



PROPOSITION 63

Firearms, Ammunition Sales, Initiative Statute The Safety for All Act of 2016

The California State PTA Legislative Action Committee appointed a study committee in February 2016 to study the Firearms, Ammunition Sales, Initiative Statute and bring back a recommendation to the committee should the initiative qualify for the November ballot. The study committee consists of Shereen Walter (Chair), Deborah Kemper and Kathy Rabun. The Firearms, Ammunition Sales, Initiative Statute qualified for the November 2016 ballot and the study committee presents the following analysis.

California State PTA and National PTA have many related authorities on firearms and violence prevention and the topic is a focus of not only the California State PTA Community Concerns Commission, but the organization as a whole. The Legislative Action Committee has taken a support position five pieces of legislation concerning firearms and gun violence prevention, two which have been signed by the Governor.

BACKGROUND

There is an ongoing debate nationwide and in the State of California between proponents and opponents of gun control related bills and ballot measures. This can be seen most recently in the protest/sit in of the house floor by Democratic lawmakers just prior to the Fourth of July break in an attempt to force a vote on proposed gun control legislation. The differences include a vigorous debate over the provisions and application of the Second Amendment to the Constitution and what should be done to insure we have a society safe from gun violence.

With Congress unable to pass gun regulations in the wake of the Sandy Hook shooting, Lieutenant Governor Gavin Newsom and Safety for All decided to bring the issue directly to California voters in the form of an initiative. Proponents collected the necessary number of signatures to place the Initiative, now known as Proposition 63, on the November ballot.

- On December 2, 2015, 14 were killed and 22 were seriously injured in a terrorist attack at the Inland Regional Center in San Bernardino, California.
- On Sunday, June 12, 2016, 49 people were gunned down in a nightclub in Orlando in the deadliest mass shooting in U.S. history.

- On July 7th, five police officers were gunned down in Dallas by a shooter who also wounded nine other officers and two civilians during a peaceful protest of police shootings of black men around the nation.

Quoted from a June 12, 2016 *Washington Post* article titled “Assault rifles are becoming mass shooters’ weapon of choice”

One common denominator behind these and other high-casualty mass shootings in recent years is the use of assault style rifles, capable of firing many rounds of ammunition in a relatively short period of time, with high accuracy. And their use in these types of shooting is becoming more common: There have been eight high-profile public mass shootings since July of last year, according to [a database compiled by Mother Jones magazine](#). Assault-style rifles were used in seven of those.

In the past 10 years, assault-style rifles have been used in 14 public mass shootings. Half of those shootings have occurred since last June.

Assault-style weapons have long been a flashpoint in the American gun debate. They [were outlawed in 1994](#). But that ban [expired in 2004](#) and Congress opted to not renew it. Gun rights proponents point out that rifles, of any type, are [rarely used to kill people](#) in the U.S. Because of that, researchers have generally found that the assault weapons ban had [little impact on U.S. homicide rates](#) while it was in effect.

On the other hand, compared to other firearms, assault-style rifles make it fairly easy to kill or injure many people within a short period of time. So perpetrators wishing to inflict indiscriminate harm on a large crowd of people often turn to them. Of the [10 mass shooting incidents](#) with the highest number of casualties — killed AND wounded — in the U.S., seven involved the use of an assault-style rifle, according to Mother Jones’s database.

According to crimeresearch.org “when all mass public shootings are counted, the average number killed with assault weapons is 10.2 per attack versus 6.5 in a non-assault weapon attack. Mass public shooters intend to commit suicide, but they also want attention. They realize that the more people killed, the more attention they generate.”

California already has laws that ban automatic assault weapons, semi-automatic weapons with magazines that can be changed out without a tool and makes it illegal to purchase high capacity magazines. Recently signed legislation, signed by the Governor subsequent to the initiative qualifying for the November ballot, makes it illegal to possess a semi-automatic weapon without a fixed magazine and to possess a high capacity magazine.

From 2002 to 2013, California lost 38,576 individuals to gun violence, more than seven times the number of U.S. soldiers killed in combat during the wars in Iraq and Afghanistan combined. Over this same period, 2,258 children were killed by gunshot injuries in California. The same number of children murdered in the Sandy Hook elementary school massacre are killed by gunfire in California every 39 days.

In 2013, guns were used to kill 2,900 Californians, including 251 children and teens. That year, at least 6,035 others were hospitalized or treated in emergency rooms for non-fatal gunshot wounds, including 1,275 children and teens.

Guns are commonly used by criminals. According to the California Department of Justice, in 2014 there were 1,169 firearm murders in California, 13,546 armed robberies involving a firearm, and 15,801 aggravated assaults involving a firearm.

Gun violence imposes economic burdens on our society. Researchers conservatively estimate that gun violence costs the economy at least \$229 billion every year, or more than \$700 per American per year. In 2013 alone, California gun deaths and injuries imposed \$83 million in medical costs and \$4.24 billion in lost productivity.

THE PROPOSAL:

The stated purpose and intent in enacting "The Safety for All Act of 2016" (the "Act") is as follows:

To implement reasonable and common-sense reforms to make California's gun safety laws the toughest in the nation while still safeguarding the Second Amendment rights of all law abiding, responsible Californians.

The initiative would:

- Prohibit the possession of large-capacity ammunition magazines, and require their disposal by sale to dealer, destruction, or removal from state.
- Require most individuals to pass a background check and obtain Department of Justice authorization to purchase ammunition.
- Require most ammunition sales be made through licensed ammunition vendors and reported to Department of Justice.
- Require lost or stolen firearms and ammunition be reported to law enforcement.
- Prohibit persons convicted of stealing a firearm from possessing firearms.

- Establish new procedures for enforcing laws prohibiting firearm possession by felons and violent criminals.
- Require the Department of Justice to provide information about prohibited persons to the federal National Instant Criminal Background Check System.

THE FISCAL EFFECTS

(Excerpts from Legislative Analyst fiscal analysis.)

The full analysis can be accessed at:

<http://www.lao.ca.gov/handouts/crimjust/2016/Firearms-Initiative-050316.pdf>)

Increased State Regulatory Costs. The measure would result in increased state costs to support the new DOJ regulatory responsibilities. These costs would be both one-time (such as for the development of new ammunition databases) and ongoing (such as for staff to process applications). These costs would likely be in the tens of millions of dollars annually, but would likely be offset by various regulatory fees.

Increased Court and Law Enforcement Costs. State trial courts would experience increased workload due to the newly required court process. In addition, state and local law enforcement would experience workload related to the new court process and the removal of firearms. The total magnitude of the costs associated with this workload is unknown, but could be in the tens of millions of dollars annually. Actual costs would depend on how this measure was implemented, such as whether existing resources were reprioritized to accommodate the workload. Additionally, some of these costs would be offset if local governments and state agencies charge and collect fees as authorized by the measure.

Potential Increased Correctional Costs. The new and increased penalties that are authorized in this measure could result in increased correctional costs to state and local governments. The magnitude of these costs would depend primarily on the number of violations and how the provisions of the measure are enforced. Thus, the potential increase in costs is unknown, but would unlikely exceed the low millions of dollars annually.

PTA AUTHORITIES

Purpose of the PTA

- To secure adequate laws for the care and protection of children and youth.

Legislation Planks

- To prevent, control or eliminate hazards to the health, safety and well-being of all children and youth.

Resolutions

- **Resolution on the Sale, Resale and Destruction of Firearms – National PTA**
 - That the National PTA and its constituent bodies support federal legislation to require a license to purchase a handgun; prohibit the sale of more than one handgun a month to any individual; prohibit gun possession by those convicted of spousal abuse and child abuse...

Position Statements

- **Firearms and Assault Weapons – California State PTA (1990/2011) – Community Concerns Commission.**
 - California State PTA has a long history and proud tradition of supporting legislation and programs for the safety and protection of children, youth and families.
 - California State PTA supports state and federal legislation and restrictions that would:
 - Require a firearm licensure procedure that includes a waiting period and background check to screen out illegal firearm purchasers such as convicted felons and drug-related offenders;
 - Prohibit sale and possession of assault weapons for non-military/non-law enforcement use...
 - Prohibit for non-military/non law enforcement purposes, the manufacture, importation, possession, sale or resale of accessories and ammunition designed for assault weapons.
 - California State PTA further supports:
 - Efforts to seek and support legislation on the safety and protection of the public, including children and youth.
 - Public awareness campaigns regarding the importance of legislation for the safety and protection of the public, especially children and youth.
- **Firearms – National PTA**
 - National PTA supports federal restrictions on firearms that would:
 - Require, prior to purchasing a firearm, a waiting period and background check to screen out illegal firearm purchasers such as convicted felons and drug-related offenders
- **Gun Safety and Violence Prevention – National PTA**
 - Given National PTA's history of advocacy for the safety of children and youth, National PTA supports federal efforts to protect children and youth from gun violence. National PTA also advocates restricting access to guns from persons who may endanger public safety. School safety is a critical priority for all parents, educators, students and community members that cannot be taken for granted. We must make every attempt to reduce violence, especially incidents that involve firearms.

WHAT DO PROPONENTS AND OPPONENTS SAY?

Proponents:

California can do better. Reasonable, common-sense gun laws reduce gun deaths and injuries, keep guns away from criminals and fight illegal gun trafficking. Although California has led the nation in gun safety laws, those laws still have loopholes that leave communities throughout the state vulnerable to gun violence and mass shootings. We can close these loopholes while still safeguarding the ability of law-abiding, responsible Californians to own guns for self-defense, hunting and recreation.

We know background checks work. Federal background checks have already prevented more than 2.4 million gun sales to convicted criminals and other illegal purchasers in America. In 2012 alone, background checks blocked 192,043 sales of firearms to illegal purchasers including 82,000 attempted purchases by felons. That means background checks stopped roughly 225 felons from buying firearms every day. Yet California law only requires background checks for people who purchase firearms, not for people who purchase ammunition. We should close that loophole.

Right now, any violent felon or dangerous mentally ill person can walk into a sporting goods store or gun shop in California and buy ammunition, no questions asked. That should change. We should require background checks for ammunition sales just like gun sales, and stop both from getting into the hands of dangerous individuals.

Under current law, stores that sell ammunition are not required to report to law enforcement when ammunition is lost or stolen. Stores should have to report lost or stolen ammunition within 48 hours of discovering that it is missing so law enforcement can work to prevent that ammunition from being illegally trafficked into the hands of dangerous individuals.

Californians today are not required to report lost or stolen guns to law enforcement. This makes it difficult for law enforcement to investigate crimes committed with stolen guns, breakup gun trafficking rings, and return guns to their lawful owners. We should require gun owners to report their lost or stolen guns to law enforcement.

Under current law, people who commit felonies and other serious crimes are prohibited from possessing firearms. Yet existing law provides no clear process for those people to relinquish their guns when they become prohibited at the time of conviction. As a result, in 2014, the Department of Justice identified more than 17,000 people who possess more than 34,000 guns illegally, including more than 1,400 assault weapons. We need to close this dangerous loophole by not only requiring prohibited people to turn in their guns, but also ensuring that it happens.

Military-style large-capacity ammunition magazines - some capable of holding more than 100 rounds of ammunition - significantly increase a shooter's ability to kill a lot of people in a short amount of time. That is why these large capacity ammunition magazines are common in many of America's most horrific mass shootings, from the killings at 101 California Street in San

Francisco in 1993 to Columbine High School in 1999 to the massacre at Sandy Hook Elementary School in Newtown, Connecticut in 2012.

Today, California law prohibits the manufacture, importation and sale of military-style, large capacity ammunition magazines, but does not prohibit the general public from possessing them. We should close that loophole. No one except trained law enforcement should be able to possess these dangerous ammunition magazines.

Although the State of California conducts background checks on gun buyers who live in California, we have to rely on other states and the FBI to conduct background checks on gun buyers who live elsewhere. We should make background checks outside of California more effective by consistently requiring the State to report who is prohibited from possessing firearms to the federal background check system.

The theft of a gun is a serious and potentially violent crime. We should clarify that such crimes can be charged as felonies, and prevent people who are convicted of such crimes from possessing firearms.

Opponents:

(Excerpts from the National Rifle Association's Institute for Legislative Action Article titled "*How Gavin Newsom's Initiative Will Flatten California Gun Owners*". The full article can be accessed at: <https://www.nraila.org/articles/20160101/how-gavin-newsom-s-initiative-will-flatten-california-gun-owners>)

California already has some of the strictest gun laws in the country. Yet violent crime, particularly among street gangs and drug dealers, is still out of control. Every year, more useless gun laws get introduced. But there will never be enough gun restrictions for those whose true goal (now that the Supreme Court has told them they can't ban possession of firearms entirely) is, either directly or indirectly, to ban possession of as many types of guns, from as many types of people and from as many places as possible.

Newsom has never met a gun control law he didn't like—no matter how pointless or counterproductive. As mayor of San Francisco, Newsom supported an ordinance that prohibited the possession of firearms on county property, required handguns to always be stored in locked containers, and increased the burdens placed on firearm retailers to such a degree that the one struggling gun store in San Francisco was finally forced to go out of business. Newsom was also mayor when the city passed Proposition H, a voter initiative that would have completely prohibited the possession of handguns by law-abiding citizens—if it hadn't been stopped by a National Rifle Association/California Rifle & Pistol Association lawsuit. So it is not surprising to see Newsom jump back on the anti-gun bandwagon, riding along with other statist politicians looking for easy media coverage as they steer that wagon to the bottom of the civilian disarmament pit.

In truth, buyer licensing, background checks and cartridge stamping would require extreme and burdensome changes to the ammunition manufacturing and selling process. Ammunition would have to be moved behind the counter, and every ammunition sale would require a store employee to run a check on the buyer. One of the reasons a similar proposal failed in Sacramento was because the cost of ammunition would likely increase tenfold, possibly much more.

This (initiative) goes right along with the “ban as many types of guns from as many types of people and from as many places as possible” strategy. With this scheme, the gun-ban lobby can make guns even less accessible—especially to Californians of limited means. The idea of restricting ammunition as a way of reducing the number of firearms can probably be traced to Daniel Patrick Moynihan, the late Democratic senator from New York. Moynihan argued, “We don’t need to ban guns; we need to ban ammunition, because in 25 years, if you can’t buy ammunition, it goes bad.” Moynihan called for outlawing ammunition, which over time would make all guns irrelevant.

In truth, Newsom’s proposals read like a laundry list of failed legislation that couldn’t even pass in the anti-gun California legislature, largely because these laws are so obviously unworkable and ill-advised. As an example, a bill mandating background checks at the ammunition point-of-sale was killed in 2013 because legislators recognized the prohibitive costs associated with such a plan.

The prohibition on possessing so-called “large-capacity” (actually, *standard* capacity) magazines appears to be modeled after a 2013 Senate bill that also died in the legislature. At the time, Shasta County Sheriff Tom Bosenko pointed out that the bill would have done “nothing to address the causes of gun violence, such as criminal behavior, mental illness, or substance abuse.” The California State Sheriffs Association also opposed that bill, stating that “this measure would have little impact on the ability of criminals or other prohibited persons from obtaining large-capacity magazines,” and that the law “would unintentionally turn many law-abiding citizens into criminals, subject to felony prosecution, for failing to sell or destroy their lawfully obtained property.”

In 2012 and 2013*, Gov. Brown vetoed bills that would have criminalized the failure to report a lost or stolen gun. In his veto message, Gov. Brown said he believed responsible people already report the loss or theft of a firearm “and irresponsible people do not. I remain skeptical that this bill would change those behaviors.”

*Governor Brown vetoed similar legislation again this session with a veto message that stated, “I continue to believe that responsible people report the loss or theft of a firearm and irresponsible people do not: It is not likely that this bill would change that.”

GENERAL COMMENTS

On July 1, 2016, Governor Jerry Brown signed six gun control bills into law including making it illegal to possess high capacity ammunition magazines and requiring background checks for those who buy ammunition in California. These are two of the items included in the Safety for All Act. There are still large portions of the Act that were not covered by recent legislation signed by the Governor, including:

- Requiring all stores that sell ammunition to report any lost or stolen ammunition within 48 hours of discovering that it is missing.
- Ensuring that California share crucial information with federal law enforcement by consistently requiring the state to report individuals who are prohibited by law from possessing firearms to the federal background check system.
- Requiring the reporting of lost or stolen firearms to law enforcement.
- Better enforcing the laws that require people to relinquish their firearms once they are convicted of a crime that makes them ineligible to possess firearms.

COMMITTEE DISCUSSION

The committee discussed this initiative shortly after the shooting death of five police officers by a gunman in Dallas. We all agreed that something must be done about the rash of mass shootings sweeping not only our nation, but our State. While it may be true that “guns don’t kill people, people kill people”, we believe that limiting access to the kinds of guns and ammunition that can kill large amounts of people in a short amount of time is common sense. We must fight gun violence by limiting the types and number of guns and ammunition available to those who would use them to do harm to others. Reasonable, common-sense gun laws reduce gun deaths and injuries, keep guns away from criminals and fight illegal gun trafficking.

California has some of the strictest gun control laws in the nation, but because gun manufacturers often find ways around the legislation by producing weapons that work around the law, it is necessary to continue to tighten laws that close these loopholes and protect our communities from gun violence and mass shootings. We can pass legislation that closes these loopholes while still safeguarding the ability of law-abiding, responsible Californians to own guns for self-defense, hunting and recreation.

Committee members felt that the provisions of the initiative that require that individuals pass a background check and obtain Department of Justice authorization to purchase ammunition and that ammunition sales be made through licensed ammunition vendors and reported to the Department of Justice would help limit access to ammunition to only those who are law abiding and can pass a background check. The assertion that this will increase the cost of ammunition, we felt, is outweighed by the additional protections it brings to our communities.

The committee believes that it was important that lost or stolen firearms and ammunition be reported to law enforcement to help them combat the trafficking of stolen guns and ammunition by and to criminals. We disagreed with the Governor’s veto message on a similar

bill this session where he stated “I continue to believe that responsible people report the loss or theft of a firearm and irresponsible people do not. It is not likely that this bill would change that.” Committee members believe that irresponsible people need to be held accountable for reporting the loss or theft of their guns and this initiative would do that.

Requiring that information about prohibited persons be provided by the Department of Justice to the federal National Instant Criminal Background Check System will ensure that background checks done outside of the State of California are more effective. Committee members felt this provision was important because it would protect us from criminals who buy firearms outside our state and bring them into the state.

Committee members were surprised that it is not already law that those convicted of stealing a firearm be prohibited from possessing firearms and that there are no procedures currently in place to enforce the law that felons and violent criminals are prohibited from possessing firearms. This initiative will put in place new procedures that insure these weapons are relinquished. Committee members believe that this is a good thing and insures that felons and violent criminals do not return home from their jail time to illegal weapons.

California State PTA supported SB 1446 (Hancock) that made it illegal for Californians to possess large capacity magazines. This legislation was signed by the Governor in July. The Legislative Action Committee in expressing their support of this bill believed that there is no legitimate reason for an individual besides law enforcement to possess these dangerous ammunition magazines that allow a shooter to kill as many people as possible in a short amount of time.

While two of the provisions in this initiative (background checks to purchase ammunition and making it illegal to possess high capacity magazines) are now covered by bills that the Governor signed into law, the remaining provisions are important enough for CALIFORNIA STATE PTA to take a support position on this initiative that protects our communities from gun violence.

We all agreed that California State PTA must step forward and lead where the safety of children, youth and families are at stake!

RECOMMENDATION

Based on our study and analysis, the committee recommends that the Legislation Action Committee recommend a position of SUPPORT on Proposition 63; the Safety for All Act of 2016 to the California State PTA Board of Managers.