del Mar Fairgrounds, there were five gun shows on the Del Mar property in 2017 that resulted in approximately \$304,000 in net revenue and three gun shows in 2018 that collected \$146,000 in gross revenue. The Fair and Exposition Fund is funded by a portion of state sales taxes generated at state fairs and events and is used to improve facilities at fairgrounds. This bill may result in General Fund costs to the extent the state is required to backfill any revenue lost as a result of this bill.
- Unknown loss of sales tax revenue (GF and local funds) if firearm, firearm precursor parts, and ammunition sales that would have taken place on state property do not occur at other locations within the state.

SUPPORT: (Verified 6/27/22)

Brady Orange County

Brady United Against Gun Violence, Ventura County Chapter
City of San Jose
Democratic Club of Cornejo Valley
Friends Committee on Legislation of California
Laguna Woods Democratic Club
Nathan Fletcher, San Diego County Supervisor
NeverAgainCA
Peace and Justice Commission, St. Mark Presbyterian Church Newport Beach
Santa Barbara Women's Political Committee
Ventura County
Violence Prevention Coalition of Orange County
Women for American Values and Ethics Action Fund

OPPOSITION: (Verified 6/27/22)

Black Brant Group
Cal-Ore Wetlands and Waterfowl Council
California Bowmen Hunters/State Archery Association
California Chapter Wild Sheep Foundation
California Deer Association
California Houndsmen for Conservation
California Rifle and Pistol Association
California Sportsman's Lobby, Inc.
California Waterfowl Association
Gun Owners of California
National Rifle Association – Institute for Legislative Action
Nor-Cal Guides and Sportsmen's Association
Outdoor Sportsmen's Coalition of California
Peace Officers Research Association of California
Rocky Mountain Elk Foundation
Safari Club International – California Chapters
Safari Club International – San Francisco Bay Area Chapter
San Diego County Wildlife Federation
Tulare Basin Wetlands Association
Western Fairs Association

ASSEMBLY FLOOR: 50-22, 6/27/22

AYES: Aguiar-Curry, Alvarez, Arambula, Bauer-Kahan, Bennett, Berman,
Bloom, Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes,
Daly, Mike Fong, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson,

Haney, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McKinnor, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Blanca Rubio, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NOES: Bigelow, Choi, Cunningham, Megan Dahle, Davies, Flora, Fong, Gallagher, Gray, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Quirk, Salas, Seyarto, Smith, Valladares, Voepel, Waldron
NO VOTE RECORDED: Chen, Cooley, Cooper, Grayson, Holden, McCarty, Robert Rivas, Rodriguez

Prepared by: Alex Barnett / PUB. S. /
6/28/22 14:22:54

**** **END** ****

EXHIBIT 23

**SPECIAL REPORT**

JANUARY 2019

NCJ 251776

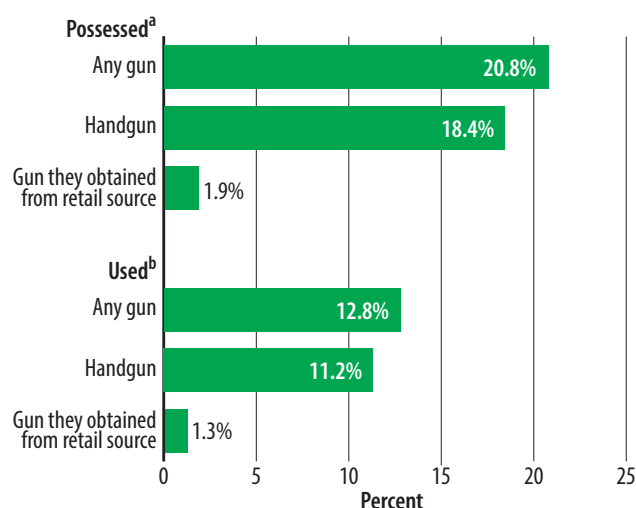
Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016

Mariel Alper, Ph.D., and Lauren Glaze, *BJS Statisticians*

Based on the 2016 Survey of Prison Inmates (SPI), about 1 in 5 (21%) of all state and federal prisoners reported that they had possessed or carried a firearm when they committed the offense for which they were serving time in prison (**figure 1**). More than 1 in 8 (13%) of all prisoners had used a firearm by showing, pointing, or discharging it during the offense for which they were imprisoned. Fewer than 1 in 50 (less than 2%) of all prisoners had obtained a firearm from a retail source and possessed, carried, or used it during the offense for which they were imprisoned.

An estimated 287,400 prisoners had possessed a firearm during their offense. Among these, more than half (56%) had either stolen it (6%), found it at the scene of the crime (7%), or obtained it off the street or from the underground market (43%). Most of the remainder (25%) had obtained it from a family member or friend, or as a gift. Seven percent had purchased it under their own name from a licensed firearm dealer.

FIGURE 1
Percent of all state and federal prisoners who had possessed or used a firearm during their offense, 2016



Note: See appendix table 1 for standard errors.

^aIncludes prisoners who carried or possessed a firearm during the offense.

^bIncludes prisoners who showed, pointed, or discharged a firearm during the offense.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

HIGHLIGHTS

- About 21% of state and 20% of federal prisoners said they possessed a gun during their offense, while 79% of state and 80% of federal prisoners did not.
- About 29% of state and 36% of federal prisoners serving time for a violent offense possessed a gun during the offense.
- About 1.3% of prisoners obtained a gun from a retail source and used it during their offense.
- Handguns were the most common type of firearm possessed by state and federal prisoners (18% each); 11% of all prisoners used a handgun.
- Among prisoners who possessed a gun during their offense, 90% did not obtain it from a retail source.
- Among prisoners who possessed a firearm during their offense, 0.8% obtained it at a gun show.
- About 1 in 5 state and federal prisoners who possessed a firearm during their offense obtained it with the intent to use it during the crime.
- Among state prisoners who possessed a gun during their offense, 27% killed someone with it, another 12% injured someone, 7% fired the gun but did not injure anyone, and 54% did not fire it.
- State prisoners with no military service were more likely to possess a gun during their offense (21%) than prisoners who had served in the military (16%).

Statistics in this report are based on self-reported data collected through face-to-face interviews with a national sample of state and federal prisoners in the 2016 SPI. (See *Methodology*.)

The 2016 SPI data collection was conducted from January through October 2016. The SPI was formerly known as the Survey of Inmates in State and Federal Correctional Facilities (SISFCF). The Bureau of Justice Statistics (BJS) has periodically conducted the

survey since the 1970s, with the most recent iteration fielded in 2004. The survey collects information from prisoners on a variety of topics, including firearm possession during the crime for which a prisoner was serving time and how the firearm was used during the crime. It also collects information on the method, source, and process that prisoners used to obtain the firearm. (See appendix 1, *Questions related to firearms in the Survey of Prison Inmates, 2016*.)

Terms and definitions

- **Firearm** – a weapon that uses gunpowder to shoot a bullet. Primary types are handguns, rifles, and shotguns:¹
 - **Handgun** – a firearm which has a short stock and is designed to be held and fired by the use of a single hand.
 - **Rifle** – a firearm intended to be fired from the shoulder and designed to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.
 - **Shotgun** – a firearm intended to be fired from the shoulder and designed to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each pull of the trigger.
- **Firearm possession** – carrying or possessing at least one firearm when the offense for which prisoners were serving a sentence was committed.
- **Firearm use** – showing a firearm to or pointing a firearm at anyone or discharging a firearm during the offense for which a prisoner was serving time.
- **Source of the firearm** – from where and how prisoners reported obtaining the firearm they possessed during the crime for which they were imprisoned—
 - **Purchased or traded from a retail source** – includes a gun shop or store, pawn shop, flea market, or gun show.
 - **Gun shop or store** – a business establishment that sells firearms in an open shopping format.
 - **Pawn shop** – a business that offers secured loans to customers, with personal property used as collateral. This personal property is sold to the public if the loan is not repaid.
 - **Flea market** – a market that rents space to individuals to sell or barter merchandise.
 - **Gun show** – a temporary market where licensed dealers and unlicensed sellers can rent tables or booths to sell firearms.
 - **Obtained from an individual** – includes purchasing, trading, renting, or borrowing from a family or friend. Also includes when the firearm was gifted to or purchased for the person.
 - **Off the street or underground market** – illegal sources of firearms that include markets for stolen goods, middlemen for stolen goods, criminals or criminal enterprises, or individuals or groups involved in sales of illegal drugs.
 - **Theft** – includes stealing the firearm during a burglary or from a retail source, family member, friend, or another source.
 - **Other sources** – includes a firearm that a prisoner obtained or found at the location of the crime, including one that belonged to a victim or that someone else brought to the location of the crime. This category also includes sources for which there were few responses, such as for guns bought online, and other sources that did not fit into one of the existing categories. This also includes instances where there was not enough information to categorize the source, such as when a firearm was purchased from an unknown source or obtained from another person by an unknown method.

¹The definitions of types of firearms in this section were taken from 18 U.S.C. § 921 (2009). They have been edited for length.

Controlling-offense characteristics

About 29% of state and 36% of federal prisoners serving a sentence for a violent offense in 2016 possessed a firearm during the crime (table 1). About a quarter of state (23%) and federal (25%) prisoners serving time for a violent offense used a firearm during the crime. “Firearm use” is defined in this report as showing, pointing, or discharging a firearm during the offense for which a prisoner was serving a sentence.

Among prisoners serving time for homicide, more than 2 in 5 (44%) state prisoners and more than 1 in 3 (36%) federal prisoners had possessed a firearm during

the crime. About 37% of state and 28% of federal prisoners serving time for homicide used a firearm during the homicide.

Among those serving time for robbery, more than 2 in 5 state prisoners (43%) and federal prisoners (46%) possessed a firearm during the offense, and nearly a third of state (31%) and federal (32%) prisoners used a firearm during the robbery. Firearm possession was less common among state prisoners serving a sentence for rape or sexual assault (2%). Less than 1% of state prisoners serving time for rape or sexual assault used a firearm in the commission of their crime.

TABLE 1

Firearm possession and use among state and federal prisoners during the offense for which they were serving time, by type of controlling offense, 2016

Controlling offense ^a	Estimated number of state prisoners ^b	Percent of state prisoners who—		Estimated number of federal prisoners ^b	Percent of federal prisoners who—	
		Possessed a firearm ^b	Used a firearm ^c		Possessed a firearm ^b	Used a firearm ^c
Total	1,211,200	20.9%	13.9%	170,400	20.0%	5.0%
Violent*	667,300	29.1%	23.0%	20,900	36.2%	25.3%
Homicide ^d	191,400	43.6	37.2	3,800	35.9	28.4
Rape/sexual assault	144,800	2.0	0.8	2,400	:	:
Robbery	149,600	43.3	31.5	10,700	46.3	32.1
Assault	149,400	25.0	20.6	2,900	29.0	18.1
Other violent ^e	32,200	17.0	12.6	1,200	34.1	:
Property	186,100	4.9% †	2.0% †	12,000	2.6% †	:
Burglary	88,100	6.7	3.2	300	:	:
Other property ^f	98,000	3.3	1.0	11,800	2.4	:
Drug	180,800	8.4% †	0.8% †	80,500	12.3% †	0.6% †
Trafficking ^g	130,500	9.4	0.9	72,300	12.9	0.7
Possession	45,900	6.1	:	3,500	:	:
Other/unspecified drug	4,300	:	:	4,700	:	:
Public order	158,300	21.5% †	5.6% †	52,900	30.2%	5.3% †
Weapons ^h	43,800	67.2	15.7	22,200	66.9	11.3
Other public order ⁱ	114,400	4.0	1.7	30,700	3.6	:
Other	3,900	:	:	1,800	:	:
Unknown	14,900	4.3% †	:	2,200	:	:

Note: See appendix table 2 for standard errors.

*Comparison group.

†Difference with comparison group is significant at the 95% confidence level across main categories, and no testing was done on subcategories (e.g., homicide).

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

^aSee *Methodology* for information on how controlling offense was measured.

^bExcludes 3.0% of state prisoners and 1.7% of federal prisoners who were missing responses on firearm possession. Includes prisoners who were missing responses on firearm use.

^cExcludes 3.0% of state prisoners and 1.7% of federal prisoners who were missing responses on firearm possession, and an additional 0.6% of state prisoners and 0.7% of federal prisoners who were missing responses on firearm use.

^dIncludes murder and both negligent and non-negligent manslaughter.

^eIncludes kidnapping, blackmail, extortion, hit-and-run driving with bodily injury, child abuse, and criminal endangerment.

^fIncludes larceny, theft, motor vehicle theft, arson, fraud, stolen property, destruction of property, vandalism, hit-and-run driving with no bodily injury, criminal tampering, trespassing, entering without breaking, and possession of burglary tools.

^gIncludes possession with intent to distribute.

^hIncludes being armed while committing a crime; possession of ammunition, concealed weapons, firearms and explosive devices; selling or trafficking weapons; and other weapons offenses. Among federal prisoners, weapons offense include violations of federal firearms and explosives.

ⁱIncludes commercialized vice, immigration crimes, DUI, violations of probation/parole, and other public-order offenses.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

State and federal prisoners serving time for a violent offense were much more likely to have possessed a firearm during the offense (29% state, 36% federal) than prisoners serving time for a property (5% state, 3% federal) or drug (8% state, 12% federal) offense. Among prisoners serving time for a public-order offense, about 1 in 5 (21%) state prisoners and nearly 1 in 3 (30%) federal prisoners reported that they possessed a firearm during the crime, and about 1 in 20 reported they had used it. About two-thirds of state and federal prisoners sentenced for a weapons offense said they possessed a firearm during the crime.²

²In addition to prisoners serving a sentence in state or federal prison in 2016 who possessed a firearm during the offense, weapons offenses include prisoners who were convicted of trafficking firearms but did not possess them at the time of the offense and prisoners who were convicted of a weapons offense that did not involve a firearm.

Extent of firearm use among prisoners during the crime

State and federal prisoners in 2016 who had possessed a firearm during their offense were about equally likely to report that they had obtained the firearm with the intent to use it during the offense (19% state, 20% federal) (table 2). However, state prisoners (68%) who possessed a firearm were more than 2.5 times as likely as federal prisoners (26%) who possessed a firearm to have used it during the crime.

Nearly half of state prisoners (46%) serving a sentence for a crime during which they possessed a firearm discharged the firearm when they committed the crime, compared to 12% of federal prisoners. Among state prisoners who possessed a firearm during their offense, 27% killed a victim with the firearm and another 12% injured or shot a victim but did not kill him or her. Federal prisoners who possessed a firearm when they committed their offense were much less likely to have killed (4%) or injured (2%) a victim with the firearm than state prisoners.

TABLE 2

Among state and federal prisoners who possessed a firearm during the offense for which they were serving time, extent of firearm use, 2016

Firearm use	State prisoners*	Federal prisoners	State prisoners		Federal prisoners	
			Violent offense*	Non-violent offense ^a	Violent offense*	Non-violent offense ^a
Total	100%	100%	100%	100%	100%	100%
Obtained firearm because planned to use in controlling offense^b						
Yes	19.3%	19.7%	17.7%	24.6% †	26.4%	18.0%
No	80.7	80.3	82.3	75.4 †	73.6	82.1
Used firearm^c	68.0%	25.9% †	81.0%	24.8% †	72.5%	12.9% †
Discharged	46.5%	11.9% †	55.9%	15.4% †	27.3%	7.5% †
Killed victim	27.1	4.1 †	35.0	:	16.5	:
Injured/shot victim but did not kill victim	12.4	2.2 †	14.5	5.3 †	:	:
Discharged firearm but did not shoot anyone	7.0	5.6	6.4	9.0	5.7	5.4
Did not discharge ^d	21.5%	14.0% †	25.2%	9.4% †	45.3%	5.4% †
Did not use firearm	32.0%	74.1% †	19.0%	75.2% †	27.5%	87.1% †
Estimated number of prisoners who possessed a firearm (with valid data)^e	245,400	32,900	187,800	57,000	7,200	25,600

Note: Percentages are based on data reported on firearm possession, use, and controlling offense. Excludes 3.1% of state prisoners and 3.5% of federal prisoners who possessed a firearm during the offense and were missing responses on firearm use and 0.3% of state prisoners and 0.7% of federal prisoners who possessed a firearm and were missing a controlling offense. The sum of violent offense and non-violent offense does not equal the total number of state and federal prisoners who possessed a firearm in this table due to an estimated 600 state and 100 federal prisoners whose offense type was unknown. See appendix table 3 for standard errors.

*Comparison group.

†Difference with comparison group is significant at the 95% confidence level.

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

^aIncludes property, drug, public order, and other non-violent offenses.

^bPercentages are based on the 246,200 state and 32,600 federal prisoners who reported they carried or possessed a firearm and whether they obtained a firearm to use during the offense.

^cIncludes prisoners who showed a firearm to anyone, pointed a firearm at anyone, or discharged the firearm during the offense.

^dIncludes prisoners who showed or pointed a firearm at anyone during the offense but did not discharge it.

^eIncludes prisoners who reported they carried or possessed a firearm. Excludes prisoners who were missing responses on firearm possession or use. For violent offense and non-violent offense, also excludes prisoners who were missing a controlling offense.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

Among prisoners who possessed a firearm during a violent offense, a large majority of both state (81%) and federal (73%) prisoners used the firearm during the offense, far more than the percentages for non-violent offenders (25% state, 13% federal). More than half (56%) of state prisoners serving time for a violent offense who possessed a firearm during the crime discharged it, compared to fewer than a sixth (15%) of non-violent offenders in state prison who possessed a firearm. Violent offenders (27%) in federal prison who possessed a firearm during the crime were about 3.5 times as likely to discharge it as non-violent offenders (8%). Among state prisoners who had possessed a firearm during their offense, however, non-violent offenders (25%) were more likely than violent offenders (18%) to have planned to use the firearm during the offense.

Type of firearm possessed by prisoners during offense

Handguns were by far the most common type of firearm possessed or used by prisoners during the crime for which they were sentenced. About 18% of all state and federal prisoners in 2016 reported that they had possessed a handgun during the crime for which they were serving a sentence (table 3). Two percent or fewer possessed a rifle or a shotgun. Twelve percent of state and 5% of federal prisoners used a handgun during their offense. Most state (79%) and federal (80%) prisoners did not possess any type of firearm during the crime for which they were imprisoned.

TABLE 3

Firearm possession and use among state and federal prisoners during the offense for which they were serving time, by type of firearm, 2016

Type of firearm	Percent of prisoners who possessed a firearm			Percent of prisoners who used a firearm ^a		
	All prisoners	State*	Federal	All prisoners	State*	Federal
Total	100%	100%	100%	100%	100%	100%
Firearm ^b	20.8%	20.9%	20.0%	12.8%	13.9%	5.0% †
Handgun	18.4	18.4	18.3	11.2	12.2	4.6
Rifle	1.5	1.4	2.0 †	0.8	0.8	0.4 †
Shotgun	1.6	1.6	1.7	1.1	1.2	0.4 †
No firearm	79.2%	79.1%	80.0%	87.2%	86.1%	95.0%
Estimated number of prisoners (with valid data) ^c	1,378,200	1,208,100	170,100	1,378,200	1,208,100	170,100

Note: Details on type of firearm may not sum to totals because prisoners could report more than one type of firearm. Percentages exclude missing data. Excludes 3.0% of state prisoners and 1.7% of federal prisoners who were missing responses on firearm possession during the offense and an additional 0.3% of state prisoners and 0.2% of federal prisoners who were missing responses on type of firearm. See appendix table 4 for standard errors.

*Comparison group.

†Difference with comparison group is significant at the 95% confidence level.

^aPercentages exclude 0.6% of state prisoners and 0.7% of federal prisoners who were missing responses on firearm use.

^bIncludes prisoners who reported a type of firearm that did not fit into one of the existing categories and those who did not provide enough information to categorize the type of firearm. About 0.1% of state prisoners and 0.2% of federal prisoners reported another type of firearm or did not report enough information to specify the type of firearm.

^cExcludes prisoners who were missing responses on firearm possession or type of firearm. Counts are weighted to totals from the 2015 National Prisoner Statistics Program; see *Methodology: Survey of Prison Inmates, 2016* (NCJ 252210, BJS web, forthcoming).

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

Demographic characteristics

Male prisoners were more likely than female prisoners to have possessed a firearm during their crime. About a fifth of male state and federal prisoners serving a sentence in 2016 possessed a firearm during the crime (table 4). Males in state prisons in 2016 were about 2.5 times as likely (22%) as females in state prisons (9%) to have possessed a firearm during the crime for which they were imprisoned. In federal prisons, males (21%) were about three times as likely as females (7%) to have possessed a firearm during their crime. Almost

3 in 10 (29%) black prisoners serving a sentence in state prison in 2016 possessed a firearm during their crime. White (12%) and Hispanic (21%) state prisoners were less likely to have possessed a firearm during their crime. Similarly, white (17%) and Hispanic (13%) federal prisoners serving a sentence in 2016 were less likely to have possessed a firearm during the crime than black (29%) federal prisoners. State prisoners who served in the military were less likely to have possessed a firearm during their crime (16%) than state prisoners who had not served in the military (21%).

TABLE 4

Firearm possession among state and federal prisoners during the offense for which they were serving time, by demographic characteristics, 2016

Demographic characteristic	State		Federal	
	Number of prisoners	Percent of prisoners who possessed a firearm during the offense	Number of prisoners	Percent of prisoners who possessed a firearm during the offense
Sex				
Male*	1,124,200	21.8%	159,800	20.9%
Female	87,000	9.5 †	10,600	6.6 †
Race/Hispanic origin^a				
White	383,300	12.4% †	35,400	16.6% †
Black*	401,500	29.4	53,800	29.2
Hispanic	247,200	21.5 †	62,600	12.6 †
American Indian/Alaska Native	17,200	14.8 †	2,800	23.8
Asian/Native Hawaiian/Other Pacific Islander	10,700	22.8	2,600	:
Two or more races	133,100	19.1 †	10,900	29.3
Age at time of survey				
18–24*	123,800	31.7%	8,200	30.1%
25–34	389,100	24.4 †	47,700	27.4
35–44	318,800	19.3 †	58,800	19.0 †
45–54	224,800	14.6 †	36,700	14.1 †
55 or older	154,800	16.0 †	19,000	12.2 †
Marital status				
Married*	168,500	16.7%	36,800	14.4%
Widowed/widowed	34,300	18.3	3,100	21.7
Separated	58,300	12.7 †	9,600	12.8
Divorced	233,300	14.5	30,900	15.2
Never married	715,900	24.8 †	90,000	24.6 †
Education^b				
Less than high school*	750,500	23.1%	94,900	22.7%
High school graduate	273,700	19.6 †	36,500	19.4
Some college	133,900	14.7 †	23,100	18.8
College degree or more	43,600	11.0 †	12,700	6.3 †
Citizenship				
U.S. citizen*	1,156,800	21.0%	127,500	24.2%
Non-U.S. citizen	53,100	18.5	42,400	7.2 †
Military service				
Yes*	95,200	15.6%	9,200	15.9%
No	1,115,900	21.4 †	161,200	20.3

Note: Percentages and counts exclude missing data. Excludes 3.0% of state prisoners and 1.7% of federal prisoners who were missing responses on firearm possession during the offense. Details for counts may not sum to totals due to missing data. See appendix table 5 for standard errors.

*Comparison group.

†Difference with comparison group is significant at the 95% confidence level.

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

^aExcludes persons of Hispanic/Latino origin, unless specified.

^bBased on highest year of education completed.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

In general, the likelihood of state and federal prisoners having possessed a firearm during their crime decreased with age. Firearm possession among state prisoners ages 18 to 24 (32%) in 2016 was more common than among older prisoners. Federal prisoners ages 18 to 24 (30%) were more likely to possess a firearm than those age 35 or older (16%, not shown in table).

The difference in firearm possession between U.S. citizens (21%) and non-citizens (18%) in state prisons in 2016 was not statistically significant. Among federal prisoners serving a sentence in 2016, firearm possession was more than three times as high among U.S. citizens (24%) as non-citizens (7%).

Method, source, and process used to obtain the firearm

Among prisoners who possessed a firearm when they committed the offense for which they were imprisoned and who reported the source from which they obtained it, the most common source (43%) was off-the-street or the underground market (**table 5**). Another 7% of state and 5% of federal prisoners stole the firearm, and 7% of state and 8% of federal prisoners reported that they obtained the firearm at the location of the crime.

TABLE 5

Among state and federal prisoners who had possessed a firearm during the offense for which they were serving time, sources and methods used to obtain a firearm, 2016

Source and method to obtain firearm	All prisoners	State	Federal
Purchased/traded at retail source	10.1%	9.7%	13.7%
Gun shop/store	7.5	7.2	9.6
Pawn shop	1.6	1.5	2.2
Flea market	0.4	:	:
Gun show	0.8	0.8	1.4
Obtained from individual	25.3%	26.0%	20.5%
Purchased/traded from family/friend	8.0	7.9	9.1
Rented/borrowed from family/friend	6.5	7.0	3.0
Gift/purchased for prisoner	10.8	11.2	8.4
Off the street/underground market^a	43.2%	43.2%	42.9%
Theft^b	6.4%	6.6%	4.7%
From burglary	1.5	1.5	:
From retail source	0.2	:	:
From family/friend	1.6	1.8	:
Unspecified theft ^c	3.1	3.3	1.8
Other source	17.4%	17.1%	20.1%
Found at location of crime/victim	6.9	6.7	7.9
Brought by someone else	4.6	4.7	3.6
Other ^d	5.9	5.6	8.5
Multiple sources^e	2.5%	2.6%	2.0%
Estimated number of prisoners who possessed a firearm, excluding prisoners who did not report source^f	256,400	227,100	29,300

Note: Prisoners were asked to report all sources and methods of obtaining any firearm they possessed during the offense, so details may not sum to totals. Each source is included in this table when multiple sources were reported. See *Methodology*. Percentages exclude missing data. Excludes 10.3% of state prisoners and 14.1% of federal prisoners who possessed a firearm during the offense and were missing responses on either source or method of obtaining the firearm. These prisoners were excluded either because they did not provide a valid response or they did not receive the questions due to providing an open-ended response to the previous question about type of weapon. See appendix table 6 for standard errors.

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

^aIllegal sources of firearms that include markets for stolen goods, middlemen for stolen goods, criminals or criminal enterprises, or individuals or groups involved in sales of illegal drugs.

^bExcludes theft from victim.

^cIncludes theft where the source could not be identified and theft other than from a burglary, retail location, family, or friend.

^dIncluded if no source specified in the table was reported. Includes sources that did not fit into one of the existing categories, sources for which there were few responses such as bought online, or if there was not enough information to categorize the source. Examples of other sources include bought from an unknown source or obtained from a friend by an unknown method.

^eIncludes prisoners who reported multiple sources or methods that fit into more than one of the categories. Each reported source is included in the categories above.

^fIncludes prisoners who reported they carried or possessed a firearm and prisoners who reported a source or method.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

Among prisoners who possessed a firearm during the offense for which they were imprisoned, 7% of state and 10% of federal prisoners serving a sentence in 2016 bought or traded for the firearm from a gun shop or gun store. About 1% bought or traded for the firearm at a gun show. About a quarter (26%) of state prisoners and about a fifth (21%) of federal prisoners obtained a firearm that they possessed during their offense from an individual in a non-retail setting, such as a friend or family member.

Prisoners who reported that they had purchased or traded a firearm at a retail source were asked if they had obtained the firearm from a licensed dealer or private seller. Among prisoners who had possessed a firearm during the offense for which they were serving time, 8% of state and 11% of federal prisoners had purchased it from or traded with a licensed firearm dealer at a retail source (table 6).

Prisoners who reported that they had purchased a firearm from a licensed firearm dealer at a retail source were further asked whether they bought the firearm under their own name and whether they knew a background check was conducted. Among those who had possessed a firearm during the offense for which they were imprisoned, 7% of state and 8% of federal prisoners had purchased it under their own name from a licensed firearm dealer at a retail source, while approximately 1% of state and 2% of federal prisoners had purchased a firearm from a licensed dealer at a retail source but did not purchase it under their own name (not shown in table).

Among all prisoners who purchased or traded a firearm from a licensed firearm dealer at a retail source (8.2%), the majority reported that a background check was conducted (6.7%).

TABLE 6

Among state and federal prisoners who had possessed a firearm during the offense for which they were serving time, processes used to obtain a firearm, 2016

Process to obtain firearm	All prisoners	State	Federal
Total	100%	100%	100%
Not purchased or traded at retail source	89.9%	90.3%	86.3%
Purchased or traded at retail source^a	10.1%	9.7%	13.7%
Licensed firearm dealer at retail source	8.2	7.9	10.9
Purchased under own name ^b	6.9	6.8	8.4
Background check was reportedly conducted ^c	6.7	6.3	9.4
Private seller at retail source ^d	1.2	1.1	2.3
Unknown ^e	0.7	0.8	:
Estimated number of prisoners who possessed a firearm (with valid data)^f	256,400	227,100	29,300

Note: Percentages exclude missing data. Excludes 10.3% of state prisoners and 14.1% of federal prisoners who possessed a firearm during the offense and were missing responses on source or method of obtaining the firearm. See appendix table 7 for standard errors.

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

^aIncludes prisoners who purchased or traded from a retail source, including a retail store, pawn shop, flea market, or gun show.

^bIncludes prisoners who purchased from a retail source, including a retail store, pawn shop, flea market, or gun show. Excludes prisoners who traded for a firearm from a retail source.

^cIncludes prisoners who purchased from a retail source, including a retail store, pawn shop, flea market, or gun show. Excludes prisoners who traded for a firearm from a retail source and prisoners who reported that a background check was not conducted or who were unaware as to whether one was conducted.

^dExcludes private sellers other than at a retail source.

^eIncludes prisoners who purchased or traded a firearm from a retail source and were missing responses on whether a firearm was purchased or traded from a licensed firearm dealer or a private seller at a retail source.

^fIncludes prisoners who reported they carried or possessed a firearm and prisoners who reported a source or method.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

Use and source of firearms among all state and federal prisoners

About 1% of all state and federal prisoners used a firearm during the offense that they obtained from a retail source (table 7). About 2% of prisoners possessed a firearm that they obtained from a retail source, including a retail store, pawn shop, flea market, or gun show.

Thirteen percent of all state and federal prisoners used a firearm during the offense for which they were serving time in 2016.

TABLE 7**Firearm possession and use among all state and federal prisoners during the offense for which they were serving time, by type of controlling offense and source, 2016**

Controlling offense ^a	Percent of state and federal prisoners who—		Percent of state and federal prisoners who—	
	Possessed a firearm ^b	Possessed a firearm that they obtained from a retail source ^c	Used a firearm ^d	Used a firearm that they obtained from a retail source ^e
Total	20.8%	1.9%	12.8%	1.3%
Violent*	29.3%	2.8%	23.1%	2.3%
Homicide ^f	43.5	5.9	37.0	5.2
Robbery	43.5	1.8	31.5	1.3
Property	4.8% †	0.5% †	1.9% †	:
Drug	9.6% †	1.0% †	0.8% †	0.1% †
Public order	23.6% †	1.7% †	5.5% †	0.6% †

Note: Percentages exclude missing data. Excludes 2.8% of prisoners who were missing responses on firearm possession during the offense and 1.2% of prisoners who had a valid response to firearm possession but were missing a controlling offense. Retail source includes purchasing or trading the firearm from a retail store, pawn shop, flea market, or gun show. Use includes prisoners who showed a firearm to anyone, pointed a firearm at anyone, or discharged a firearm during the controlling offense. See appendix table 8 for standard errors.

*Comparison group.

† Difference with comparison group is significant at the 95% confidence level across main categories, and no testing was done on subcategories (e.g., homicide).

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

^aSee *Methodology* for more information on how controlling offense was measured.

^bIncludes state and federal prisoners who reported a valid response to firearm possession.

^cIncludes state and federal prisoners who reported a valid response to firearm possession and source.

^dIncludes state and federal prisoners who reported a valid response to firearm possession and use.

^eIncludes state and federal prisoners who reported a valid response to firearm possession, source, and use.

^fIncludes murder and both non-negligent and negligent manslaughter.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

Methodology

Survey of Prison Inmates

The findings in this report are primarily based on data collected through the 2016 Survey of Prison Inmates (SPI). The SPI is a periodic, cross-sectional survey of the state and sentenced federal prison populations. Its primary objective is to produce national statistics of the state and sentenced federal prison populations across a variety of domains, including—but not limited to—demographic characteristics, current offense and sentence, incident characteristics, firearm possession and sources, criminal history, socioeconomic characteristics, family background, drug and alcohol use and treatment, mental and physical health and treatment, and facility programs and rule violations. RTI International served as BJS's data collection agent for the 2016 SPI under a cooperative agreement (award no. 2011-MU-MU-K070). From January through October 2016, data were collected through face-to-face interviews with prisoners using computer-assisted personal interviewing (CAPI).

Prior iterations of the SPI were known as the Survey of Inmates in State and Federal Correctional Facilities (SISFCF), which was renamed with the 2016 implementation. The first survey of state prisoners was fielded in 1974 and thereafter in 1979, 1986, 1991, 1997, and 2004. The first survey of federal prisoners was fielded in 1991, along with the survey of state prisoners, and since then both surveys have been conducted at the same time using the same questionnaire and administration.

The target population for the 2016 SPI was prisoners ages 18 and older who were held in a state prison or had a sentence to federal prison in the United States during 2016. Similar to prior iterations, the 2016 survey was a stratified two-stage sample design in which prisons were selected in the first stage and prisoners within sampled facilities were selected in the second stage. The SPI sample was selected from a universe of 2,001 unique prisons (1,808 state and 193 federal) that were either enumerated in the 2012 Census of State and Federal Adult Correctional Facilities or had opened between the completion of the census and July 2014 when the SPI sample of prisons was selected. A total of 364 prisons (306 state and 58 federal) participated in the 2016 survey out of the 385 selected (324 state and 61 federal) for interviewing. The first-stage response rate (i.e., the response rate among selected prisons) was 98.4% (98.1% among

state prisons and 100% among federal prisons).³

A total of 24,848 prisoners participated (20,064 state and 4,784 federal) in the 2016 SPI based on a sample of 37,058 prisoners (30,348 state and 6,710 federal).

The second-stage response rate (i.e., the response rate among selected prisoners) was 70.0% (69.3% among state prisoners and 72.8% among federal prisoners).⁴

Responses from interviewed prisoners in the 2016 SPI were weighted to provide national estimates. Each interviewed prisoner was assigned an initial weight corresponding to the inverse of the probability of selection within each sampled prison. A series of adjustment factors were applied to the initial weight to minimize potential bias due to non-response and to provide national estimates.

For more information on the 2016 SPI methodology, see *Methodology: Survey of Prison Inmates, 2016* (NCJ 252210, BJS web, forthcoming).

Standard errors and tests of significance

When national estimates are derived from a sample, as with the SPI, caution must be used when comparing one estimate to another or when comparing estimates between years. Although one estimate may be larger than another, estimates based on a sample rather than a complete enumeration of the population have some degree of sampling error. The sampling error of an estimate depends on several factors, including the size of the estimate, the number of completed interviews, and the intracluster correlation of the outcome within prisons. When the sampling error around an estimate is taken into account, estimates that appear different may not be statistically different. One measure of the sampling error associated with an estimate is the standard error. The standard error may vary from one estimate to the next. Standard errors in this report were estimated using Taylor Series Linearization to account for the complex design of the SPI in producing the variance estimates.

³A total of 15 prisons (12 state and 3 federal) that were sampled were deemed ineligible for the 2016 SPI. For more information, see *Methodology: Survey of Prison Inmates, 2016* (NCJ 252210, BJS web, forthcoming).

⁴There were 10,661 sampled prisoners who were eligible for the survey but did not participate. Another 1,549 sampled prisoners were deemed ineligible for the survey. For more information, see *Methodology: Survey of Prison Inmates, 2016* (NCJ 252210, BJS web, forthcoming).

Readers may use the estimates and standard errors of the estimates provided in this report to generate a 95% confidence interval around the estimates as a measure of the margin of error. Typically, multiplying the standard error by 1.96 and then adding or subtracting the result from the estimate produces the confidence interval. This interval expresses the range of values with which the true population parameter is expected to fall 95% of the time if the same method is used to select different samples.

For small samples and estimates close to 0%, the use of the standard error to construct the 95% confidence interval may not be reliable. Therefore, caution should be used when interpreting the estimates. Caution should also be used if constructing a 95% confidence interval, which would include zero in these cases, because the estimate may not be distinguishable from zero.

The standard errors have been used to compare estimates of firearm possession during the offense, firearm use during the crime, and type of firearm possessed. They have also been used to compare firearm possession among selected groups of prisoners that have been defined by demographic characteristics and controlling offense. To facilitate the analysis, rather than provide the detailed estimates for every standard error, differences in the estimates for subgroups in the relevant tables in this report have been tested and notated for significance at the 95% level of confidence. Readers should reference the tables for testing on specific findings. Unless otherwise noted, findings described in this report as higher, lower, or different passed a test at the 0.05 level of statistical significance (95% confidence level).

Measurement of firearm possession and source

The 2016 SPI was restricted to prisoners age 18 or older at the time of the survey. Firearms analyses in this report were restricted to state and federal prisoners who were sentenced or state prisoners who were convicted but were awaiting sentencing. This report excludes prisoners who were awaiting trial (i.e., unconvicted) or a revocation hearing or who were held for other reasons. Unconvicted prisoners, such as those awaiting trial or being held for other reasons like safekeeping or a civil commitment, were excluded from this report because they were not asked questions about firearm possession to protect against self-incrimination. (See appendix 1, *Questions related to firearms in the Survey of Prison Inmates, 2016*.) Of

the estimated 1,421,700 state and federal prisoners in 2016, an estimated 287,400 were armed with a firearm, 1,094,200 were not armed with a firearm, 23,800 did not know or refused to answer the question, and 16,300 were not asked the question because they were not convicted or they stopped the interview before responding to the question.⁵

To determine whether prisoners possessed a firearm at the time of the offense for which they were serving time in prison, respondents were first asked whether they had carried, possessed, or used a weapon when the controlling offense occurred. Respondents could report that they carried, possessed, or used a firearm or another weapon such as a toy or BB gun, knife, other sharp object, or blunt object. Weapons other than firearms, including toy and BB guns, were excluded from this report. Multiple weapons and firearms could be reported by respondents.

Of the respondents who were asked about possessing a firearm during the offense for which they were imprisoned, about 3.0% of state and 1.7% of federal prisoners in 2016 were missing responses on firearm possession. These prisoners were excluded from the analyses in this report. All prisoners who reported they carried, possessed, or used a firearm during the offense were asked whether they had obtained the firearm because they were planning to carry, possess, or use it during the offense. They were also asked whether they showed, pointed, or fired the firearm during the offense. Respondents who reported that they fired the firearm were also asked whether they shot anyone and, if so, whether anyone they shot had died. Of the respondents who possessed a firearm during the offense, about 3.1% of state and 3.5% of federal prisoners in 2016 were missing responses on how they used the firearm. These prisoners were excluded from the analyses in figure 1, tables 1 through 3, and table 7.

To measure the type of firearm possessed by prisoners, respondents were asked whether they had carried, possessed, or used a handgun, rifle, shotgun, or some other type of firearm during the offense for which they were imprisoned. About 0.3% of state prisoners and 0.2% of federal prisoners in 2016 were missing responses on the type of firearm that they possessed. These prisoners, along with prisoners who were missing a response on firearm possession, were excluded from the analyses in table 3.

⁵The SPI sample was weighted to the state and federal prison populations that were eligible to be sampled in the survey. See *Methodology: Survey of Prison Inmates, 2016* (NCJ 252210, BJS web, forthcoming).

To measure the source and method of obtaining the firearm possessed by prisoners during their crime, two separate questions were asked in the survey. The first question asked how the prisoners obtained the firearm, and multiple responses could be reported in the 2016 SPI. Possible responses included stole it, rented it, borrowed it from or were holding it for somebody, traded something for it, bought it, someone bought it for them, someone gave it as a gift, found it or it was at the location where the offense occurred, it was brought by someone else, or other. If respondents specified an “other” method of obtaining the firearm, then the field interviewers entered the respondents’ answers into a text field. These responses originally reported as “other” were coded to one of the existing response categories if possible.

The second question asked where prisoners obtained the firearm, and multiple responses could be reported in the 2016 SPI. Respondents received this question if they reported that they stole, rented, borrowed from or were holding for somebody, traded something for, or bought the firearm. Possible responses included gun shop or gun store; pawn shop; flea market; gun show; from a victim, family member, or friend; from a fence (a middleman for stolen goods) or underground market; off the street or from a drug dealer; in a burglary; online or the internet; or other. Fewer than 1% of state and federal prisoners reported obtaining a firearm online. These responses were included in table 5 in the “other” category due to the small number of sample cases. If respondents specified an “other” source of obtaining a firearm, then the field interviewers entered the respondents’ answers into a text field. Responses originally reported as “other” were coded to one of the existing response categories if possible.

The responses from these two questions were used to create the source and method categories in figure 1 and tables 5 through 7. Approximately 10.3% of state and 14.1% of federal prisoners in 2016 who possessed a firearm during the offense for which they were serving a sentence were missing responses on source or method of obtaining the firearm. These prisoners were excluded from figure 1 and tables 5 through 7.

Prisoners who reported purchasing or trading a firearm from a retail source (gun shop or gun store, pawn shop, flea market, or gun show) were asked if they purchased or traded it from a licensed firearm dealer or a private seller. Prisoners who reported they purchased a firearm from a retail source were further asked whether they bought the firearm under their own name and whether the seller did a firearm purchase background check before selling them the firearm. About 1% of the respondents who possessed a firearm during the offense purchased or traded it from a retail source and were missing responses on whether they bought the firearm from a licensed dealer or private seller. About 1% of respondents who possessed a firearm during the offense purchased it from a retail source and were missing responses on whether the firearm was purchased under their own name or whether a background check was conducted.

Measurement of controlling offense

The way controlling offense was measured through the 2016 SPI, and reflected in this report, varies by sentence status and the number of offenses of prisoners:

- For sentenced prisoners and those awaiting sentencing with one offense, that offense is the controlling offense.
- For sentenced prisoners with multiple offenses and sentences, the controlling offense is the one with the longest sentence.
- For sentenced prisoners with multiple offenses and one sentence and those awaiting sentencing with multiple offenses, the controlling offense is the most serious offense. For this report, violent offenses are considered most serious, followed by property, drug, public-order, and all other offenses.

For prisoners who were convicted but awaiting sentencing, the controlling offense is the most serious offense.

Appendix 1. Questions related to firearms in the Survey of Prison Inmates, 2016

This appendix includes the questions from the 2016 SPI that were used to measure the firearms' constructs in this report. Text that appears in capital letters in the questions was not read out loud to respondents. That text reflects programming instructions for the CAPI instrument, instructions to field interviewers who conducted the interviews, or response options that were not read out loud to respondents but were coded by the field interviewers during the interviews.

Questions

CJ39. (ASK IF RESPONDENT REPORTED BEING SENTENCED IN CJ1 OR CJ3 OR IF RESPONDENT REPORTED HE/SHE WAS AWAITING SENTENCING IN CJH2A.) Did you carry, possess, or use a weapon when the (INSERT CONTROLLING OFFENSE) occurred?

- YES
- NO (SKIP TO NEXT SECTION)

CJH1. How many weapons did you carry, possess, or use when the (INSERT CONTROLLING OFFENSE) occurred?

- ONE
- TWO OR MORE

CJH2. What (INSERT "kind of weapon was it?" OR "kinds of weapons were they?") CHECK ALL THAT APPLY.

- FIREARM
- TOY OR BB GUN (INCLUDE FAKE OR REPLICA GUNS)
- KNIFE
- OTHER SHARP OBJECT (SCISSORS, ICE PICK, AX, ETC.)
- BLUNT OBJECT (ROCK, CLUB, BLACKJACK, ETC.)
- ANOTHER WEAPON
 - What kinds of weapons were they?
 - INTERVIEWER: RECORD RESPONSE VERBATIM.

CJH3. (ASK IF RESPONDENT REPORTED "FIREARM" IN CJH2.) How many firearms did you carry, possess, or use when the (INSERT CONTROLLING OFFENSE) occurred?

- ENTER NUMBER OF FIREARMS

CJH4. (ASK IF RESPONDENT REPORTED "FIREARM" IN CJH2.) What (INSERT "type of firearm was it?" OR "types of firearms were they?") CHECK ALL THAT APPLY.

- A HANDGUN
- A RIFLE
- A SHOTGUN
- SOME OTHER TYPE OF FIREARM
 - What type of firearm?
 - INTERVIEWER: RECORD RESPONSE VERBATIM.

CJH5. (ASK IF RESPONDENT REPORTED "FIREARM" IN CJH2.) How did you obtain the (INSERT "firearm" OR "firearms") that you carried, possessed, or used during the (INSERT CONTROLLING OFFENSE)? Any others? CHECK ALL THAT APPLY.

- STOLE IT (GO TO CJH6)
- RENTED IT (GO TO CJH6)
- BORROWED FROM OR WAS HOLDING FOR SOMEBODY (GO TO CJH6)
- TRADED SOMETHING FOR IT (GO TO CJH6)
- BOUGHT IT (GO TO CJH6)
- SOMEONE BOUGHT IT FOR ME (GO TO CJH7)
- SOMEONE GAVE IT TO ME AS A GIFT (GO TO CJH9)
- FOUND IT/WAS AT LOCATION WHERE OFFENSE OCCURRED (GO TO CJH9)
- WAS BROUGHT BY SOMEONE ELSE (GO TO CJH9)
- OTHER
 - How did you obtain the firearm that you carried, possessed, or used during the offense?
 - INTERVIEWER: RECORD RESPONSE VERBATIM.

CJH6. (ASK IF RESPONDENT REPORTED "FIREARM" IN CJH2 AND REPORTED IN CJH5 HE/SHE "STOLE IT", "RENTED IT", "BORROWED FROM OR WAS HOLDING FOR SOMEBODY", "TRADED SOMETHING FOR IT", OR "BOUGHT IT".) Where did you obtain the (INSERT TYPE OF FIREARM REPORTED IN CJH4)? CHECK ALL THAT APPLY.

- GUN SHOP OR GUN STORE (GO TO CJH6A)
- PAWN SHOP (GO TO CJH6A)
- FLEA MARKET (GO TO CJH6A)
- GUN SHOW (GO TO CJH6A)
- FROM THE VICTIM(S) (GO TO CJH9)
- FROM A FAMILY MEMBER (GO TO CJH9)
- FROM A FRIEND (GO TO CJH9)
- FROM A FENCE/BLACK MARKET SOURCE (GO TO CJH9)
- OFF THE STREET/FROM A DRUG DEALER (GO TO CJH9)
- IN A BURGLARY (GO TO CJH9)
- ONLINE/THE INTERNET (GO TO CJH9)
- OTHER
 - Where did you obtain the (INSERT TYPE OF FIREARM REPORTED IN CJH4)?
 - INTERVIEWER: RECORD RESPONSE VERBATIM.

Continued on next page

Appendix 1. Questions related to firearms in the Survey of Prison Inmates, 2016 (continued)

CJH6a. (ASK IF RESPONDENT REPORTED IN CJH6 THAT THE FIREARM WAS FROM A "GUN SHOP OR GUN STORE", "PAWN SHOP", "FLEA MARKET", OR "GUN SHOW".) When you obtained the (INSERT TYPE OF FIREARM REPORTED IN CJH4) was it from a licensed firearm dealer or a private seller?

- LICENSED FIREARM DEALER
- PRIVATE SELLER

CJH6b. (ASK IF RESPONDENT REPORTED IN CJH5 THAT HE/SHE "BOUGHT IT" AND IN CJH6 REPORTED THAT THE FIREARM WAS FROM A "GUN SHOP OR GUN STORE", "PAWN SHOP", "FLEA MARKET", OR "GUN SHOW".) Did you buy the (INSERT TYPE OF FIREARM REPORTED IN CJH4) under your own name?

- YES
- NO
- NO PAPERWORK WAS REQUIRED

CJH6c. (ASK IF RESPONDENT REPORTED IN CJH5 THAT HE/SHE "BOUGHT IT" AND REPORTED IN CJH6 THAT THE FIREARM WAS FROM A "GUN SHOP OR GUN STORE", "PAWN SHOP", "FLEA MARKET", OR "GUN SHOW".) Did the seller do a firearm purchase background check before selling you the gun?

- YES
- NO

CJH6d. (ASK IF RESPONDENT REPORTED IN CJH5 THAT HE/SHE "BOUGHT IT" AND REPORTED IN CJH6 THAT THE FIREARM WAS FROM A "GUN SHOP OR GUN STORE", "PAWN SHOP", "FLEA MARKET", OR "GUN SHOW".) Did you buy the (INSERT TYPE OF FIREARM REPORTED IN CJH4) directly or did someone else buy it for you?

- INMATE BOUGHT
- SOMEONE ELSE BOUGHT

CJH7. (ASK IF RESPONDENT REPORTED "SOMEONE ELSE BOUGHT IT FOR ME" IN CJH5.) Where did that person obtain the (INSERT TYPE OF FIREARM REPORTED IN CJH4)?

- GUN SHOP OR GUN STORE
- PAWN SHOP
- FLEA MARKET
- GUN SHOW
- FROM THE VICTIM(S)
- FROM A FAMILY MEMBER
- FROM A FRIEND
- FROM A FENCE/BLACK MARKET SOURCE

- OFF THE STREET/FROM A DRUG DEALER
- IN A BURGLARY
- ONLINE/THE INTERNET
- OTHER
 - Where did that person obtain the (INSERT TYPE OF FIREARM REPORTED IN CJH4)?
 - INTERVIEWER: RECORD RESPONSE VERBATIM.

CJH8. (ASK IF RESPONDENT REPORTED "SOMEONE ELSE BOUGHT IT FOR ME" IN CJH5.) Why did someone else obtain the (INSERT TYPE OF FIREARM REPORTED IN CJH4) for you? CHECK ALL THAT APPLY.

- COULD NOT TRAVEL TO WHERE THE SELLER WAS
- NOT ALLOWED BECAUSE TOO YOUNG
- NOT ALLOWED BECAUSE OF CRIMINAL RECORD
- THEY COULD GET IT MORE QUICKLY OR EASILY
- DID NOT WANT TO BE LINKED TO FIREARM PURCHASE
- OTHER
 - Why did someone else obtain the (INSERT TYPE OF FIREARM REPORTED IN CJH4) for you?
 - INTERVIEWER: RECORD RESPONSE VERBATIM.

CJH9. Did you get the (INSERT TYPE OF FIREARM REPORTED IN CJH4) because you were **planning** to carry, possess, or use it during the (INSERT CONTROLLING OFFENSE)?

- YES
- NO

CJH10. Did you show or point (INSERT "the firearm" OR "any of the firearms") at anyone during the (INSERT CONTROLLING OFFENSE)?

- YES
- NO

CJH11. Did you fire (INSERT "the firearm" OR "any of the firearms") during the (INSERT CONTROLLING OFFENSE)?

- YES
- NO (SKIP TO NEXT SECTION)

CJH12. Did you shoot anyone?

- YES
- NO (SKIP TO NEXT SECTION)

CJH13. Did anyone you shot die?

- YES
- NO

APPENDIX TABLE 1

Standard errors for figure 1: Percent of all state and federal inmates who had possessed or used a firearm during their offense, 2016

Characteristic	Possessed	Used
Any gun	0.64%	0.51%
Handgun	0.59	0.46
Gun they obtained from retail source	0.13	0.12

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

APPENDIX TABLE 2

Standard errors for table 1: Firearm possession and use among state and federal prisoners during the offense for which they were serving time, by type of controlling offense, 2016

Controlling offense	Estimated number of state prisoners	Percent of state prisoners who—		Estimated number of federal prisoners	Percent of federal prisoners who—	
		Possessed a firearm	Used a firearm		Possessed a firearm	Used a firearm
Total	31,100	0.69%	0.57%	8,300	1.76%	0.71%
Violent	22,400	0.90%	0.73%	2,700	2.87%	2.83%
Homicide	10,900	1.16	1.12	700	6.53	4.75
Rape/sexual assault	9,900	0.36	0.22	600	:	:
Robbery	6,700	1.32	1.28	1,600	3.73	3.80
Assault	5,900	1.34	1.24	700	5.15	4.52
Other violent	2,100	2.03	1.73	300	8.42	:
Property	7,800	0.53%	0.32%	2,000	0.83%	:
Burglary	3,900	0.80	0.54	100	:	:
Other property	5,800	0.58	0.33	2,000	0.81	:
Drug	11,400	0.68%	0.20%	5,400	0.87%	0.21%
Trafficking	9,700	0.83	0.24	5,000	0.88	0.21
Possession	3,400	1.06	:	600	:	:
Other/unspecified drug	700	:	:	600	:	:
Public order	8,400	1.35%	0.58%	3,600	3.55%	0.88%
Weapons	3,000	2.02	1.70	2,700	2.02	1.60
Other public order	7,200	0.70	0.42	3,800	0.89	:
Other	600	:	:	300	:	:
Unknown	1,400	1.61%	:	400	:	:

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

APPENDIX TABLE 3**Standard errors for table 2: Among state and federal prisoners who possessed a firearm during the offense for which they were serving time, extent of firearm use, 2016**

Firearm use	State prisoners	Federal prisoners	State prisoners		Federal prisoners	
			Violent offense	Non-violent offense	Violent offense	Non-violent offense
Obtained firearm because planned to use in controlling offense						
Yes	0.81%	1.57%	0.81%	2.00%	4.01%	1.88%
No	0.81	1.57	0.81	2.00	4.01	1.88
Used firearm	1.11%	1.92%	0.85%	1.83%	3.86%	1.57%
Discharged	1.34%	1.17%	1.36%	1.47%	3.58%	1.14%
Killed victim	1.28	0.75	1.40	:	2.49	:
Injured/shot victim but did not kill victim	0.73	0.55	0.86	0.89	:	:
Discharged firearm but did not shoot anyone	0.47	0.98	0.51	1.17	2.16	1.02
Did not discharge	0.97%	1.60%	1.21%	1.24%	4.99%	0.87%
Did not use firearm	1.11%	1.92%	0.85%	1.83%	3.86%	1.57%
Estimated number of prisoners who possessed a firearm (with valid data)	10,100	3,100	9,200	3,400	1,200	2,200

: Not calculated. Too few cases to provide a reliable estimate or coefficient of variation is greater than 50%.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

APPENDIX TABLE 4**Standard errors for table 3: Firearm possession and use among state and federal prisoners during the offense for which they were serving time, by type of firearm, 2016**

Type of firearm	Percent of prisoners who possessed a firearm			Percent of prisoners who used a firearm		
	All prisoners	State	Federal	All prisoners	State	Federal
Firearm	0.64	0.69%	1.76%	0.51	0.57%	0.71%
Handgun	0.59	0.64	1.63	0.46	0.51	0.67
Rifle	0.10	0.10	0.28	0.07	0.08	0.13
Shotgun	0.11	0.12	0.22	0.09	0.10	0.09
No firearm	0.64	0.69	1.76	0.51	0.57	0.71
Estimated number of prisoners (with valid data)	32,100	31,000	8,300	32,100	31,000	8,300

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

APPENDIX TABLE 5

Standard errors for table 4: Firearm possession among state and federal prisoners during the offense for which they were serving time, by demographic characteristics, 2016

Demographic characteristic	State		Federal	
	Number of prisoners	Percent of prisoners who possessed a firearm during the offense	Number of prisoners	Percent of prisoners who possessed a firearm during the offense
Sex				
Male	30,700	0.74%	8,200	1.88%
Female	5,200	0.96	1,300	1.00
Race/Hispanic origin				
White	16,500	0.64%	3,900	2.28%
Black	16,200	0.91	5,600	2.02
Hispanic	12,400	1.26	8,000	1.70
American Indian/Alaska Native	2,500	2.94	800	5.18
Asian/Native Hawaiian/Other Pacific Islander	1,600	4.69	600	:
Two or more races	5,000	1.19	1,200	3.50
Age at time of survey				
18–24	8,200	1.71%	1,000	5.69%
25–34	13,700	1.00	3,200	2.57
35–44	9,500	0.94	3,400	1.68
45–54	9,100	0.76	2,400	1.68
55 or older	7,700	1.02	2,200	2.02
Marital status				
Married	6,300	1.06%	3,100	1.77%
Widowed/widowed	2,000	2.10	400	5.93
Separated	2,700	1.34	1,200	3.11
Divorced	10,600	0.97	2,200	1.58
Never married	20,100	0.81	5,800	2.10
Education				
Less than high school	21,500	0.83%	6,000	2.18%
High school graduate	8,500	0.88	2,100	1.69
Some college	5,000	0.96	2,000	2.08
College degree or more	2,500	1.43	2,000	1.83
Citizenship				
U.S. citizen	30,000	0.69%	10,700	1.87%
Non-U.S. citizen	3,700	2.04	9,500	1.09
Military service				
Yes	4,800	1.07%	1,200	2.98%
No	28,700	0.72	8,200	1.80

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

APPENDIX TABLE 6**Standard errors for table 5: Among state and federal prisoners who had possessed a firearm during the offense for which they were serving time, sources and methods used to obtain a firearm, 2016**

Source and method to obtain firearm	All prisoners	State	Federal
Purchased/traded at retail source	0.66%	0.70%	2.07%
Gun shop/store	0.54	0.56	1.87
Pawn shop	0.27	0.29	0.62
Flea market	0.13	:	:
Gun show	0.16	0.17	0.44
Obtained from individual	0.87%	0.94%	2.02%
Purchased/traded from family/friend	0.59	0.65	1.27
Rented/borrowed from family/friend	0.47	0.52	0.54
Gift/purchased for prisoner	0.69	0.75	1.40
Off the street/underground market	1.07%	1.13%	3.26%
Theft	0.48%	0.53%	0.79%
From burglary	0.22	0.24	:
From retail source	0.07	:	:
From family/friend	0.26	0.29	:
Unspecified theft	0.31	0.34	0.53
Other source	0.78%	0.85%	1.80%
Found at location of crime/victim	0.50	0.53	1.31
Brought by someone else	0.45	0.49	0.87
Other	0.51	0.55	1.40
Multiple sources	0.27%	0.29%	0.50%
Estimated number of prisoners who possessed a firearm, excluding prisoners who did not report source	9,900	9,500	2,800

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

APPENDIX TABLE 7**Standard errors for table 6: Among state and federal prisoners who had possessed a firearm during the offense for which they were serving time, processes used to obtain a firearm, 2016**

Process to obtain firearm	All prisoners	State	Federal
Not purchased or traded at retail source	0.66%	0.70%	2.07%
Purchased or traded at retail source	0.66%	0.70%	2.07%
Licensed firearm dealer at retail source	0.60	0.63	2.08
Purchased under own name	0.54	0.57	1.89
Backgroundcheck was reportedly conducted	0.54	0.56	1.93
Private seller at retail source	0.19	0.20	0.63
Unknown	0.21	0.24	:
Estimated number of prisoners who possessed a firearm (with valid data)	9,900	9,500	2,800

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.

APPENDIX TABLE 8

Standard errors for table 7: Firearm possession and use among all state and federal prisoners during the offense for which they were serving time, by type of controlling offense and source, 2016

Controlling offense	Percent of state and federal prisoners who—		Percent of state and federal prisoners who—	
	Possessed a firearm	Possessed a firearm that they obtained from a retail source	Used a firearm	Used a firearm that they obtained from a retail source
Total	0.64%	0.13%	0.51%	0.12%
Violent	0.88%	0.23%	0.72%	0.21%
Homicide	1.14	0.63	1.10	0.62
Robbery	1.25	0.29	1.22	0.25
Property	0.50%	0.15%	0.30%	:
Drug	0.52%	0.17%	0.15%	0.04%
Public order	1.35%	0.27%	0.48%	0.17%

: Not calculated. Too few cases to provide a reliable estimate, or coefficient of variation is greater than 50%.

Source: Bureau of Justice Statistics, Survey of Prison Inmates, 2016.



The Bureau of Justice Statistics of the U.S. Department of Justice is the principal federal agency responsible for measuring crime, criminal victimization, criminal offenders, victims of crime, correlates of crime, and the operation of criminal and civil justice systems at the federal, state, tribal, and local levels. BJS collects, analyzes, and disseminates reliable statistics on crime and justice systems in the United States, supports improvements to state and local criminal justice information systems, and participates with national and international organizations to develop and recommend national standards for justice statistics. Jeffrey H. Anderson is the director.

This report was written by Mariel Alper and Lauren Glaze of BJS. Mariel Alper conducted statistical analyses. Marcus Berzofsky and John Bunker of RTI International provided statistical review. Danielle Kaeble, Laura Maruschak, Todd Minton, and Stephanie Mueller verified the report. Lauren Glaze was the BJS project manager for the 2016 Survey of Prison Inmates.

Eric Hendrixson and Jill Thomas edited the report. Tina Dorsey and Morgan Young produced the report.

January 2019, NCJ 251776



NCJ251776

Office of Justice Programs
Building Solutions • Supporting Communities • Advancing Justice
www.ojp.gov

EXHIBIT 24

Home (/) / Firearms / Overview (/firearms/overview)

GUN SALES IN CALIFORNIA

This post examines firearms transactions in California. It looks at how firearms sales changed over the last two decades, where individuals are most likely to purchase guns, what types of guns they buy, and whom they buy from.

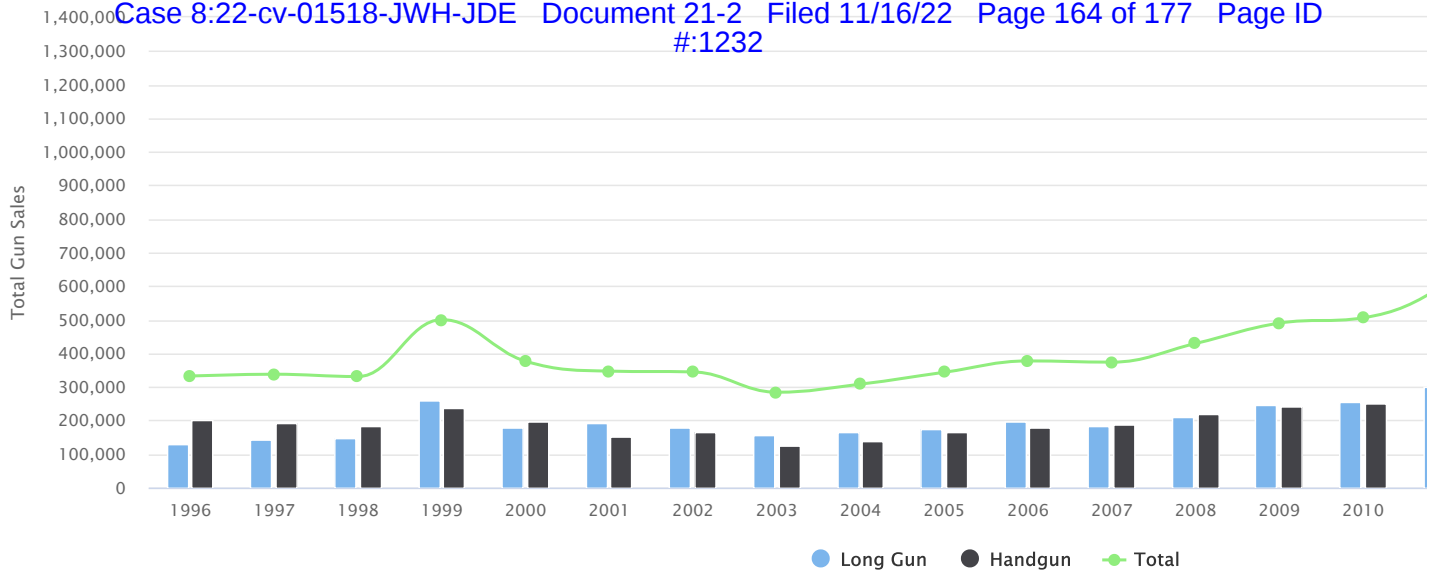
Highlights:

- Gun transactions have been growing in recent years, increasing 2.5 times between 2007 and 2017
- New guns have steadily become a larger percentage of transactions (~75%) compared to used guns
- Most guns are sold by dealers (65% of handguns, 82% of long guns), followed by private parties (16% of handguns, 10% of long guns)

HOW HAVE GUN SALES CHANGED OVER TIME?

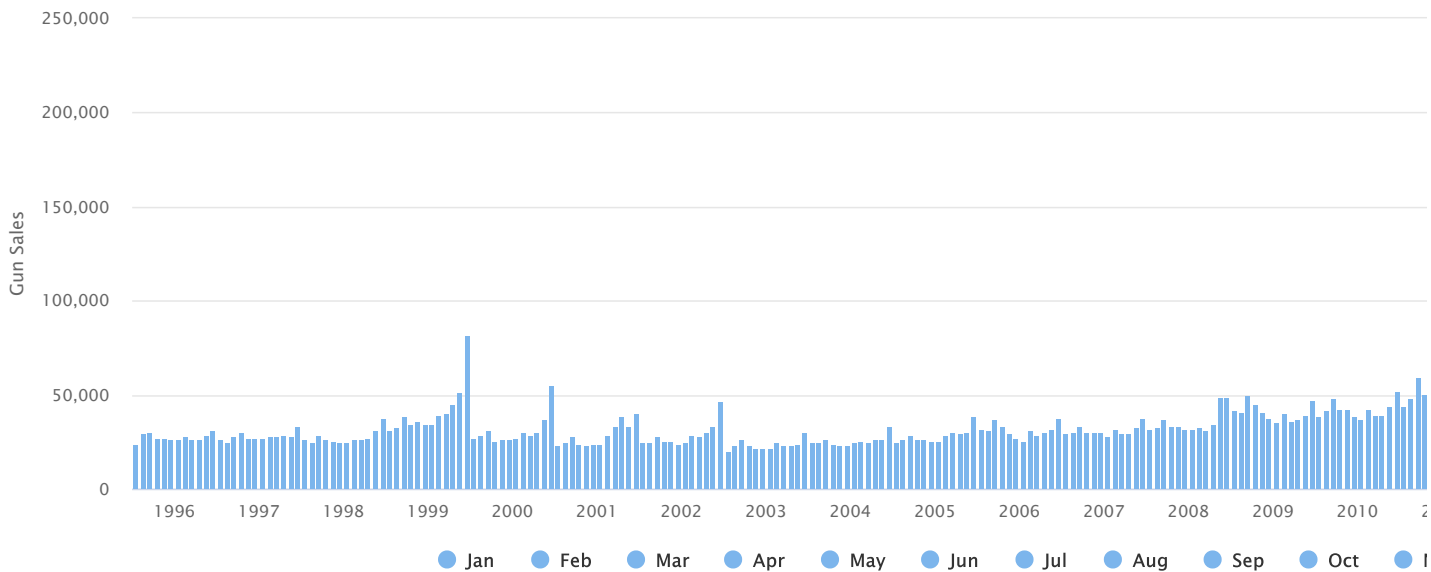
Gun sales have surged in recent years, driven by sales of both handguns and long guns. From 1996 to 2007, sales were relatively flat except for a spike in 1999, where long gun sales increased 75% and handgun sales increased 30% (probably in anticipation of the passage of several California gun regulation (<http://articles.latimes.com/1999/sep/29/news/mn-15301>) laws). The rise in 2013 likely again reflected purchases in anticipation of gun-related legislation. In 2011 a law was passed that would require record-keeping on who purchases long guns (a longstanding requirement for handguns). Sales of long guns increased 75% in the two years prior to the law going into effect in 2014. In 2016 more than 1.3 million guns were sold in California, reaching an all-time peak.

TOTAL GUN SALES SPLIT BY HANDGUNS AND LONG GUNS



Over the course of a typical year, gun sales tend to peak in December. This surge may be following seasonal shopping trends starting on Black Friday and continuing through Christmas. There is a smaller rise around March, which may be due to tax refunds being used towards purchases. Month-by-month data also highlight gun sales that may be related to specific events. The big spike in January 2013 may have been a response to President Obama's proposals for gun regulations (http://www.nytimes.com/interactive/2013/01/16/us/obama-gun-control-proposal.html?_r=0) after the Newtown shootings in December 2012. The highest monthly sales in the last 20 years was December 2016, which may have been a combination of holiday sales and a reaction to the Pulse shooting in Orlando, FL.

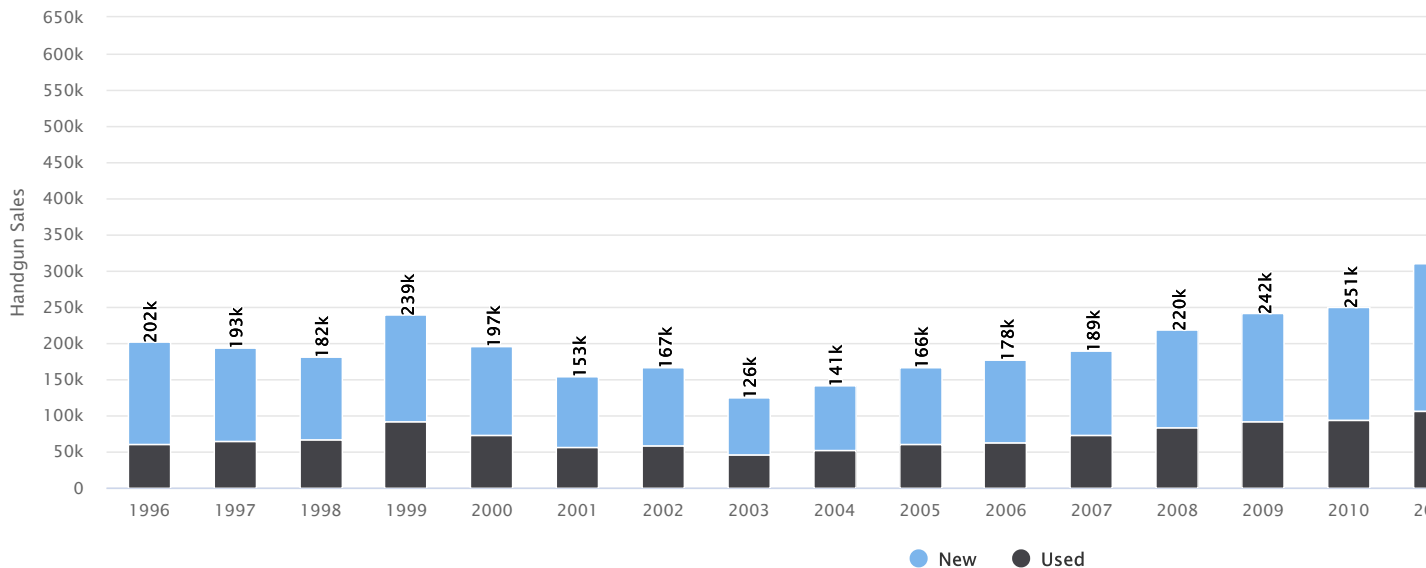
GUN SALES BY YEAR AND MONTH



WHAT SHARE OF GUNS SOLD ARE NEW VERSUS USED?

Total gun transactions includes both new guns sold, and the transfer of previously purchased weapons (used). In 2007, new handguns accounted for just over 60% of all handgun sales. In 2016 and 2017, about 75% of handguns sold were new. In other words, not only are more guns being sold, more new guns are being sold. This suggests that the total number of guns in the state is quickly rising. ⁶

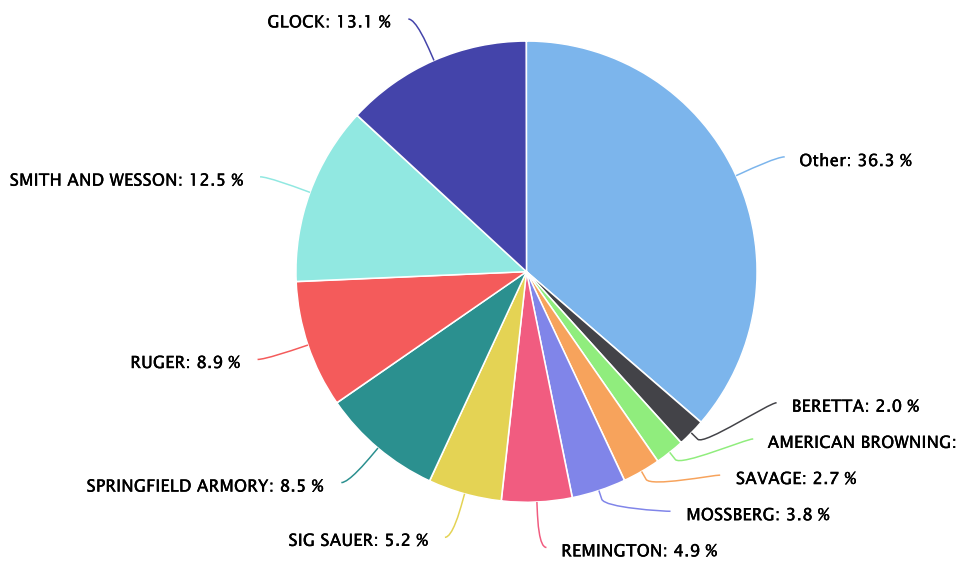
NEW VS. USED HANDGUN SALES



WHAT GUNS ARE BEING BOUGHT?

Californians purchase firearms made by hundreds of different manufacturers. The top three manufacturers in terms of guns sold in 2017 were Glock (13.1%), Smith and Wesson (12.5%), and Ruger (8.9%). The top ten manufacturers accounted for over 60% of guns sold in 2017.

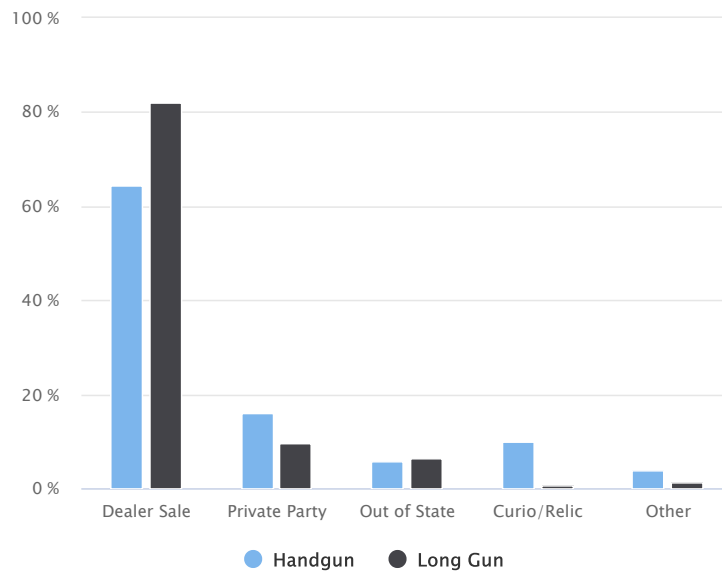
SALES OF TOP 10 GUN MAKERS IN 2017



HOW ARE GUNS TRANSACTED?

About 65% of USA handgun transactions are dealer sales. 15-20% are private party transfers, 5-10% are out of state registration, almost 10% are curios/relics. 80% of long gun sales are through dealers, with the remaining transactions primarily split between private party transfer and out of state registration. Unlike most states where private party transfers are unregulated, in California they still require a background check and registration of the sale via a dealer. Also unlike many other states, California requires background checks for sales at gun shows. Nationwide, an estimated 20-40% of sales occur at gun shows, allowing many purchasers to avoid a background check (see here (<http://www.bradycampaign.org/sites/default/files/Brady-20-years-report.pdf>) and here (<https://www.thetrace.org/2015/10/private-sale-loophole-background-check-harvard-research/>)). In California, less than 2% of recorded gun transactions take place at gun shows.

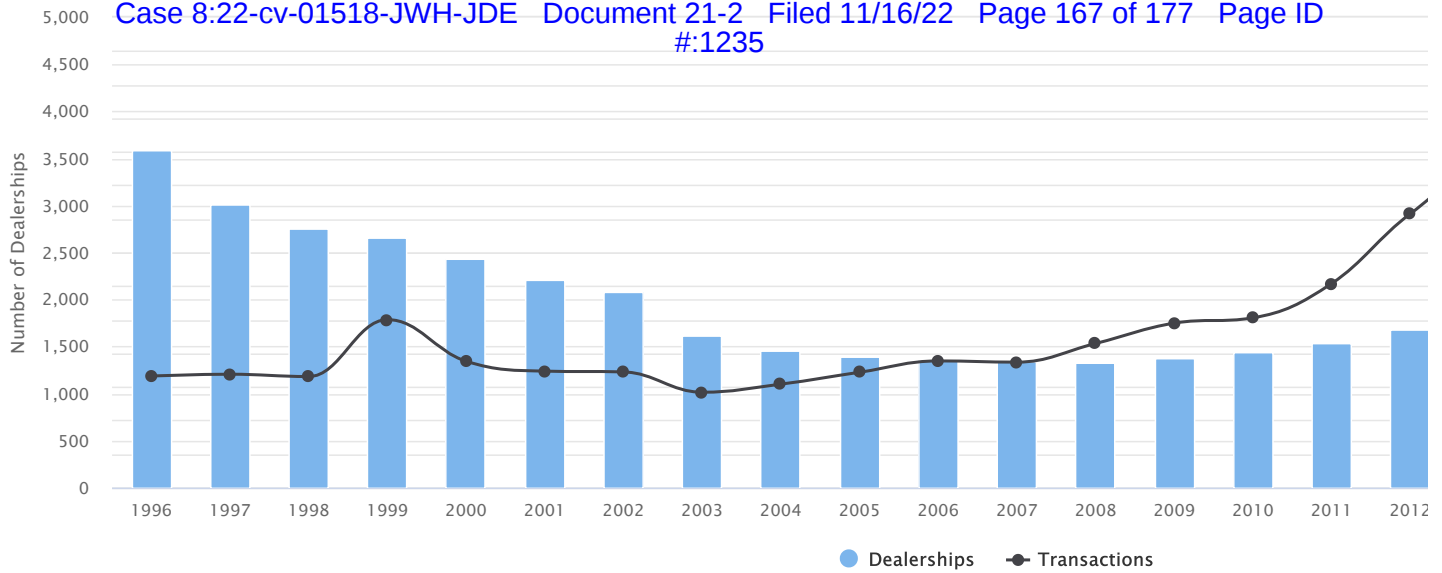
PERCENTAGE OF HANDGUN AND LONG GUN SALES BY TRANSACTION TYPE IN 2017



HOW HAS THE NUMBER OF GUN DEALERSHIPS CHANGED OVER TIME?

From 1996 to 2007, the number of gun dealerships dropped by almost two-thirds while gun sales stayed relatively flat. The dramatic growth (240%) in gun transactions from 2008 to 2017 has not been accompanied by similar growth in the number of licensed gun dealerships, which only increased by 40%. The concentration of sales among gun dealers has increased in the past two decades.

GUN SALES AND GUN DEALERSHIPS OVER TIME



JOIN OUR COMMUNITY

Sign up for updates

SIGN UP

New dataset ideas

SUBMIT SUGGESTION

Technical issues

REPORT BUG

DATA STORIES (/STORIES)

[Arrest Rates \(/arrests/overview\)](/arrests/overview)

[Clearance Rates \(/clearances/overview\)](/clearances/overview)

[Crime Rates \(/crimes/overview\)](/crimes/overview)

[Death in Custody \(/death-in-custody/overview\)](#)

[Firearms \(/firearms/overview\)](#)

DATA EXPLORATION (/EXPLORATION)

[County Map \(/agencies/county-map\)](#)

[Charts \(/agencies/charts\)](#)

[Trends \(/agencies/time-trends\)](#)

[Crime Statistics \(/crime-statistics\)](#)

[Agency & County Profile \(/agencies/agency-profile\)](#)

DATA PORTAL (/DATA)

RESOURCES (/RESOURCES/)

[About \(/resources/about\)](#)

[Publications \(/resources/publications\)](#)

[Glossary \(/resources/glossary\)](#)

[FAQs \(/resources/faqs\)](#)

[Contact \(/resources/contact\)](#)

COMMUNITY (/COMMUNITY)

EXHIBIT 25

Underlying Cause of Death, 1999-2017 Results

Numbers of Non-Suicide Youth Deaths in CA (2017)

State	Ten-Year Age Groups	Cause of death	Deaths	Population	Crude Rate Per 100,000
California (06)	< 1 year	A41.9 (Septicaemia, unspecified)	11	488,479	Unreliable
California (06)	< 1 year	P00.0 (Newborn affected by maternal hypertensive disorders)	11	488,479	Unreliable
California (06)	< 1 year	P01.0 (Newborn affected by incompetent cervix)	53	488,479	10.9
California (06)	< 1 year	P01.1 (Newborn affected by premature rupture of membranes)	99	488,479	20.3
California (06)	< 1 year	P01.5 (Newborn affected by multiple pregnancy)	12	488,479	Unreliable
California (06)	< 1 year	P02.1 (Newborn affected by other forms of placental separation and haemorrhage)	32	488,479	6.6
California (06)	< 1 year	P02.7 (Newborn affected by chorioamnionitis)	36	488,479	7.4
California (06)	< 1 year	P07.2 (Extreme immaturity)	213	488,479	43.6
California (06)	< 1 year	P07.3 (Other preterm infants)	28	488,479	5.7
California (06)	< 1 year	P21.9 (Birth asphyxia, unspecified)	19	488,479	Unreliable
California (06)	< 1 year	P22.0 (Respiratory distress syndrome of newborn)	34	488,479	7.0
California (06)	< 1 year	P26.9 (Unspecified pulmonary haemorrhage originating in the perinatal period)	14	488,479	Unreliable
California (06)	< 1 year	P28.0 (Primary atelectasis of newborn)	21	488,479	4.3
California (06)	< 1 year	P29.0 (Neonatal cardiac failure)	50	488,479	10.2
California (06)	< 1 year	P29.1 (Neonatal cardiac dysrhythmia)	53	488,479	10.9
California (06)	< 1 year	P36.9 (Bacterial sepsis of newborn, unspecified)	40	488,479	8.2
California (06)	< 1 year	P52.3 (Unspecified intraventricular (nontraumatic) haemorrhage of newborn)	32	488,479	6.6
California (06)	< 1 year	P60 (Disseminated intravascular coagulation of newborn)	10	488,479	Unreliable

Case 8:22-cv-01518-JWH-JDE Document 21-2 Filed 11/16/22 Page 171 of 177 Page ID #:1239					
	Five-Year Age Groups	Cause of death			
California (06)	< 1 year	P77 (Necrotizing enterocolitis of newborn)	29	488,479	5.9
California (06)	< 1 year	P83.2 (Hydrops fetalis not due to haemolytic disease)	28	488,479	5.7
California (06)	< 1 year	P91.6 (Hypoxic ischemic encephalopathy of newborn)	21	488,479	4.3
California (06)	< 1 year	Q00.0 (Anencephaly)	36	488,479	7.4
California (06)	< 1 year	Q21.2 (Atrioventricular septal defect)	11	488,479	Unreliable
California (06)	< 1 year	Q23.4 (Hypoplastic left heart syndrome)	16	488,479	Unreliable
California (06)	< 1 year	Q24.9 (Congenital malformation of heart, unspecified)	37	488,479	7.6
California (06)	< 1 year	Q33.6 (Hypoplasia and dysplasia of lung)	22	488,479	4.5
California (06)	< 1 year	Q60.2 (Renal agenesis, unspecified)	11	488,479	Unreliable
California (06)	< 1 year	Q79.0 (Congenital diaphragmatic hernia)	15	488,479	Unreliable
California (06)	< 1 year	Q89.7 (Multiple congenital malformations, not elsewhere classified)	17	488,479	Unreliable
California (06)	< 1 year	Q89.9 (Congenital malformation, unspecified)	14	488,479	Unreliable
California (06)	< 1 year	Q90.9 (Down syndrome, unspecified)	10	488,479	Unreliable
California (06)	< 1 year	Q91.3 (Edwards syndrome, unspecified)	41	488,479	8.4
California (06)	< 1 year	Q91.7 (Patau syndrome, unspecified)	19	488,479	Unreliable
California (06)	< 1 year	R95 (Sudden infant death syndrome - SIDS)	114	488,479	23.3
California (06)	< 1 year	R99 (Other ill-defined and unspecified causes of mortality)	94	488,479	19.2
California (06)	< 1 year	W75 (Accidental suffocation and strangulation in bed)	33	488,479	6.8
California (06)	< 1 year	W84 (Unspecified threat to breathing)	11	488,479	Unreliable
California (06)	< 1 year	Total	1,973	488,479	403.9
California (06)	1-4 years	C91.0 (Acute lymphoblastic leukaemia - Malignant neoplasms)	10	1,983,034	Unreliable
California (06)	1-4 years	C92.0 (Acute myeloid leukaemia - Malignant neoplasms)	11	1,983,034	Unreliable
California (06)	1-4 years	R99 (Other ill-defined and unspecified causes of mortality)	15	1,983,034	Unreliable
			Deaths	Population	Crude Rate per 100,000

Case 8:22-cv-01518-JWH-JDE Document 21-2 Filed 11/16/22 Page 172 of 177 Page ID #:1240

	Five-Year Age Groups	Cause of death			
California (06)	1-4 years	V87.7 (Person injured in collision between other specified motor vehicles (traffic))	10	1,983,034	Unreliable
California (06)	1-4 years	W67 (Drowning and submersion while in swimming-pool)	24	1,983,034	1.2
California (06)	1-4 years	Total	333	1,983,034	16.8
California (06)	5-14 years	C71.9 (Brain, unspecified - Malignant neoplasms)	23	5,057,132	0.5
California (06)	5-14 years	C91.0 (Acute lymphoblastic leukaemia - Malignant neoplasms)	11	5,057,132	Unreliable
California (06)	5-14 years	G80.9 (Infantile cerebral palsy, unspecified)	20	5,057,132	0.4
California (06)	5-14 years	R99 (Other ill-defined and unspecified causes of mortality)	13	5,057,132	Unreliable
California (06)	5-14 years	V43.6 (Car occupant injured in collision with car, pick-up truck or van, passenger injured in traffic accident)	11	5,057,132	Unreliable
California (06)	5-14 years	V87.7 (Person injured in collision between other specified motor vehicles (traffic))	25	5,057,132	0.5
California (06)	5-14 years	V89.2 (Person injured in unspecified motor-vehicle accident, traffic)	16	5,057,132	Unreliable
California (06)	5-14 years	Total	508	5,057,132	10.0
California (06)	15-24 years	C41.9 (Bone and articular cartilage, unspecified - Malignant neoplasms)	26	5,330,443	0.5
California (06)	15-24 years	C49.9 (Connective and soft tissue, unspecified - Malignant neoplasms)	12	5,330,443	Unreliable
California (06)	15-24 years	C62.9 (Testis, unspecified - Malignant neoplasms)	14	5,330,443	Unreliable
California (06)	15-24 years	C71.9 (Brain, unspecified - Malignant neoplasms)	17	5,330,443	Unreliable
California (06)	15-24 years	C91.0 (Acute lymphoblastic leukaemia - Malignant neoplasms)	32	5,330,443	0.6
California (06)	15-24 years	C92.0 (Acute myeloid leukaemia - Malignant neoplasms)	18	5,330,443	Unreliable
California (06)	15-24 years	E14.1 (Unspecified diabetes mellitus, with ketoacidosis)	10	5,330,443	Unreliable
California (06)	15-24 years	G40.9 (Epilepsy, unspecified)	27	5,330,443	0.5

Case 8:22-cv-01518-JWH-JDE Document 21-2 Filed 11/16/22 Page 173 of 177 Page ID #:1241

	Ten-Year Age Groups	Cause of death			
California (06)	15-24 years	G71.0 (Muscular dystrophy)	10	5,330,443	Unreliable
California (06)	15-24 years	G80.9 (Infantile cerebral palsy, unspecified)	34	5,330,443	0.6
California (06)	15-24 years	I42.0 (Dilated cardiomyopathy)	14	5,330,443	Unreliable
California (06)	15-24 years	Q24.9 (Congenital malformation of heart, unspecified)	15	5,330,443	Unreliable
California (06)	15-24 years	R99 (Other ill-defined and unspecified causes of mortality)	48	5,330,443	0.9
California (06)	15-24 years	V03.1 (Pedestrian injured in collision with car, pick-up truck or van, traffic accident)	41	5,330,443	0.8
California (06)	15-24 years	V05.9 (Unspecified whether traffic or nontraffic accident)	11	5,330,443	Unreliable
California (06)	15-24 years	V09.2 (Pedestrian injured in traffic accident involving other and unspecified motor vehicles)	52	5,330,443	1.0
California (06)	15-24 years	V23.4 (Motorcycle rider injured in collision with car, pick-up truck or van, driver injured in traffic accident)	20	5,330,443	0.4
California (06)	15-24 years	V27.4 (Motorcycle rider injured in collision with fixed or stationary object, driver injured in traffic accident)	20	5,330,443	0.4
California (06)	15-24 years	V29.4 (Driver injured in collision with other and unspecified motor vehicles in traffic accident)	24	5,330,443	0.5
California (06)	15-24 years	V43.5 (Car occupant injured in collision with car, pick-up truck or van, driver injured in traffic accident)	42	5,330,443	0.8
California (06)	15-24 years	V43.6 (Car occupant injured in collision with car, pick-up truck or van, passenger injured in traffic accident)	28	5,330,443	0.5
California (06)	15-24 years	V44.5 (Car occupant injured in collision with heavy transport vehicle or bus, driver injured in traffic accident)	12	5,330,443	Unreliable
California (06)	15-24 years	V47.5 (Car occupant injured in collision with fixed or stationary object, driver injured in traffic accident)	34	5,330,443	0.6

Case 8:22-cv-01518-JWH-JDE Document 21-2 Filed 11/16/22 Page 174 of 177 Page ID #:1242

	Five-Year Age Groups	Cause of death			
California (06)	15-24 years	V47.6 (Car occupant injured in collision with fixed or stationary object, passenger injured in traffic accident)	19	5,330,443	Unreliable
California (06)	15-24 years	V87.7 (Person injured in collision between other specified motor vehicles (traffic))	94	5,330,443	1.8
California (06)	15-24 years	V89.2 (Person injured in unspecified motor-vehicle accident, traffic)	244	5,330,443	4.6
California (06)	15-24 years	W69 (Drowning and submersion while in natural water)	39	5,330,443	0.7
California (06)	15-24 years	X41 (Accidental poisoning by and exposure to antiepileptic, sedative-hypnotic, antiparkinsonism and psychotropic drugs, not elsewhere classified)	37	5,330,443	0.7
California (06)	15-24 years	X42 (Accidental poisoning by and exposure to narcotics and psychodysleptics [hallucinogens], not elsewhere classified)	102	5,330,443	1.9
California (06)	15-24 years	X44 (Accidental poisoning by and exposure to other and unspecified drugs, medicaments and biological substances)	157	5,330,443	2.9
California (06)	15-24 years	X45 (Accidental poisoning by and exposure to alcohol)	10	5,330,443	Unreliable
California (06)	15-24 years	X93 (Assault by handgun discharge)	66	5,330,443	1.2
California (06)	15-24 years	X94 (Assault by rifle, shotgun and larger firearm discharge)	14	5,330,443	Unreliable
California (06)	15-24 years	X95 (Assault by other and unspecified firearm discharge)	351	5,330,443	6.6
California (06)	15-24 years	X99 (Assault by sharp object)	45	5,330,443	0.8
California (06)	15-24 years	Y09 (Assault by unspecified means)	14	5,330,443	Unreliable
California (06)	15-24 years	Y35.0 (Legal intervention involving firearm discharge)	18	5,330,443	Unreliable
California (06)	15-24 years	Total	2,562	5,330,443	48.1
California (06)		Total	5,376	12,859,088	41.8
		Total	5,376	12,859,088	41.8

Notes:

0165

SER-0221

Case: 22-cv-01518-JWH-JDE Document 31-2 Filed 11/16/22 Page 175 of 177 Page ID #:1243

Caveats: Data are suppressed when the data meet the criteria for confidentiality constraints. [More information.](#)

Death rates are flagged as Unreliable when the rate is calculated with a numerator of 20 or less. [More information.](#)

Deaths of persons with Age "Not Stated" are included in "All" counts and rates, but are not distributed among age groups, so are not included in age-specific counts, age-specific rates or in any age-adjusted rates. [More information.](#)

The population figures for year 2017 are bridged-race estimates of the July 1 resident population, from the Vintage 2017 postcensal series released by NCHS on June 27, 2018. The population figures for year 2016 are bridged-race estimates of the July 1 resident population, from the Vintage 2016 postcensal series released by NCHS on June 26, 2017. The population figures for year 2015 are bridged-race estimates of the July 1 resident population, from the Vintage 2015 postcensal series released by NCHS on June 28, 2016. The population figures for year 2014 are bridged-race estimates of the July 1 resident population, from the Vintage 2014 postcensal series released by NCHS on June 30, 2015. The population figures for year 2013 are bridged-race estimates of the July 1 resident population, from the Vintage 2013 postcensal series released by NCHS on June 26, 2014. The population figures for year 2012 are bridged-race estimates of the July 1 resident population, from the Vintage 2012 postcensal series released by NCHS on June 13, 2013. The population figures for year 2011 are bridged-race estimates of the July 1 resident population, from the Vintage 2011 postcensal series released by NCHS on July 18, 2012. Population figures for 2010 are April 1 Census counts. The population figures for years 2001 - 2009 are bridged-race estimates of the July 1 resident population, from the revised intercensal county-level 2000 - 2009 series released by NCHS on October 26, 2012. Population figures for 2000 are April 1 Census counts. Population figures for 1999 are from the 1990-1999 intercensal series of July 1 estimates. Population figures for the infant age groups are the number of live births.

Note: Rates and population figures for years 2001 - 2009 differ slightly from previously published reports, due to use of the population estimates which were available at the time of release.

The population figures used in the calculation of death rates for the age group 'under 1 year' are the estimates of the resident population that is under one year of age. [More information.](#)

Changes to cause of death classification affect reporting trends. [More information.](#)

Help: See [Underlying Cause of Death, 1999-2017 Documentation](#) for more information.

Query Date: Feb 14, 2019 3:22:25 PM

Suggested Citation:

Centers for Disease Control and Prevention, National Center for Health Statistics. Underlying Cause of Death 1999-2017 on CDC WONDER Online Database, released December, 2018. Data are from the Multiple Cause of Death Files, 1999-2017, as compiled from data provided by the 57 vital statistics jurisdictions through the Vital Statistics Cooperative Program. Accessed at <http://wonder.cdc.gov/ucd-icd10.html> on Feb 14, 2019 3:22:25 PM

Query Criteria:

Title: Numbers of Non-Suicide Youth Deaths in CA (2017)
Injury Intent: Unintentional; Homicide; Undetermined ; Legal Intervention / Operations of War; Non-Injury, no intent classified
States: California (06)
Ten-Year Age Groups: < 1 year; 1-4 years; 5-14 years; 15-24 years
Year/Month: 2017
Group By: State; Ten-Year Age Groups; Cause of death
Show Totals: True
Show Zero Values: False

0166

SER-0222

Case 8:22-cv-01518-JWH-JDE Document 21-2 Filed 11/16/22 Page 176 of 177 Page ID #:1244
Show Suppressed: False
Calculate Rates Per: 100,000
Rate Options: Default intercensal populations for years 2001-2009 (except Infant Age Groups)

CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2024, an electronic PDF of APPELLEES' SUPPLEMENTAL EXCERPTS OF RECORD, VOLUME I OF II, was uploaded to the Court's CM/ECF system, which will automatically generate and send by electronic mail a Notice of Docket Activity to all registered attorneys participating in the case. Such notice constitutes service on those registered attorneys.

Date: January 30, 2024

s/ Anna M. Barvir

Anna M. Barvir