



March 13, 2021

The Honorable Steven Bradford, Chair
 Senate Public Safety Committee
 State Capitol, Room 2031
 Sacramento, CA 95814

**RE: SB 264 (As Amended February 24, 2021)
 Firearms: State and County Property – OPPOSE**

Dear Senator Bradford,

The undersigned non-profit wildlife conservation organizations are united in strong opposition to SB 264 – legislation which would prohibit 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. We believe SB 264 is a direct attack on the lawful process already in place and is unconstitutional. Clearly this legislation would devastate gun shows, the for-profit and non-profit groups that attend, and those who exercise their rights to attend and lawfully purchase items at these 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 and signed into law by Governor Newsom in 2019, bans all firearm sales at the Del Mar Fairgrounds. 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 general public to believe that there are so called “gun show loopholes” which would allow firearms and ammunition to be freely traded to persons attending gun shows without any background check or ten-day waiting period.

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 Member Gloria and Senator Wiener made the same dubious claim with their legislation. But when members asked the bills’ authors to produce evidence to support the statement, neither office produced anything substantiating their claims. The California Rifle & Pistol

Association Inc. also submitted public records requests seeking information related to these statements and no records have been produced. Making such inaccurate claims to legislators in an effort to wrongfully influence policy decisions is unethical and an unfair to California's public.

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. 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 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 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, and other professionals. Many gun shows also include training and education seminars, guest speakers, political discourse, lifestyle vendors, safety training, and more. 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 one 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. 22nd 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 22nd 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.

Many of our organizations support 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.

Previously similar bad legislation has already been vetoed by two previous governors. In his veto statement on SB 221 in 2018, 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 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."*

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 consider 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 and well-being of Californians is at the very foundation of our organizations. It has been our consistent goal to work together 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 we stand united in strong opposition to SB 264 and strongly urge you to vote no on this misguided legislation.

Respectfully Submitted,

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Dan Whisenhunt, Chief Executive Officer
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