

March 8<sup>th</sup>, 2021

Honorable Steven Bradford  
Chair of the Senate Public Safety Committee  
State Capitol room 2031  
Sacramento, CA 95814

RE: SB 264 (Min): Firearms: state property

**Position: OPPOSED**

Dear Senator Bradford,

The California Rifle & Pistol Association, Incorporated (CRPA), founded in 1875, is a nonprofit membership and donor supported organization with members and supporters throughout California. CRPA works to defend the civil and constitutional rights of individuals to choose to responsibly own and use firearms and works to preserve the traditional role of the citizen to hunt, to conserve, and preserve California's natural resources.

CRPA is in strong opposition to Senate Bill 264 (SB 264). SB 264 is yet another step in the process of banning the legal and lawful act of firearm and ammunition sales from all state property under one of the most regulated systems in the country. Directly prohibiting a state or county 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 or county property is a direct attack on the lawful process already in place and is unconstitutional. Clearly this will devastate gun shows, the for-profit and non-profit groups that attend, and those who exercise their rights to attend and purchase lawful items at events throughout California.

Gun shows and Federal Licensed Firearm Dealers (FFLs) are under attack in communities across California. AB 893 introduced by Assembly Member Gloria signed into law by Governor Newsom in 2019 bans all firearm sales at the Del Mar Fairgrounds and a similar bill, Senate Bill 281 by Senator Wiener attempted to do the same at the Cow Palace in San Francisco County. The anti-gun movement would like the public to believe that there are so called "gun show loopholes" which would allow prohibited persons to gain access to firearms just by attending a gun show. They would like the general public to believe the lie that firearms and ammunition are freely traded to persons attending gun shows without any type of legal ramifications. (See Exhibit #1 attached). As introduced SB 264 states: "*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.*" Assembly

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Member Gloria and Senator Wiener made the same dubious claim with their legislation. But when CRPA asked the bills' authors to produce evidence to support the statement, neither office produced anything substantiating their claims. CRPA also submitted public records requests seeking information related to these statements and no records have been produced. Making unsubstantiated claims like these affect the decision-making process for legislators and to date those decisions have been based on unfounded claims.

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. (See 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 and comply with all relevant laws. If they do not pass the review of the California DOJ, they are prohibited from participating.

Gun show promoters have a long history of no violent incidences occurring at their shows and have even gone further than what is required by the state. They continue to make improvements to their operational compliance by instituting the following additional safety procedures:

- Retaining the services of retired California DOJ Bureau of Firearms Enforcement Officers to actively monitor activities at the show and contact vendors prior to the show to ensure everyone is compliant with state laws;
- Actively surveilling the show to ensure all merchandise at the show is legal and compliant—no illegal items may be sold at the shows;
- Increased scrutiny of anyone bringing in a personal firearm for the purpose of repair, appraisal, or repair, requiring that they have those firearms inspected and tagged before entering the show.
- Barring the possession of both ammunition and a firearm together at a show, except for vendors who sell both;
- Educating attendees that any transfer of a firearm must go through a licensed dealer per applicable law and that a background check and waiting period applies to those transactions;
- Enforcing laws regarding ammunition sales where all ammunition must be kept behind a barrier and out of the reach of the public and only licensed dealers may sell ammunition; Requiring that all employees of any ammunition seller have a background check and be in possession of a valid Certificate of Eligibility issued by California DOJ; and
- Strictly monitoring shows by security personnel to ensure that no one under the age of 18 is admitted to the show without a supervising adult.

Firearms are not just laid out for anyone to walk by and grab, and ammunition is kept totally separate. The idea that someone can just walk into a gun show, pick up a firearm, and walk out

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is nothing more than a scare-tactic narrative. It has no basis in truth, and it has no place in reasonable discourse—especially in the halls of our democratic institutions where laws impacting the lives of millions are made. In short, with the current laws and promoters going the extra mile to ensure safety and security, it is difficult to see how anti-gun groups could make any logical argument that gun shows are a danger to the community.

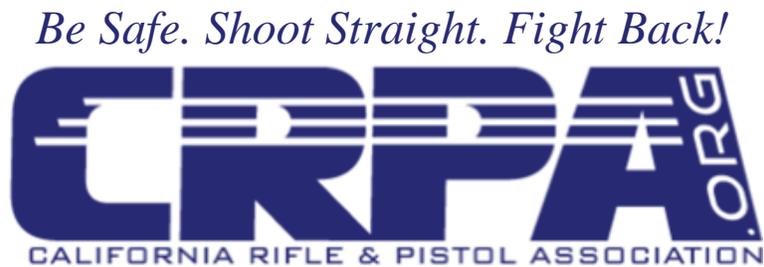
Indeed, contrary to the depiction of gun shows that SB 264 presents, gun shows and conservation group events are very much a family affair. Attendees of gun shows are parents, grandparents, competitors, trainers, law enforcement, moms, dads, and professionals. Many gun shows including training and education seminars, guest speakers, political discourse, lifestyle vendors, safety training, and more. So the 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. And with over 1 million new gun owners in California this year alone, the need for safe and easily accessible education and resources is greater than ever.

On the other hand, criminals would be crazy to try to procure a firearm or ammunition at a gun show simply because of the rules enforced and the constant presence of law enforcement. Criminals would never subject themselves to this much scrutiny and regulation in the hopes of getting their hands on a firearm.

If SB 264 is passed it will result in unnecessary and costly lawsuits. Nationwide case law has already upheld the legality and constitutionally protection of similar events. (See, e.g., *Nordyke v. Santa Clara County*, 110 F.3d 707 (9th Cir. 1997), *SCOPE, Inc., v. Pataki*, 386 F. Supp. 2d 184 (W.D.N.Y. 2005); *Cinevision Corp. v. City of Burbank*, 745 F.2d 560 (9th Cir. 1984).) Prohibiting legal transactions just because a few do not agree with it is viewpoint discrimination in its purest form and is highly disfavored by the courts. It is an unconstitutional restriction on lawful conduct.

In fact, a federal court recently held in *B & L Productions v. 22<sup>nd</sup> District Agricultural Association* that specific harms to the public safety of the community around the fairgrounds must be shown to justify the need to act against the lawful gun shows. The 22<sup>nd</sup> District Agricultural Association, represented by the Department of Justice, failed to show that gun shows in California, generally, and at the fairgrounds, specifically, were dangerous. And the court rightly rejected the government's attempt to cite random incidences of dangerous activity from other parts of the country where California's strict legal structure for the operation of gun shows is not in place.

CRPA supports gun shows, conservation group fundraising events, and their efforts to offer education, information, and the safe and legal transaction of firearms and ammunition to non-prohibited persons. We stand behind the fact that historically gun shows and nonprofit group dinners have provided a safe and secure environment for families and the community to learn about and uphold their right to keep and bear arms.



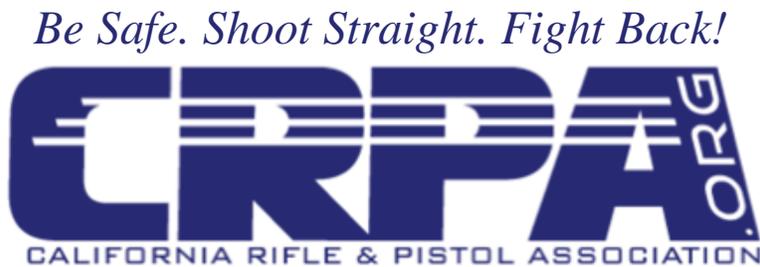
Finally, similar bad legislation has already been vetoed by two previous governors! In his 2018 SB 221 veto statement Governor Brown stated: *“I am returning Senate Bill 221 without my signature. This bill would prohibit the sale of firearms and ammunition at the District Agricultural Association IA, 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.”*

SB 264 was amended significantly on February 24 to extend these prohibitions to County owned land and the sale of ‘firearm precursor parts’. The author does not take into account the practicality nor the enormity of the task which would be required of the DOJ. Their current responsibilities include the tracking of all firearm purchases, the registration of all purchases and purchasers, background checks and waiting periods, plus similar procedures now for ammunition purchases and purchasers. Already when AB 879 is implemented in 2025, the DOJ will be tasked with recording a staggering number of transactions as firearms are made of literally dozens of parts. Now add to the list of responsibilities patrolling ‘gun shows’ all over California for ‘parts’ that are not even clearly defined! All this while the list of over 10,000 known armed prohibited felons continues to grow in California. We are confused about the authors’ intent for this legislation. In July 2016 Governor Brown signed into law Assembly Bill 857 (AB 857) the “ghost gun” serialization requirements. AB 857 already makes it illegal to turn any “precursor part” into a firearm without proper registration and serialization from DOJ (and completion of a background check). Which begs the question what is the true intent and necessity of banning the sale of ‘firearm precursor parts’ on state and county land? However, even as SB 264 calls for this prohibition and further compounds the workload of DOJ, we are still waiting for the definition of what “parts” are worthy of being “firearm precursor parts?”

The safety of Californians is at the very foundation of our organization. It has been our consistent goal to work toward common sense solutions regarding the issue of crime and firearm ownership. This can be done, however, without sacrificing our constitutional rights and the ability of the law-abiding to protect their families, hunt, and enjoy competitive shooting events. This certainly can be done without banning lawful Californians’ access to legal parts they need to repair the equipment they choose to enjoy. For the foregoing reasons the California Rifle & Pistol Association stands in strong opposition to SB 264 and strongly urges you to vote no on this misguided legislation.

Respectfully Submitted,

Roy M. Griffith Jr.  
Legislative Director  
California Rifle and Pistol Association, Inc.  
[rgriffith@crpa.org](mailto:rgriffith@crpa.org)



## **EXHIBIT #1**

As a threshold matter, firearm transfers are prohibited from taking place at any gun show or event in California absent very limited exceptions applicable to law enforcement.<sup>1</sup> Instead, all transactions must generally be processed by a California licensed firearms dealer.<sup>2</sup> This allows the dealer to conduct the necessary background check, ensure the firearm is properly registered to the purchaser, and to hold the firearm for the required 10-day waiting period before delivering it to the purchaser.<sup>3</sup>

### **I. GENERAL REQUIREMENTS FOR ALL GUN SHOW PRODUCERS AND VENDORS**

All gun show producers must possess a valid Certificate of Eligibility issued by the California Department of Justice, and must:

- Certify that they are familiar with all California laws regarding gun shows;
- Possess a minimum of \$1,000,000 liability insurance;
- Provide an annual list of shows or events to be held to the California Department of Justice; and,
- Notify the California Department of Justice no later than 30 days prior to the gun show or event of any changes to the above.<sup>4</sup>

Producers must make available to law enforcement a complete and accurate list of all vendors that will participate in the show for the purposes of selling, leasing, or transferring firearms.<sup>5</sup>

Producers must prepare an annual event and security plan and schedule to the California Department of Justice and any local law enforcement agency. The plan must include:

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<sup>1</sup> See Cal. Penal Code § 27310 (requiring all firearm transfers at gun shows to comply with state and federal law); Cal. Penal Code § 26805 (prohibiting the sale or transfer of a firearm by a licensed dealer at any location other than the dealer's premises as listed on their license, but allowing dealers to prepare documents at a gun show in preparation for sale at the dealer's premises); Cal. Penal Code § 27545 (requiring all firearm transactions to be processed through a licensed dealer when neither party is a licensed firearms dealer).

<sup>2</sup> Cal. Penal Code § 27545.

<sup>3</sup> Cal. Penal Code § 27540.

<sup>4</sup> Cal. Penal Code § 27200.

<sup>5</sup> Cal. Penal Code § 27205.

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- The type of show or event;
- The estimated number of vendors offering firearms for sale or display;
- The estimated number of attendees;
- The number of entrances and exits at the event;
- The location, dates, and times of the event;
- The contact person and telephone number for both the producer and the facility;
- The number of sworn peace officers employed by the producer or facility's manager who will be present at the event; and,
- The number of non-sworn security personnel employed by the producer of the facility's manager who will be present at the event.<sup>6</sup>

Producers must inform prospective vendors of all California laws regarding gun shows.<sup>7</sup>

Producers must submit a list of all prospective vendors and designated firearm transfer agents who are licensed firearms dealers to the California Department of Justice no later than seven days prior to the event for the purpose of determining whether the vendors possess a valid license and are thus eligible to participate in the event.<sup>8</sup> If it is determined that a vendor does not possess a valid license, the California Department of Justice will notify the producer prior to the commencement of the event, and will then prohibit the vendor from participating in the event.<sup>9</sup>

If a licensed firearms dealer fails to cooperate with a producer, or fails to comply with all applicable California laws, that dealer will be prohibited from participating in the event.<sup>10</sup>

If a producer fails to inform all prospective vendors of California's laws, or fails to submit a list of all prospective vendors to the California Department of Justice, the event cannot commence.<sup>11</sup>

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<sup>6</sup> Cal. Penal Code § 27210.

<sup>7</sup> Cal. Penal Code § 27215.

<sup>8</sup> Cal. Penal Code § 27220.

<sup>9</sup> *Id.*

<sup>10</sup> Cal. Penal Code § 27225.

<sup>11</sup> Cal. Penal Code § 27230.

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All producers must have written contracts with each vendor selling firearms at the event.<sup>12</sup>

Producers must post signs in a readily visible location at each public entrance to the event that includes all of the following notices:

- “This gun show follows all federal, state, and local firearms and weapons laws, without exception.
- Any firearm carried onto the premises by any member of the public will be checked, cleared of any ammunition, and secured in a manner that prevents it from being operated, and an identification tag or sticker will be attached to the firearm before the person is allowed admittance to the show.
- No member of the public under the age of 18 years shall be admitted to the show unless accompanied by a parent, grandparent, or legal guardian.
- All firearms transfers between private parties at the show shall be conducted through a licensed dealer in accordance with applicable state and federal laws.
- Persons possessing firearms at this facility must have in their immediate possession government-issued photo identification and display it upon the request to any security officer or any peace officer, as defined in Section 830.”<sup>13</sup>

Producers must also post signs in a readily visible location at each entrance to the parking lot at the event stating:

- “The transfer of firearms on the parking lot of this facility is a crime.”<sup>14</sup>

A willful failure of a producer to comply with any of California’s applicable laws is considered a misdemeanor punishable with a fine of up to \$2,000 and will render the producer ineligible for a gun show producer’s license for one year.<sup>15</sup> Subsequent offenses are grounds for suspension of a producer’s Certificate of Eligibility.<sup>16</sup>

A willful failure of a producer to post the required signs is considered a misdemeanor punishable with a fine of up to \$1,000 for the first offense and up to \$2,000 for subsequent

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<sup>12</sup> Cal. Penal Code § 27235.

<sup>13</sup> Cal. Penal Code § 27240(a).

<sup>14</sup> Cal. Penal Code § 27240(b).

<sup>15</sup> Cal. Penal Code § 27245(a).

<sup>16</sup> Cal. Penal Code § 27245(c).

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offenses.<sup>17</sup> Subsequent offenses will render the producer ineligible for a gun show producer license for one year.<sup>18</sup>

## II. THE GUN SHOW ENFORCEMENT AND SECURITY ACT OF 2000

The Gun Show Enforcement and Security Act of 2000 was part of a larger policy debate about banning gun shows in the state. Thanks to testimony offered by DOJ representatives which warned legislators that banning gun shows would push gun sales into the black market, more restrictions on gun shows were implemented as safeguards. **In June 2018, in the California State Legislative Hearings of the Public Safety Committee, again the DOJ position that banning gun shows would be detrimental to safety and keeping these transactions out in the open was echoed by Assemblyman Quirk when he stated that “*that this is a situation where [at gun shows] all of the laws are observed and if people don’t buy a gun here, I am worried that they will buy a gun in a place where all of those laws are not observed.*”<sup>19</sup>** Assemblyman Quirk refused to support a bill that would shut down a gun show in the state.

All gun show vendors must certify in writing to the show’s producer that they:

- Will not display, possess, or offer for sale any firearms, knives, or weapons for which possession or sale is prohibited;
- Acknowledge that they are responsible for knowing and complying with all applicable federal, state, and local laws dealing with the possession and transfer of firearms;
- Will not engage in activities that incite or encourage hate crimes;
- Will process all transfers of firearms through licensed firearms dealers as required by state law;
- Will verify that all firearms in their possession will be unloaded, and that the firearms will be secured in a manner that prevents them from being operated except for brief periods when the mechanical condition of the firearm is being demonstrated to a prospective buyer;
- Have provided all required information to the producer under Penal Code section 27320; and,
- Will not display or possess black powder or offer it for sale.<sup>20</sup>

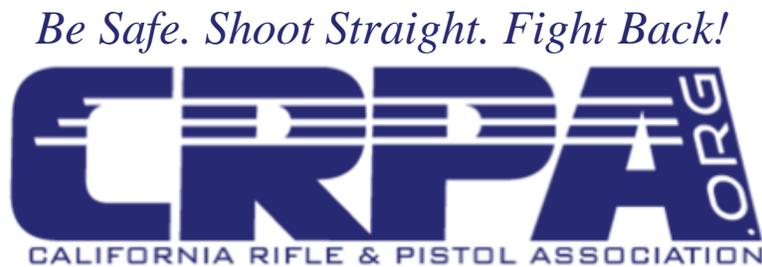
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<sup>17</sup> Cal. Penal Code § 27245(b).

<sup>18</sup> *Id.*

<sup>19</sup> <http://assembly.ca.gov/media/assembly-public-safety-20180619/video>

<sup>20</sup> Cal. Penal Code § 27305.



All firearms transfers at gun shows must be processed in accordance with all applicable state and federal laws.<sup>21</sup>

Ammunition may only be displayed in closed original factory boxes or other closed containers, with the only exception for showing the ammunition to a prospective buyer.<sup>22</sup>

Before participating in an event, every vendor who intends to sell firearms must provide the producer with all of the following information relative to the vendor, the vendor's employees, and other persons, compensated or not, who will be working or otherwise providing services to the public at the vendor's display space:

- The person's complete name;
- The person's driver's license or state-issued identification card number; and,
- The person's date of birth.<sup>23</sup>

The producer must keep all vendor information at the onsite headquarters of the event and regular place of business for two weeks after the conclusion of the event and make available the information to any peace officer upon request.<sup>24</sup>

All vendors and their employees must wear a name tag indicating their first and last name.<sup>25</sup>

No person other than security personnel or law enforcement are allowed to possess both a firearm and ammunition for that firearm at the same time, with the exception of vendors who are selling both.<sup>26</sup>

No member of the public under 18 years of age may enter the event or be permitted to remain unless accompanied by a parent or legal guardian.<sup>27</sup>

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<sup>21</sup> Cal. Penal Code § 27310.

<sup>22</sup> Cal. Penal Code § 27315.

<sup>23</sup> Cal. Penal Code § 27320(a).

<sup>24</sup> Cal. Penal Code § 27320(b).

<sup>25</sup> Cal. Penal Code § 27325.

<sup>26</sup> Cal. Penal Code § 27330.

<sup>27</sup> Cal. Penal Code § 27335.

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Anyone other than security or law enforcement who brings a firearm into the event must have the firearm checked, cleared of any ammunition, secured in a manner that prevents them from being operated, and have a tag or sticker attached to the firearm prior to being allowed admittance.<sup>28</sup> The tag or sticker must state that all firearm transfers must be conducted through a licensed dealer in accordance with all applicable state and federal laws, and must also include the owner's signature, printed name, and identification number from the owner's government-issued identification.<sup>29</sup>

Any person who possess a firearm at a gun show or event must have a government-issued photo identification in their immediate possession and must display it upon request to any security personnel or peace officer.<sup>30</sup>

Any unintentional first-time violations of the Gun Show Enforcement and Security Act of 2000 are considered infractions.<sup>31</sup> However, willful violations and subsequent offenses are considered misdemeanors.<sup>32</sup>

Crossroads of the West Gun Shows have continued to make improvements to their operation protocols which may serve to address some concerns by community members. In addition to complying with all applicable laws, Crossroads Gun Shows have implanted the following additional safety procedures including:

- Retaining the services of a retired California DOJ Bureau of Firearms Enforcement Officer to actively monitor activities at shows and ensure compliance with state laws;
- Actively surveilling the shows to ensure all merchandise at the shows is legal and compliant with all applicable laws;
- Increased scrutiny of anyone bringing in a personal firearm for the purposes of repair, appraisal, or repair;
- Education of attendees regarding current transfer of firearm laws and that any such transfer must be through a licensed dealer per applicable law;

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<sup>28</sup> Cal. Penal Code § 27340. *See also Gun Show Safety and Security Responsibilities: ADDITIONAL REMINDER*, California Department of Justice, FIREARMS DIVISION, <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/infobuls/0402.pdf>? (May 26, 2004).

<sup>29</sup> Cal. Penal Code § 27340.

<sup>30</sup> Cal. Penal Code § 27345.

<sup>31</sup> Cal. Penal Code § 27350.

<sup>32</sup> *Id.*

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- Enforcing new laws regarding ammunition sales where ammunition must be kept behind a barrier and out of reach of the public and only licensed dealers may sell ammunition;
- All employees of any ammunition seller must have a background check and be in possession of a valid Certificate of Eligibility issued by the California DOJ; and,
- Stricter monitoring of shows by contracted security personnel to ensure that no one under the age of 18 is admitted without a supervising adult.

### **III. PROHIBITING LAWFUL ACTIONS AT GUN SHOWS WOULD VIOLATE CONSTITUTIONAL PRINCIPLES**

Any proposal requiring the Show to be discontinued would be problematic since it would likely be unconstitutional and lead to possible litigation. Banning the Show would be an improper content-based restriction that violates the First Amendment, unduly and unjustly burdens activity protected by the Second Amendment, and makes classifications affecting those fundamental rights in violation of the Fourteenth Amendment's Equal Protection Clause.

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## EXHIBIT #2

| <b>RULES FOR RETAILERS IN CALIFORNIA</b>  | <b>CA GUN SHOW VENDORS</b> | <b>BRICK &amp; MORTER RETAILERS</b> |
|---|----------------------------|-------------------------------------|
| 1. CA Firearm dealers must obtain a valid firearm license.  | ✓                          | ✓                                   |
| 2. Firearm dealers must have a valid COE issued by the CA Dept. of Justice.   | ✓                          | ✓                                   |
| 3. All employees that handle ammunition or Firearms must have a valid COE.  | ✓                          | ✓                                   |
| 4. Private collectors can buy, sell, trade, but transactions must go through a licensed dealer and background check.      | ✓                          | ✓                                   |
| 5. Firearm purchases must go through background check and 10 (24-hour) waiting period. No transactions are done same day. | ✓                          | ✓                                   |
| 6. All firearms and ammunition must be kept out of direct reach of customers unless being assisted by the retailer.       | ✓                          | ✓                                   |
| 7. Customers must complete a Firearm Safety Certificate test prior to purchasing a gun.                                   | ✓                          | ✓                                   |
| 8. Customer is limited to buying only one handgun in any 30-day period.   | ✓                          | ✓                                   |
| 9. Fully-automatic weapons are illegal to sell in California.   | ✓                          | ✓                                   |
| 10. Customers must have a personal firearm checked, cleared and tagged at the door by an agent.                           | ✓                          | ✗                                   |
| 11. Purchases constantly monitored by ATF and CA DOJ agents onsite.   | ✓                          | ✗                                   |