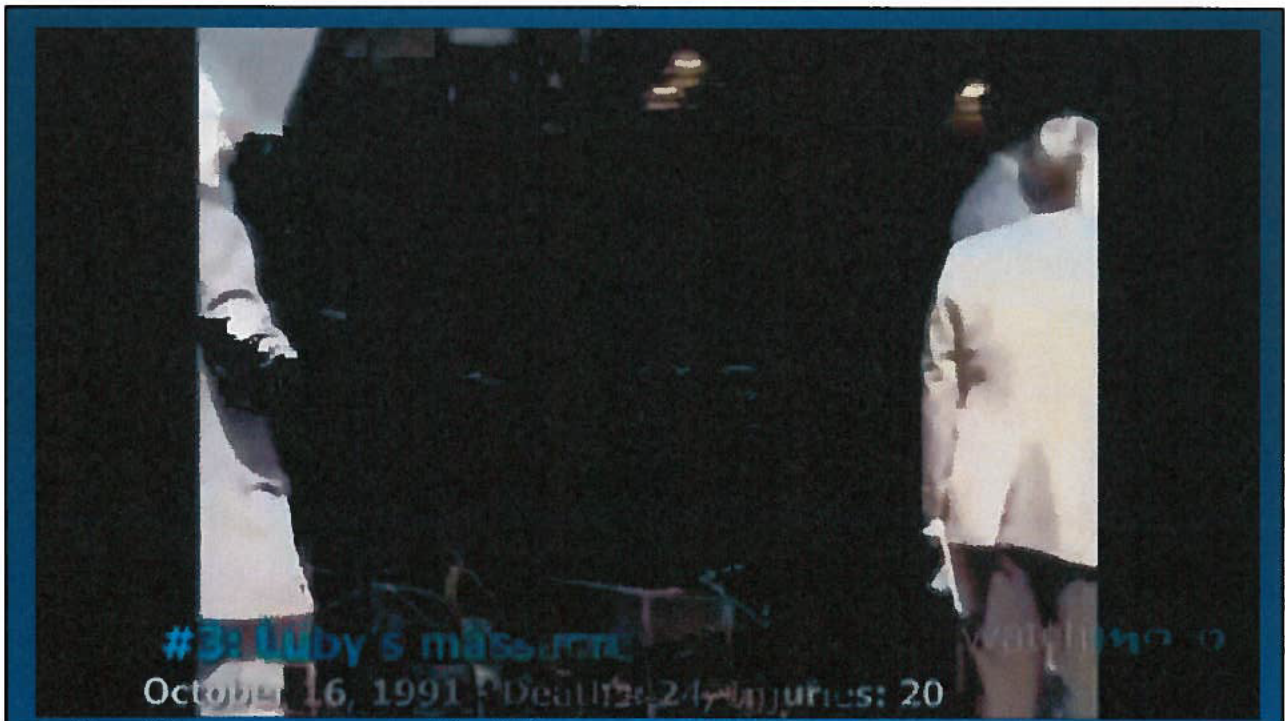


## PROPOSITION 63 HIGHLIGHTS

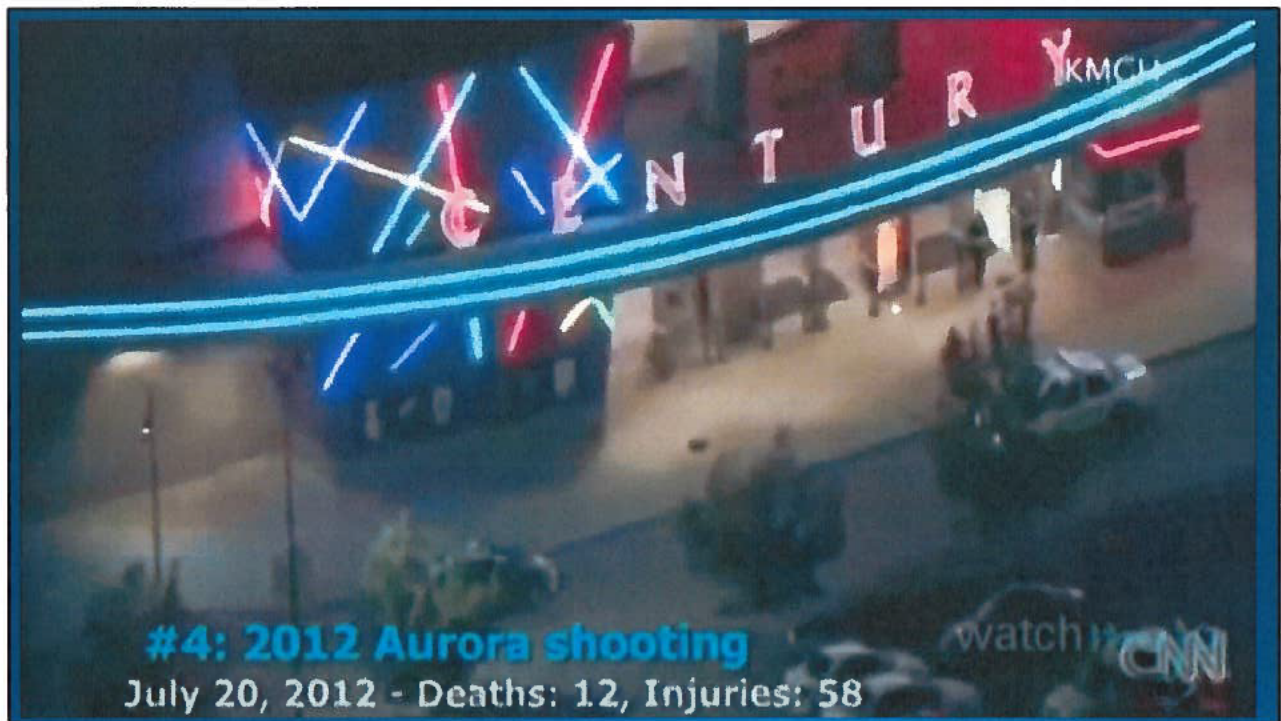


Presented by  
Elizabeth Ratinoff  
Assistant Head  
Deputy  
Charge Evaluation  
Division



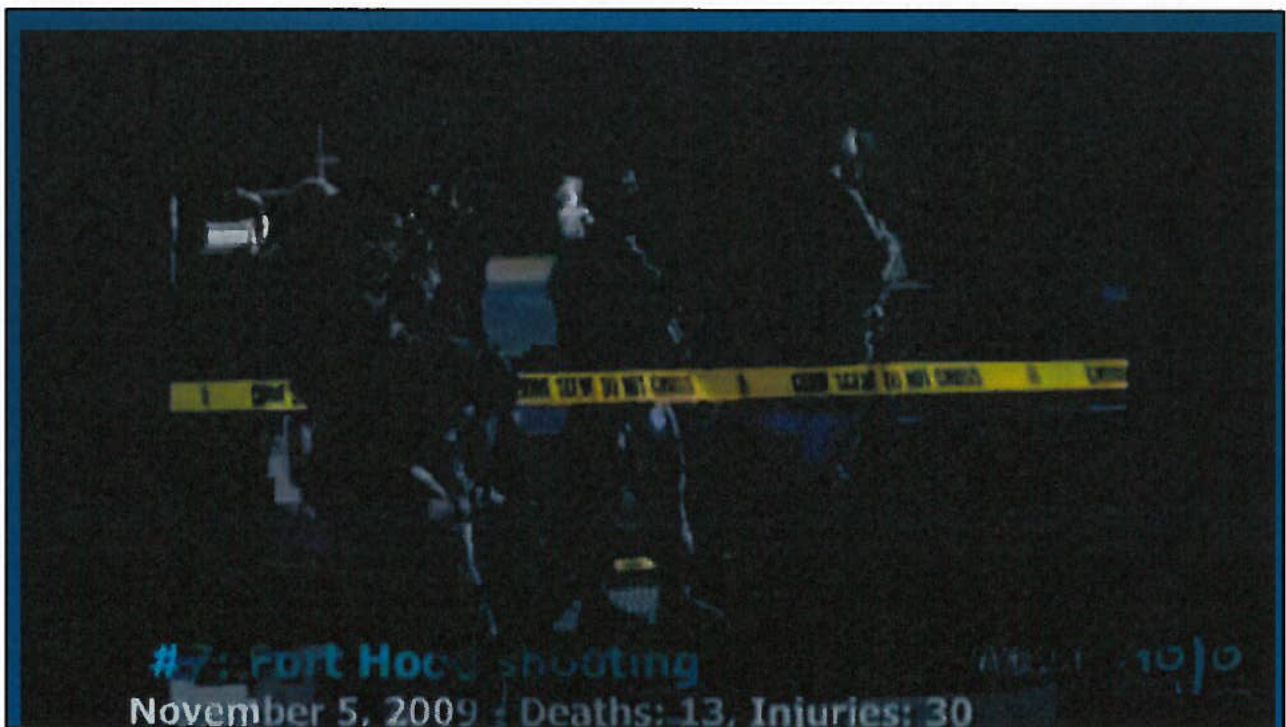
## PURPOSE AND INTENT

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.





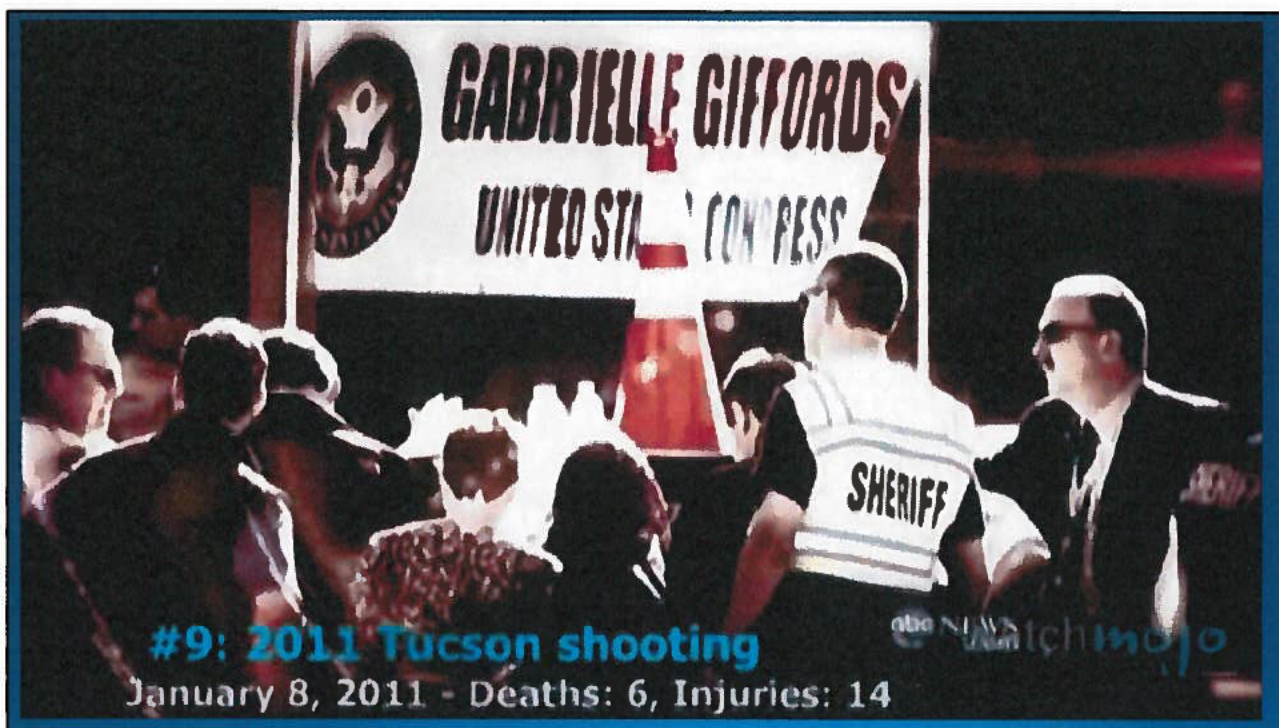
To keep guns and ammunition **out of the hands** of convicted felons, the dangerously mentally ill, and other persons who are prohibited by law from possessing firearms and



To ensure that those who buy ammunition in California are subject to **background checks**.

To require all stores that sell ammunition to report any lost or stolen ammunition **within 48 hours** of discovering that it's missing.





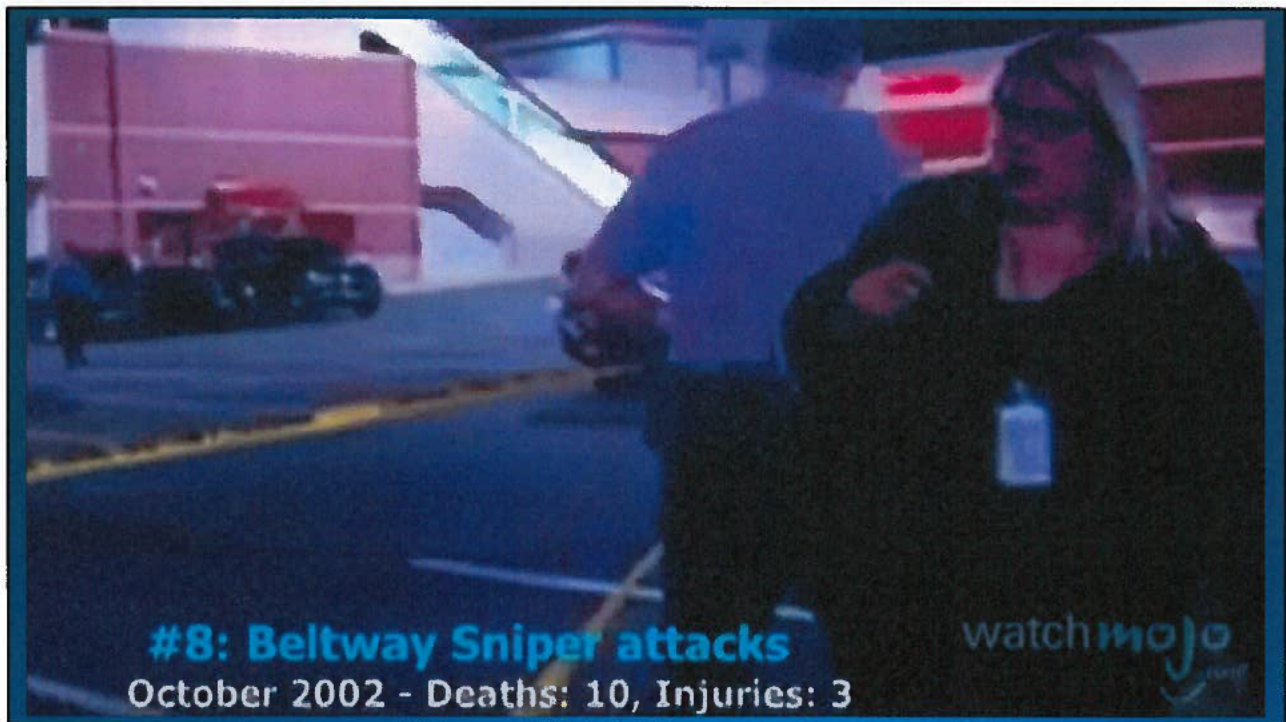
To ensure California **shares crucial information** with Federal Law Enforcement by consistently requiring the state to report individuals who are prohibited by law from possessing firearms to the Federal Background Check System.

To require the reporting of **lost or stolen** firearms to law enforcement.

To better enforce the laws that require people to **relinquish their firearms** once they are convicted of a crime that makes them ineligible to possess firearms.



To **prevent** people who are convicted of the theft of a firearm from possessing firearms and to make theft of a firearm a Felony Grand Theft, regardless of the value of the firearm.



To make it illegal in California to possess the kinds of military-style large-capacity ammunition magazine that enable **mass killings**.

**PC 490.2 is amended to read:**

(a) Notwithstanding Section 487 or any other provision of law defining grand theft, obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed \$950 shall be considered petty theft and shall be punished as a misdemeanor; except that such person may instead be punished pursuant to 1170(h) if that person has one or more prior convictions for an offense specified in PC 667((e)(2)(C)(iv) or for an offense requiring registration pursuant to PC 290(c).

(b) This section shall not be applicable to any theft that may be charged as an infraction pursuant to any other provision of law.

**(c) This section shall not apply to theft of a firearm.**



### **LIST OF MISDEMEANORS**

PC 29805(a) any person who has been convicted of a misdemeanor:

PC 71, 76, 136.1, 136.5, or 140, 148(d), 171b, 171c(a)(1), 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.4, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, 830.95, former 12100(a), 17500, 17510, 25300, 25800, 30315, 32625, 26100(b), 26100(d), 27510, Welfare and Institutions Code 8100, 8101, and 8103, any firearm-related offense pursuant to 871.5 and 1001.5 of Welfare and Institutions Code, **Section 490.2, if the property taken was a firearm**, and 27590(c) and who, within 10 years of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense (WOBBLER).

### **Charging Grand Theft of A Firearm – Penal Code Section 487(d)(2)**

A theft of a firearm that occurred **on/after November 9, 2016** is to be charged and prosecuted as felony grand theft.

A theft of a firearm that was committed **prior to November 9, 2016** is subject to the provisions of former Section 490.2(a). Thus, a theft of a firearm offense that occurred prior to November 9, 2016, in which the firearm is valued at \$950 or less, must ordinarily be charged and prosecuted as misdemeanor petty theft (unless the superstrike/290 exception applies).

A theft of a firearm that was committed **prior to November 9, 2016**, in which the firearm is valued at more than \$950 should be charged and prosecuted as felony grand theft.

### **1170.18 Petitions for Reduction to Petty Theft**

A defendant convicted of a felony grand theft firearm offense may petition or apply for a reduction of the charge under section 1170.18 if:

The offense occurred prior to November 9, 2016, when former section PC 490.2 still permitted thefts involving a firearm to be reduced; and

Each of the enumerated requirements of section 1170.18 have been met.

Grand theft firearm offenses that occurred **on or after November 9, 2016**, do not qualify for reduction under section 1170.18 because – as of November 9, 2016 – section 490.2(c) **precludes** relief under section 1170.18 for a theft of a firearm offense.

### **Alleging Grand Theft Firearm as a Prior**

#### **1192.7(c)(26) – Strike Prior**

**Defines felony grand theft involving a firearm as a serious felony.**

A conviction for felony grand theft firearm remains an allegeable strike prior even after being reduced to a misdemeanor pursuant to section 1170.18, because the initial conviction was a felony.

People v. Park (2013) 56 Cal.4<sup>th</sup> 782



**667(a) – Serious Felony 5-Year Prior and/or 667.5(b) –  
Prison 1-Year Prior**

These require that a defendant both be convicted of a felony and receive a felony sentence in order for the respective sentencing enhancements to be available – conditions that cease to exist once a felony has been reduced to a misdemeanor.

A grand theft firearm conviction that has been reduced to a misdemeanor pursuant to section 1170.18 may not be alleged as a prior under either section 667(a) or section 667.5(b).

**Lost or Stolen Firearms**

*As of 7/1/2017*

Every person must report the loss or theft of a firearm he owns/possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days of the time he/she knew or reasonably should have known that the firearm had been stolen or lost.

**If someone does NOT report a firearm lost/stolen: (25250)**

1st violation = Infraction, up to \$100 fine

2nd violation = Infraction, up to \$1000 fine

3rd or subsequent violation = Misdemeanor, up to 6 mos  
County jail or up to \$1000 fine or both fine and jail

**A Licensee must post warnings in block letters not less than 1" in height: including but not limited to:**

"IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO \$5000..."

"IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO \$1000..."

Unless you stored the firearm in a locked container, or locked the firearm with a locking device.

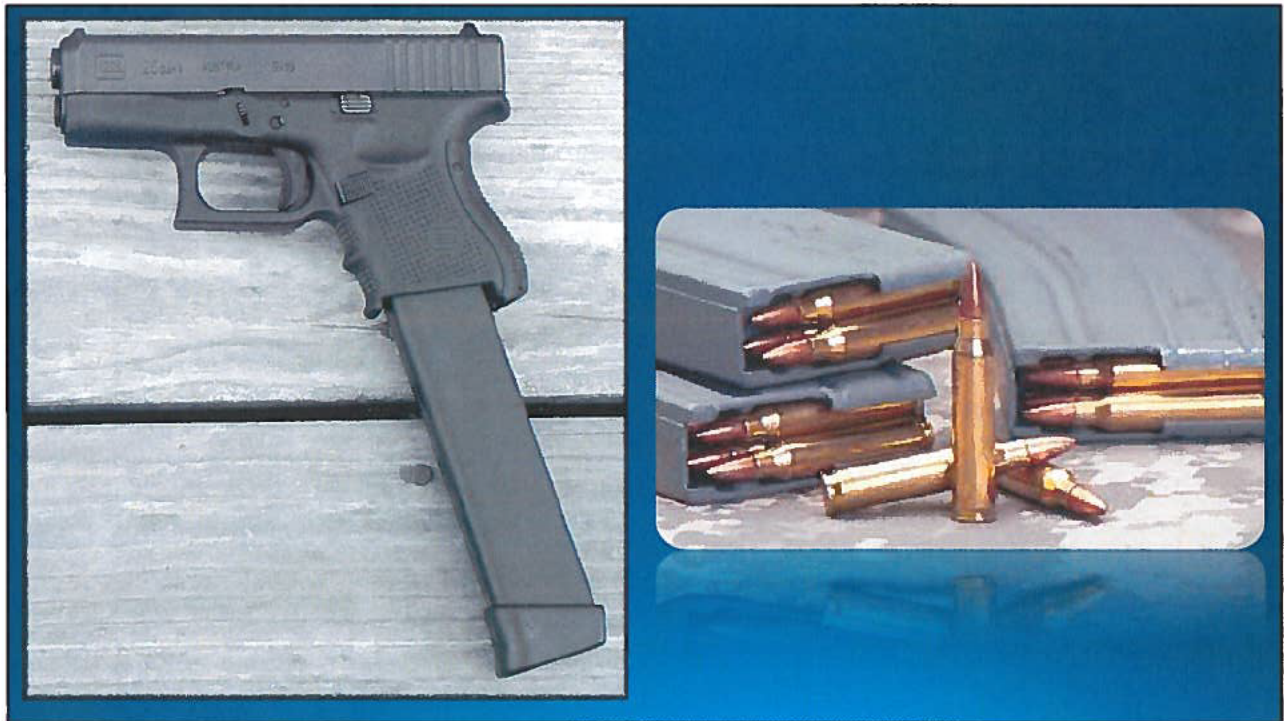




#### **POSSESSION OF LARGE-CAPACITY MAGAZINES - SECTION 6**

PC 32310 is amended:

- Any person in CA who manufactures, imports into CA, keeps/offers/exposes for sale, or gives, lends, buys, or receives any large-capacity magazine is punishable by up to 1 year CJ or imprisonment per 1170(h).
- **Commencing 7/1/2017**, Any person in CA who simply possesses any large-capacity magazine, regardless of the date the magazine was acquired, is guilty of an infraction punishable by up to \$100 fine per large-capacity magazine, or is guilty of a misdemeanor punishable by up to \$100 fine per large-capacity magazine, by up to 1 yr CJ or by both fine + imprisonment.
- Any person who cannot lawfully possess a large-capacity magazine **starting 7/1/2017**, shall before 7/1/2017:
  - Remove the large-capacity magazine from CA
  - Sell the large-capacity magazine to a licensed firearms dealer; or
  - Surrender the large-capacity magazine to a law enforcement agency for destruction
- ❖ 32310 does not apply to the sale/lending/transfer/purchase/receipt/possession of/importation into CA of large-capacity magazine by sworn peace officer or honorably retired sworn peace officer who's authorized to carry a firearm in the scope and course of that officer's duties



### **Amendment to Definition of "Ammunition"**

"Ammunition" means one or more loaded cartridges consisting of a primed case, propellant, and with one or more projectiles." (Pre-Prop 63, handgun only).

### **Outlaw of Ammunition Sales to a Straw Purchaser**

Selling or providing ammunition to a straw purchaser or transferee, with "**knowledge or cause to believe**" that the ammunition will be sold or transferred to a prohibited person is a misdemeanor. (PC 30306(b)).



Proposition 63 – Timeline

Effective 11/9/2016

- Grand Theft of a Firearm is a Felony (Penal Code Section 487(d)(2))
- Mandatory Reporting to National Instant Criminal Background Check System (NICS)
- Mandatory Reporting of Lost or Stolen Ammunition By Firearms Dealer
- Amendment to Definition of "Ammunition"
- Outlaw of Ammunition Sales To A Straw Purchaser
- General Regulation of Ammunition Sales

Effective 7/1/2017

**Issuance of Ammunition Vendor Licenses through DOJ**

(properly licensed firearms dealers will automatically be deemed ammunition vendors as of 1/1/2018).

(PC 30385 added).

### **Effective 1/1/2018**

#### **Sale of Ammunition Must Be Through Licensed Ammunition Vendor**

PC 30312 requires the sale of ammunition by any party to be conducted by or process through a licensed ammunition vendor and may only occur in a face-to-face transaction with the seller, deliverer, or transferor; however, ammunition may be purchased or acquired over the Internet or other remote means of ordering if a licensed ammunition vendor initially receives the ammunition and processes the transaction legally. (Prop 63, Section 8, PC 30312 added).

Violation of this section: Misdemeanor

### **Effective 1/1/2018**

#### **Transportation of Ammunition Into CA**

A CA resident cannot bring into CA any ammunition that he/she obtained outside CA unless he/she first has that ammunition delivered to a licensed ammunition vendor for delivery to that CA resident pursuant to the procedures set forth in PC 30312. Read the exceptions.

Violation of this section: 1<sup>st</sup> offense – Infraction

2<sup>nd</sup> + offense – Infraction or Misdemeanor



### **Effective 7/1/2019**

#### **General Regulation of Ammunition Sales**

Ammunition vendors must now record all ammunition purchases/transfers, including: the date of the transaction, the purchaser/transferee's full name, signature, address, phone number, driver's license/identification number, and date of birth; and the name of the salesperson who processed the transaction. (Prop 63, Section 8, amended 30352(a).) Such information will be electronically forwarded to the CA Dept of Justice, and available to law enforcement, for law enforcement purposes, through the CA Law Enforcement Telecommunications System. (Prop 63, Section 8, amended/added 30352(b).)

Violation will be a misdemeanor – see PC 30365.

Ammunition vendors must now verify the identity of any purchaser/transferee of ammunition and verify that any person receiving ammunition is authorized to purchase ammunition. (Prop 63, Section 8, amended/added 30352(c).)

Violation will be a misdemeanor – see PC 30365.

### **Effective 7/1/2019**

#### **Ammunition Authorization**

Any person 18 years or older may apply to the CA Dept of Justice for an ammunition purchase authorization – which would cost up to \$50 and be valid for four years from the date of issuance. (Prop 63, Section 8, amended/added 30370). Does this mean you need a “license” to purchase ammo?



### **SECURING FIREARMS FROM PROHIBITED PEOPLE**

Beginning **1/1/2018**, the property/things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who, subject to the prohibitions regarding firearms pursuant to PC 29800 or 29805, and the court has made a finding pursuant to PC 29810(c)(3) that the person failed to relinquish the firearm as required by law.



Until **1/1/2018**, for any person who falls under PC 29800 or 29805, the court shall, at the time judgment is imposed, provide on a form supplied by DOJ, a notice to the defendant prohibited from owning/purchasing/receiving/possessing/having under his custody/control, any firearm.

The notice will include a form to facilitate the transfer of firearms. (PC 29810(a)).

Beginning **1/1/2018**, same as above **PLUS** ammunition, ammunition feeding devices, magazines. The court shall provide the defendant with a Prohibited Persons Relinquishment Form developed by DOJ. (PC 29810(a)(2)).

- Defendant must name a designee
- Defendant and designee must sign the PPRF
- The court must immediately assign the matter to a probation officer to investigate whether all procedures have been followed
- If the court finds PC that the defendant failed to relinquish any firearms as required, the court shall order the search for and removal of any firearms at any location where the judge has PC to believe the defendant's firearms are located.

## **NOTICE ATTACHMENT ON FELONY COMPLAINTS**

NOTICE: Conviction of this offense prohibits you from owning, purchasing, receiving, possessing, or having under your custody and control any firearm, and, effective January 1, 2018, will require you to complete a Prohibited Persons Relinquishment Form ("PPR") pursuant to Penal Code Section 29810.

### Contact Information:



Elizabeth Ratinoff  
Assistant Head Deputy  
Charge Evaluation Division

