
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.nraila.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 ****