

## RESOLUTION 09-05-2013

### DIGEST

#### Criminal Law: Regulation of Ammunition Sales and Transfers

Adds Penal Code section 30301 to require specific regulations regarding selling, transferring or otherwise furnishing ammunition to an individual or business entity.

### RESOLUTIONS COMMITTEE RECOMMENDATION

#### DISAPPROVE

#### History:

No similar resolutions found.

#### Reasons:

This resolution adds Penal Code section 30301 to require specific regulations regarding selling, transferring or otherwise furnishing ammunition to an individual or business entity. This resolution should be disapproved because it will not limit access to ammunition or deaths that are caused by firearms, but only make it more difficult for law abiding citizens to purchase ammunition.

The 2010 study done by the Centers for Disease Control and Prevention cited by the proponent, which the proponent relies on to assert that “guns and ammunition are a public health crisis” shows that only 17.5% of all deaths in the United States were caused by firearms, which decreased by 5.3% from 2009. The study also showed that 33,687, or 18.6%, of deaths occurred from vehicle traffic accidents; 42,917, or 23.7%, of deaths occurred from poison; 25,692 deaths occurred from alcohol induced deaths; and 40,393 deaths occurred from drug induced deaths.

In comparing FBI statistics of homicides caused by firearms to states’ gun control laws, the statistics show that states with stricter gun laws do not have a lower homicide rate. In Chicago, Illinois, which has one of the most restrictive gun laws, has one of the highest murder rates in the United States. In 2012, there were 2,500 gun-related deaths in Chicago. Despite the belief that stricter gun laws would decrease violence and deaths caused by firearms, this is statistically not true.

Proponent further states that since society has addressed the public health hazards of tobacco and drunk driving, “we are overdue in addressing the pervasive problems of gun violence. Access to guns and ammunition is the controlling factor in limiting the deaths and injuries caused by guns.” In order to purchase alcohol, one has to show identification that one is over the age of 21, but this has not stopped underage drinking. In order to purchase cigarettes, one has to show identification that one is over the age of 18, but this has not stopped teen smoking. As with alcohol and tobacco, this resolution would fail to limit the access to ammunition because a person could drive to Utah or Arizona, for example, and purchase ammunition, as well as purchase it over the internet.

Currently, there is a bill in the state assembly, AB48 (Skinner) that is identical to this resolution.

## TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Association recommends that legislation be sponsored to add Penal Code Section 30301, to read as follows:

1 § 30301

2 (a) Anyone in this state, prior to selling, transferring, or otherwise furnishing ammunition  
3 to an individual or business entity in this state or any other state, shall do all of the following:

4 (1) Require proper identification from the purchaser in the form of a driver's license or  
5 other photographic identification issued by a state or the federal government.

6 (2) Be an authorized firearms dealer, pursuant to Section 26500.

7 (3) Submit a report to the Department of Justice for all of the transactions, in a manner to  
8 be determined by the department.

9 (b) The Department of Justice shall alert local law enforcement entities in the community  
10 in which the purchaser resides if the purchaser obtains more than \_\_\_\_\_ rounds within a five-day  
11 period and the purchaser is an individual and not an authorized firearms dealer. The department  
12 is not required to alert local law enforcement of sales of ammunition made to peace officers.

13 (c) (1) Any individual who does not submit the report required by paragraph (3) of  
14 subdivision (a), or who knowingly submits a report with false or fictitious information, shall be  
15 punished by imprisonment in a county jail not exceeding six months, by a fine not exceeding five  
16 thousand dollars (\$5,000), or by both the fine and imprisonment.

17 (2) Any individual who has previously been convicted of a violation of paragraph (1)  
18 shall, upon a subsequent conviction thereof, be punished by imprisonment pursuant to  
19 subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in a county jail not  
20 exceeding one year, by a fine not exceeding one hundred thousand dollars (\$100,000), or by both  
21 the fine and imprisonment.

(Proposed new language underlined; language to be deleted stricken.)

**PROPONENT:** National Lawyers Guild, San Francisco Bay Chapter

## STATEMENT OF REASONS

The Problem: Existing law prohibits sale of ammunition to a person under 18, selling ammunition designed for use in a handgun to a person under 21, providing ammunition to any minor who is prohibited from possessing ammunition, and providing ammunition to a felon. The law identifies those furnishing ammunition as a person, corporation, or firm. This broad definition allows almost anyone in California to sell ammunition in or outside of California. No records of sale are required other than a receipt so there is no way to determine the age or legal status of those purchasing ammunition.

This Solution: Guns and ammunition are a public health crisis in California and the United States. In 2010, the Centers for Disease Control and Prevention reported that throughout the United States 31,076 people were killed by guns and another 73,505 were treated at hospitals for gun-related injuries. In California, several cities, including Oakland, have seen increased levels of gun violence with an increase in the number of younger victims, some as young as three years

old. Mass shooting incidents such as those in Aurora, Colorado and Newtown, Connecticut have focused attention on the toll exacted by guns and ammunition.

This resolution adds three requirements to California criminal law to help resolve this public health crisis.

First, proper identification would be required to eliminate ammunition purchases by underage or criminally convicted buyers.

Second, it would limit the sale of ammunition to licensed firearms dealers which would eliminate sales by private individuals at gun shows or through other means.

Third, ammunition sales would be reported to the California Department of Justice so that law enforcement could track ammunition used in criminal activity.

Just as our society has addressed the public health hazards of tobacco and drunken driving, we are overdue in addressing the pervasive problems of gun violence. Access to guns and ammunition is the controlling factor in limiting the deaths and injuries caused by guns. This resolution addresses part of the problems by limiting access to ammunition

#### **LEGISLATIVE HISTORY**

Not known

#### **IMPACT STATEMENT**

The proposed resolution does not affect any other law, statute or rule.

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