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Councilmembers Desley Brooks, Dan Kalb, and Rebecca Kaplan CITY OF OAKLAND
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Agenda Memorandum

To: Rules & Legislation Committee

From: Councilmembers Desley Brooks, Dan Kalb, and Rebecca Kaplan

Date: March 24, 2016

Subject: Resolution of Support for AB 1695: Stop Illegal Gun Sales Act

Colleagues on the City Council and Members of the Public,

With our Resolution of Support for AB 1695 (Bonta), we are submitting the attached Fact Sheet, Bill Analysis from the Assembly Committee on Public Safety, and text of the bill.

Respectfully submitted,

Desley Brooks, Councilmember

Dan Kalb, Councilmember

Rebecca Kaplan, Councilmember



AB 1695 (Bonta)

“The Stop Illegal Gun Sales Act”

Summary

AB 1695—the Stop Illegal Gun Sales Act (Act)—will reduce the flow of firearms onto the black market. The Act targets straw purchases, instances in which a person who can pass a background check legally buys a gun and then resells it to someone who would not have otherwise been allowed to legally purchase a firearm. Additionally, the Act would make knowingly falsely reporting a gun as lost or stolen a misdemeanor, a common claim among straw purchasers when their gun is recovered at the scene of a crime.

Background

Research suggests that one important flow of illegal guns to criminals involves legal purchasers who engage in straw purchases to provide guns to someone with a disqualifying criminal record. These straw purchases generally occur within close proximity from where the crime gun is recovered.

In 2007, the Los Angeles City Attorney’s office engaged in a mail campaign to educate firearm purchasers of their rights and responsibilities during California’s mandatory waiting period. The mail campaign was premised on the idea that straw purchasers can be deterred from illegally transferring firearms, either through failing to complete the transaction or declining to pass on the firearm. Because straw purchasers have no prior arrests or convictions that prohibit them from making a legal firearm purchase, they could be deterred more easily than individuals with an existing criminal history. Additionally, though the act of straw purchasing is a federal felony, such cases are rarely prosecuted separately, and the charge is usually added to an ongoing investigation.

According to a RAND Corporation study, the mail program significantly increased the number of firearms reported lost and stolen—more than doubling the reporting. However, it is not clear whether the increased reporting was from increased compliance with the law or straw purchasers covering their tracks. Additionally, there was an increase in approved firearms transactions not being completed, suggesting a deterrent, though those results require further research.

Furthermore, there have been several legislative efforts to improve the reporting of lost and stolen firearms. These efforts have focused on creating new criminal penalties for failure to report a firearm as lost or stolen, in an attempt to give prosecutors a tool with which to charge straw purchasers. AB 1695 differs from those approaches by mimicking a 2008 Pennsylvania law, HB 1845, one of whose provisions made it a state crime to falsely report a firearm as lost or stolen. HB 1845 was passed with broad bipartisan support and subsequently signed into law.

Bill Details

Dual Approach to Reducing Firearm Diversion

- Letter Campaign— Inform potential purchasers of their rights and responsibilities, and the laws surrounding the transfer of firearms. Paid for through the Firearm Safety and Enforcement Special Fund.
- False Reporting of Lost and Stolen— Create a legal mechanism for state prosecution in the event of falsely reporting a firearm lost or stolen. Violators would be prohibited from owning a firearm for a decade following conviction.

ASSEMBLY BILL

No. 1695

Introduced by Assembly Member Bonta

January 21, 2016

An act to amend Sections 16520 and 29805 of, and to add Sections 29305 and 29310 to, the Penal Code, relating to firearms, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1695, as introduced, Bonta. Firearms: notice to purchasers: false reports of stolen firearms.

(1) Existing law requires each sheriff or police chief executive to submit descriptions of serialized property, or nonserialized property that has been uniquely inscribed, which has been reported stolen, lost, or found directly into the appropriate Department of Justice automated property system for firearms, stolen bicycles, stolen vehicles, or other property. Existing law requires that information about a firearm entered into the automated system for firearms remain in the system until the reported firearm has been found. Existing law requires the Department of Justice to implement an electronic system to receive comprehensive tracing information from each local law enforcement agency and to forward the information to the National Tracing Center.

This bill would make it a misdemeanor to report to a local law enforcement agency that a firearm has been lost or stolen, knowing that report to be false. The bill would also make it a misdemeanor for a person convicted of violating this provision to own a firearm within 10 years of the conviction. The bill would define "firearm" for these purposes to include the frame or receiver of the weapon, and to include a rocket, rocket propelled projectile launcher, or similar device

containing an explosive or incendiary material. By creating new crimes, this bill would impose a state-mandated local program.

(2) Existing law requires the Department of Justice to develop a pamphlet that summarizes California firearms laws, and to offer copies of the pamphlet to firearms dealers for sale to retail purchasers or transferees of firearms.

This bill would require the Attorney General to send a letter notice to each individual who has applied to purchase a firearm informing him or her of laws relating to firearms, gun trafficking, and safe storage, as provided. The bill would allow the Department of Justice to use funds in the Firearms Safety and Enforcement Special Fund, which is continuously appropriated, to pay for the cost of administering this provision, thereby making an appropriation.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16520 of the Penal Code is amended to
2 read:

3 16520. (a) As used in this part, “firearm” means a device,
4 designed to be used as a weapon, from which is expelled through
5 a barrel, a projectile by the force of an explosion or other form of
6 combustion.

7 (b) As used in the following provisions, “firearm” includes the
8 frame or receiver of the weapon:

9 (1) Section 16550.

10 (2) Section 16730.

11 (3) Section 16960.

12 (4) Section 16990.

13 (5) Section 17070.

14 (6) Section 17310.

15 (7) Sections 26500 to 26588, inclusive.

16 (8) Sections 26600 to 27140, inclusive.

17 (9) Sections 27400 to 28000, inclusive.

- 1 (10) Section 28100.
- 2 (11) Sections 28400 to 28415, inclusive.
- 3 (12) Sections 29010 to 29150, inclusive.
- 4 (13) *Section 29305.*
- 5 ~~(13)~~
- 6 (14) Sections 29610 to 29750, inclusive.
- 7 ~~(14)~~
- 8 (15) Sections 29800 to 29905, inclusive.
- 9 ~~(15)~~
- 10 (16) Sections 30150 to 30165, inclusive.
- 11 ~~(16)~~
- 12 (17) Section 31615.
- 13 ~~(17)~~
- 14 (18) Sections 31705 to 31830, inclusive.
- 15 ~~(18)~~
- 16 (19) Sections 34355 to 34370, inclusive.
- 17 ~~(19)~~
- 18 (20) Sections 8100, 8101, and 8103 of the Welfare and
- 19 Institutions Code.
- 20 (c) As used in the following provisions, “firearm” also includes
- 21 a rocket, rocket propelled projectile launcher, or similar device
- 22 containing an explosive or incendiary material, whether or not the
- 23 device is designed for emergency or distress signaling purposes:
- 24 (1) Section 16750.
- 25 (2) Subdivision (b) of Section 16840.
- 26 (3) Section 25400.
- 27 (4) Sections 25850 to 26025, inclusive.
- 28 (5) Subdivisions (a), (b), and (c) of Section 26030.
- 29 (6) Sections 26035 to 26055, inclusive.
- 30 (d) As used in the following provisions, “firearm” does not
- 31 include an unloaded antique firearm:
- 32 (1) Subdivisions (a) and (c) of Section 16730.
- 33 (2) Section 16550.
- 34 (3) Section 16960.
- 35 (4) Section 17310.
- 36 (5) *Section 25135.*
- 37 ~~(5)~~
- 38 (6) Chapter 6 (commencing with Section 26350) of Division 5
- 39 of Title 4.
- 40 ~~(6)~~

1 (7) Chapter 7 (commencing with Section 26400) of Division 5
2 of Title 4.

3 ~~(7)~~

4 (8) Sections 26500 to 26588, inclusive.

5 ~~(8)~~

6 (9) Sections 26700 to 26915, inclusive.

7 ~~(9)~~

8 (10) Section 27510.

9 ~~(10)~~

10 (11) Section 27530.

11 ~~(11)~~

12 (12) Section 27540.

13 ~~(12)~~

14 (13) Section 27545.

15 ~~(13)~~

16 (14) Sections 27555 to 27585, inclusive.

17 ~~(14)~~

18 (15) Sections 29010 to 29150, inclusive.

19 ~~(15) Section 25135.~~

20 (16) Section 29305.

21 (e) As used in Sections 34005 and 34010, “firearm” does not
22 include a destructive device.

23 (f) As used in Sections 17280 and 24680, “firearm” has the
24 same meaning as in Section 922 of Title 18 of the United States
25 Code.

26 (g) As used in Sections 29010 to 29150, inclusive, “firearm”
27 includes the unfinished frame or receiver of a weapon that can be
28 readily converted to the functional condition of a finished frame
29 or receiver.

30 SEC. 2. Section 29305 is added to the Penal Code, to read:

31 29305. It is unlawful to report to a local law enforcement
32 agency that a firearm has been lost or stolen, knowing the report
33 to be false. A violation of this section is a misdemeanor.

34 SEC. 3. Section 29310 is added to the Penal Code, to read:

35 29310. (a) Within 10 days of submission of any application
36 to purchase a firearm, as defined in Section 16190, including
37 circumstances in which the waiting period described in Sections
38 26815 and 27540 does not apply, the Attorney General shall send
39 a notice to the individual who made the application, informing

1 him or her of laws relating to firearms, gun trafficking, and safe
2 storage.

3 (b) The notice shall include all of the following:

4 (1) California law generally requires that all firearms transfers
5 be conducted through licensed dealers as provided in Section
6 27545.

7 (2) Any exceptions to the requirement that firearms transfers
8 be conducted through a dealer have strict limitations.

9 (3) California law has strict limitations on the loaning of
10 firearms, and on the conditions and circumstances under which a
11 firearm may be loaned to another person.

12 (4) California law prohibits any person, corporation, or dealer
13 from selling, loaning, or transferring a firearm to anyone who is
14 not the actual purchaser or transferee of the firearm as provided
15 in Section 27515.

16 (5) Storage of a firearm where children are likely to gain access
17 is a criminal offense if the child obtains access and thereby causes
18 death or injury.

19 (6) It is a felony under both state and federal law, punishable
20 by imprisonment in state or federal prison, to acquire a firearm for
21 another person who is prohibited by law from purchasing the
22 firearm himself or herself. These transactions are sometimes known
23 as a “straw purchase” or “straw acquisition.”

24 (7) Cases in which a firearm is found in the possession of a
25 person other than the registered owner are fully investigated, and
26 in cases where violations are discovered, they are prosecuted to
27 the fullest extent of the law by both state and federal authorities.

28 (c) The notice shall also contain information about how to obtain
29 additional information from the Department of Justice, including
30 the department’s Internet Web site.

31 (d) The notice shall also include a link to a page on the
32 Department of Justice’s Internet Web site containing a summary
33 of state firearm laws, which the department shall prepare and
34 annually update.

35 (e) The Department of Justice is authorized to use funds in the
36 Firearms Safety and Enforcement Special Fund to pay for the cost
37 of administering this section.

38 SEC. 4. Section 29805 of the Penal Code is amended to read:

39 29805. (a) Except as provided in Section 29855 or subdivision
40 (a) of Section 29800, any person who has been convicted of a

1 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,
2 subdivision (d) of Section 148, Section 171b, paragraph (1) of
3 subdivision (a) of Section 171c, *Section* 171d, 186.28, 240, 241,
4 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417,
5 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of former
6 Section 12100, as that section read at any time from when it was
7 enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to
8 when it was repealed by Section 18 of Chapter 23 of the Statutes
9 of 1994, Section 17500, 17510, 25300, 25800, 29305, 30315, or
10 32625, subdivision (b) or (d) of Section 26100, or Section 27510,
11 or Section 8100, 8101, or 8103 of the Welfare and Institutions
12 Code, any firearm-related offense pursuant to Sections 871.5 and
13 1001.5 of the Welfare and Institutions Code, or of the conduct
14 punished in subdivision (c) of Section 27590, and who, within 10
15 years of the conviction, owns, purchases, receives, or has in
16 possession or under custody or control, any firearm is guilty of a
17 public offense, which shall be punishable by imprisonment in a
18 county jail not exceeding one year or in the state prison, by a fine
19 not exceeding one thousand dollars (\$1,000), or by both that
20 imprisonment and fine. ~~The~~

21 *(b) The court, on forms prescribed by the Department of Justice,*
22 *shall notify the department of persons subject to this section.*
23 *However, the prohibition in this section may be reduced,*
24 *eliminated, or conditioned as provided in Section 29855 or 29860.*

25 SEC. 5. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.

Date of Hearing: March 15, 2016

Counsel: Gabriel Caswell

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Reginald Byron Jones-Sawyer, Sr., Chair

AB 1695 (Bonta) – As Introduced January 21, 2016

SUMMARY: Requires the Department of Justice (DOJ) to send a letter to each firearm purchaser during the 10-day waiting period informing the purchaser of laws relating to firearms and creates a misdemeanor to falsely report to law enforcement that a firearm has been lost or stolen, and institutes a 10-year ban on owning a firearm for those convicted of making a false report. Specifically, **this bill:**

- 1) Requires the Attorney General to send a letter notice to each individual who has applied to purchase a firearm informing him or her of laws relating to firearms, gun trafficking, and safe storage, as provided. Allows the Department of Justice (DOJ) to use funds in the Firearms Safety and Enforcement Special Fund, which is continuously appropriated, to pay for the cost of administering this provision, thereby making an appropriation.
- 2) Creates a misdemeanor to make a false report to law enforcement that a firearm has been lost or stolen, knowing that report to be false.
 - a) Creates a 10-year ban on owning a firearm following a conviction of this provision.
 - b) Possession of a firearm in violation of the 10-year ban is punishable as a misdemeanor.
- 3) Defines “firearm” for these purposes of a lost or stolen firearm to include the frame or receiver of the weapon, and to include a rocket, rocket propelled projectile launcher, or similar device containing an explosive or incendiary material.
- 4) Specifies that DOJ is authorized to use funds in the Firearms Safety and Enforcement Special Fund to pay for the cost of administering this section.

EXISTING LAW:

- 1) Requires that handgun purchasers must take an exam on handgun safety from an instructor and obtain a minimum 75% passing score to receive a certificate. (Pen. Code § 31615.)
- 2) Provides that the sale, loan or transfer of firearms in almost all cases must be processed by, or through, a state-licensed dealer or a local law enforcement agency with appropriate transfer forms being used, as specified. In those cases where dealer or law enforcement processing is not required, as of today a handgun change of title report must still be sent to DOJ and will require that as to all firearms as of January 1, 2014. (Pen. Code § 27545.)

- 3) Requires photo identification for the purchase of a firearm. Additionally requires that persons purchasing a handgun be 21 years of age and those purchasing a long gun be 18 years of age. (Pen. Code § 27510.)
- 4) Requires the completion of the Alcohol Tobacco and Firearms (ATF) Form 4473 and California Dealer's Record of Sale (DROS) form and pass a background check. (Pen. Code § 29820.)
- 5) Provides on or after January 1, 1998, that persons establishing residency within California who bring with them and store firearms within California after that date to report the same to DOJ. This reporting requirement will apply to all firearms as of January 1, 2014. (Pen. Code § 27560.)
- 6) Requires the DOJ, upon submission of firearm purchaser information, to examine its records to determine if the purchaser is prohibited from possessing, receiving, owning, or purchasing a firearm. Existing law prohibits the delivery of a firearm within 10 days of the application to purchase, or, after notice by the department, within 10 days of the submission to the department of any corrections to the application to purchase, or within 10 days of the submission to the department of a specified fee. (Pen. Code §§ 28200 to 28250.)
- 7) Requires that if a dealer cannot legally deliver a firearm, the dealer shall return the firearm to the transferor, seller, or person loaning the firearm. (Pen § Code § 28050, subd. (d).)
- 8) Requires that in connection with any private party sale, loan or transfer of a firearm, a licensed dealer must provide the DOJ with specified personal information about the seller and purchaser as well as the name and address of the dealer. This personal information of buyer and seller required to be provided includes the name; address; phone number; date of birth; place of birth; occupation; eye color; hair color; height; weight; race; sex; citizenship status; and a driver's license number, California identification card number or military identification number. A copy of the Dealers Record of Sale (DROS), containing the buyer and seller's personal information, must be provided to the buyer or seller upon request. (Pen. Code §§ 28160, 28210, and 28215.)
- 9) Provides that various categories of persons are prohibited from owning or possessing a firearm, including persons convicted of certain violent offenses, and persons who have been adjudicated as having a mental disorder, among others. (Pen. Code §§ 29800 to 29825, inclusive, 29900, 29905, 30305 and Welf. & Inst. Code §§ 8100 and 8103.)
- 10) Prohibits persons who know or have reasonable cause to believe that the recipient is prohibited from having firearms and ammunition to supply or provide the same with firearms or ammunition. (Pen, Code § 27500 and 30306, and Welf. & Inst. Code § 8101.)
- 11) Provides that it shall be unlawful for the following people to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce: [18 USC Section 922(g).]

- a) Who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
 - b) Who is a fugitive from justice;
 - c) Who is an unlawful user of or addicted to any controlled substance, as defined;
 - d) Who has been adjudicated as a mental defective or who has been committed to a mental institution;
 - e) Who, being "an alien" —
 - i) is illegally or unlawfully in the United States; or
 - ii) except as specified, has been admitted to the United States under a non-immigrant visa, as defined;
 - f) Who has been discharged from the Armed Forces under dishonorable conditions;
 - g) Who, having been a citizen of the United States, has renounced his citizenship;
 - h) Who is subject to a court order that —
 - i) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
 - ii) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
 - (1) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
 - (2) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
 - i) Who has been convicted in any court of a misdemeanor crime of domestic violence
- 12) Provides that certain people are prohibited from owning or possessing a firearm. This includes (Pen. Code §§ 29800; 23515; 29805.):
- a) Anyone convicted of a felony;
 - b) Anyone addicted to a narcotic drug;
 - c) Any juvenile convicted of a violent crime with a gun and tried in adult court;

- d) Any person convicted of a federal crime that would be a felony in California and sentenced to more than 30 days in prison, or a fine of more than \$1,000;
 - e) Anyone convicted of certain violent misdemeanors, e.g., assault with a firearm; inflicting corporal injury on a spouse or significant other; brandishing a firearm in the presence of a police officer; and
 - f) Provides that a violation of these provisions is a felony.
- 13) Specifies a ten year ban for anyone convicted of numerous misdemeanors involving violence or threats of violence. (Pen. Code § 29805.)
- 14) Provides that a violation of these provisions of the ten year firearm ban may be sentenced to a year in the county jail or up to 3 years in state prison, as specified. (Pen. Code § 29805.)
- 15) Provides that persons who are bound by a temporary restraining order or injunction or a protective order issued under the Family Code or the Welfare and Institutions Code, may be prohibited from firearms ownership for the duration of that court order. (Pen. Code § 29825.)
- 16) Specifies that the Attorney General maintains an online database known as the Armed Prohibited Persons File (“APPS”). The purpose of APPS is to cross-reference persons who have ownership or possession of a firearm on or after January 1, 1991, as indicated by a record in the Consolidated Firearms Information System, and who, subsequent to the date of that ownership or possession of a firearm, fall within a class of persons who are prohibited from owning or possessing a firearm. The information contained in APPS is only be available to specified entities through the California Law Enforcement Telecommunications System, for the purpose of determining if persons are armed and prohibited from possessing firearms. (Pen. Code § 30000.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, "AB 1695, the Stop Illegal Gun Sales Act (the Act), seeks to reduce the flow of firearms onto the black market. The Act targets straw purchases, instances in which a person who can pass a background check legally buys a gun and then resells it to someone who was prohibited from purchasing a firearm. Additionally, the Act would make knowingly falsely reporting a gun as lost or stolen a misdemeanor, a tactic of straw purchasers seeking to distance themselves from the gun.

"In 2007, the Los Angeles City Attorney's office notified firearm purchasers of their rights and responsibilities during California's mandatory waiting period. This notification was attempted to deter straw purchasers from illegally transferring firearms, either through failing to complete the transaction or declining to resell the firearm.

"According to a 2010 RAND study, the notification significantly increased the number of firearms reported lost and stolen—more than doubling the reporting. However, it is not clear whether the increased reporting was from increased compliance with the law or straw

purchasers covering their tracks. This is remedied by the second provision of the Act, making the knowingly false reporting of a firearm as lost or stolen a misdemeanor, to ensure only true reports are made. Additionally, the RAND study found there was an increase in approved firearms transactions not being completed, suggesting a deterrent effect, though those results require further research."

- 2) **Targeting Straw Purchasers and Lost or Stolen Firearms:** This legislation is similar in intent to a prior bill run by the same author. AB 1020 (Bonta) from the 2013-2014 Legislative Session intended to replicate statewide a program established by the L.A. City Attorney's Office, in conjunction with local, state and federal officials, to inform gun owners of rights and responsibilities. This bill focuses the letters on informing purchasers of issues related to firearms, gun trafficking, and safe storage. The author cites a 2010 RAND study which concluded the following:

"Between May 2007 and September 2008, 2,120 guns were purchased in two target neighborhoods of the City of Los Angeles. Starting in August 2007, gun buyers initiating transactions on odd-numbered days received a letter signed by prominent law enforcement officials, indicating that law enforcement had a record of their gun purchase and that the gun buyer should properly record future transfers of the gun. The letters arrived during buyers' 10-day waiting periods, before they could legally return to the store to collect their new gun. Subsequent gun records were extracted to assess the letter's effect on legal secondary sales, reports of stolen guns, and recovery of the gun in a crime. An intent-to-treat analysis was also conducted as a sensitivity check to remedy a lapse in the letter program between May and August 2007. The letter appears to have no effect on the legal transfer rate or on the short-term rate of guns subsequently turning up in a crime. ***However, we found that the rate at which guns are reported stolen for those who received the letter is more than twice the rate for those who did not receive the letter.*** Those receiving the letter reported their gun stolen at a rate of 18 guns per 1,000 gun-years and those not receiving the letter reported their gun stolen at a rate of 7 guns per 1,000 gun-years. Of those receiving the letter, 1.9% reported their gun stolen during the study period compared to 1.0% for those who did not receive the letter. The percentage of guns reported stolen in these neighborhoods is high, indicating a high rate of true gun theft, a regular practice of using stolen-gun reports to separate the gun buyer from future misuse of the gun, or some blend of both. Simple, targeted gun law awareness campaigns can modify new gun buyers' behaviors. Additional follow-up or modifications to this initiative might be needed to impact the rate at which guns enter the illegal gun market and ultimately are recovered in crimes." (emphasis added)

- 3) **City of Los Angeles Letter:** As previously mentioned, this bill seeks to implement statewide a policy that has been in place in the City of Los Angeles for a number of years. The author has provided a copy of the letter which is distributed in the City of Los Angeles when a person purchases a firearm. The letter reads as follows:

John A. Doe
1234 Main Street
Los Angeles, CA 90000

Dear Mr. Doc:

As you are aware, gun violence is a serious problem both within the City of Los Angeles and our country. Nationwide, thousands of our fellow Americans, including children, are killed or seriously injured each year by firearms. It is therefore the hope and intent of the City and the Attorney General to pursue measures that help reduce those deaths and injuries.

To that end, City prosecutors, in conjunction with the California Attorney General and Los Angeles Police Department, are engaged in a program to remind gun purchasers of their legal responsibilities as gun owners.

Records show that you have recently purchased a firearm. It is important that everyone does their part to handle and store firearms in a safe manner, including keeping them out of the hands of children, criminals, and others who may not be authorized to own or possess such a firearm.

In the event you decide to sell or give your gun to another person, both parties must first complete a "Dealer Record of Sale" (DROS) form at any federally-licensed gun dealer. Please remember that, with very few exceptions, it is a crime to transfer a firearm to any person without first completing the DROS form. Additionally, it is a crime to knowingly sell, give or allow possession of a firearm to a person with a known mental disorder. Furthermore, should a child obtain access to your firearm and injure him/herself or another person, you could be subject to criminal prosecution. City prosecutors are also authorized to bring an eviction action against the tenants residing at a property at which certain unlawful conduct takes place, including the illegal possession, use, sale, furnishing or giving away of a firearm.

You should also be aware that in the event the police recover a firearm that has been involved in a crime, City prosecutors can prosecute its previous owner for a misdemeanor, if that owner failed to complete the "Dealer Record of Sale" form.

Please help make Los Angeles a safer community by preventing your gun from falling into the wrong hands. Thank you for your compliance with these very important obligations and responsibilities.

Any inquiries may be directed to City prosecutor Anne Tremblay at (213) 978-4090.

- 4) **Handgun Safety Certificate:** This bill requires the DOJ to provide a letter to firearm purchasers providing them with information related to firearms, gun trafficking, and safe storage. All handgun purchasers in the State of California must take an exam on handgun safety from an instructor and obtain a minimum 75% passing score to receive a certificate (Penal Code Section 31615.) Effective January 1, 2003, the Basic Firearms Safety Certificate Program was replaced with the Handgun Safety Certificate Program. These new statutes affect the general public in two principal ways. First, unless exempt, individuals must possess a Handgun Safety Certificate (HSC) prior to purchasing or acquiring a handgun. Second, unless exempt, individuals must perform a safe handling demonstration prior to taking delivery of a handgun from a licensed dealer. HSCs are acquired by taking and passing a written test on handgun safety, generally at participating firearms dealerships and private firearms training facilities. A written guide is available to help individuals prepare for the Handgun Safety Certificate Test for purchase at firearms dealerships at \$50 each. There

is also a Handgun Safety Certificate Video available for purchase at firearms dealerships or from DOJ Certified Instructors at \$5.00 each. The handgun safety demonstration protocols and DOJ Certified Instructor standards have been established and implemented by DOJ.

- 5) **Numbers of Gun Sales in California:** The number of gun sales in California is relatively high. From 2007-2016 the numbers have been increasing. In 2007 there were 370,628 Dealer's Records of Sale reported in the state of California. In 2011 there were 601,243 Dealer's Records of Sale reported to the DOJ. It has been widely reported in the media that following the tragedy at Sandy Hook Elementary School on December 14, 2012 that gun sales have increased significantly following proposed legislative efforts throughout the United States to impose stricter regulations on gun sales. In the month following the San Bernardino shooting in California gun dealers sold about 134,000 guns. History has shown that following recent mass shootings there have been severe spikes in gun sales. California has seen between 800,000 and 960,000 gun sales during each of the prior four years, state and federal data show. By comparison, a decade ago, between 2002 and 2005, the state never saw more than 345,000 gun sales in a single year.
- 6) **Firearms Prohibitions for Misdemeanor Offenses:** Current state and federal laws prohibit persons who have been convicted of specific crimes from owning or possessing firearms. For example, anyone convicted of any felony offense is prohibited for life from firearms ownership under both federal and state law. (18 U.S.C. § 922(g); Pen. Code § 29800.) California goes further and imposes a 10-year firearms prohibition on persons convicted of numerous misdemeanor offenses that involve either violence or the threat of violence. (Pen. Code § 29805.) Additionally, anyone who has been found to be a danger to themselves or others due to mental illness is subject to a five-year prohibition (Welf. & Inst. Code §§ 8100, 8103(f)), and people under domestic violence restraining orders are subject to a prohibition for the duration of that court order. (Pen. Code § 29825.)

This bill would specify that any person convicted of the misdemeanor offense of falsely reporting a firearm as lost or stolen to law enforcement is subject to a 10-year ban from owning a firearm. This offense arguably involves the misuse of a firearm so it is consistent with other bans on ownership of a firearm.

- 7) **Argument in Support:** According to the *California Chapters of the Brady Campaign to Prevent Gun Violence*, "It is well known that a significant source (if not the primary source) of crime guns is through the intervention of straw purchasers. A straw purchase occurs when someone who does not have a criminal record, and can therefore pass a background check, purchases a firearm and then transfers it without a background check to someone who is otherwise prohibited from possessing a firearm. This practice violates existing law but it is often difficult to detect and prevent. AB 1695 seeks to address this issue.

"AB 1695 would require the Attorney General to send a notice to each individual who has applied to purchase a firearm informing him or her of laws relating to firearms, gun trafficking, and safe storage. Additionally, the bill would make it a misdemeanor to report to a local law enforcement agency that a firearm has been lost or stolen, knowing that report to be false.

"In 2007, Greg Ridgeway conducted a study to determine whether sending a notification to gun buyers during the ten day waiting period could affect behavior. The notification or letter informed them that law enforcement had a record of their gun purchase and that the gun buyer should properly record any future transfers of the gun. Those receiving the letter reported their

guns lost or stolen with almost twice the frequency of those who did not receive the letter, and at least initially, those receiving the letter were less likely to return to pick up their gun.

"Ridgeway concluded that straw purchasers were much more likely to report their firearms lost or stolen as a defense when guns recovered in a crime were traced to them. It follows therefore, that the act of knowingly filing a false report should have criminal consequences in order to discourage the behavior.

"Preventing the flow of illegal guns is very important to public safety. AB 1695 would not only inform gun purchasers of transfer laws, but would help deter straw buyers. The bill furthers the Brady Campaign's goal of keeping weapons out of dangerous hands.

"Additionally, an important strategy for reducing gun violence is to educate gun owners about child access prevention laws and safe storage requirements. The Brady Campaign supports the concept of informing all prospective gun owners of important firearms laws and injury prevention strategies. The notice to prospective gun buyers advances these education goals.

"Accordingly, The California Brady Campaign Chapters stand in strong support of AB 1695 and urge your AYE vote."

- 8) **Argument in Opposition:** According to the *Firearms Policy Coalition*, "AB 1695 seeks to continuously appropriate firearm purchaser's involuntary contributions to the Firearms Safety and Enforcement Special fund for the purposes of sending a mailed notice to firearms purchasers reminding them of a tiny fraction of the thousands of statutes and regulations that govern the acquisition, possession, transport, storage, carry, loan, use, and transfer of firearms. Strangely, firearm purchasers would only receive this mailing after paying their fees, passing a test on firearm law and safety, and receiving their certification (which remains valid for 5 years).

"The senseless redundancy of AB 1695 is many-fold. Many laws cited in the notice content are, in fact, the same laws that the purchaser is complying with by conducting a lawful firearm transfer to a licensed dealer. Those same laws are required to be posted in plain view at the point of sale.

"And how many times must a purchaser pay for the same notice with the same content to be mailed to them?

"With the Department of Justice processing nearly one million firearm transactions in California on an annual basis, AB 1695 represents the needless waste of forests of paper, pallets of printer toner, and tons of disposed DOJ junk mail every year.

"AB 1695 also creates a new misdemeanor crime for falsifying a report of a lost or stolen firearm, then makes that crime one which subjects the violator to a 10-year total prohibition on firearm possession."

- 9) **Related Legislation:** SB 1006 (Wolk) would enact the California Firearm Violence Research Act. The bill would declare the intent of the Legislature that the Regents of the University of California establish the California Firearm Violence Research Center to research firearm-related violence. The bill would declare legislative intent regarding the principles by which the university would administer the center and award research funds, as

prescribed. The bill would require the university to report, on or before December 31, 2017, and every 5 years thereafter, specified information regarding the activities of the center and information pertaining to research grants. The bill would require the center to provide copies of its research publications to the Legislature. The bill would specify that its provisions would apply to the university only to the extent that the Regents, by resolution, make any of the provisions of the bill applicable to the university. SB 1006 is set for hearing in Senate Education Committee on March 16, 2016.

10) **Prior Legislation:**

- a) AB 1020 (Bonta), of the 2013-2014 legislative session, required the Attorney General (AG) to send a letter during the 10-day waiting period to each individual who has applied to purchase a firearm informing him or her of firearms laws relating to gun trafficking and safe storage. AB 1020 was held in the Assembly Appropriations Committee.
- b) SB 819 (Leno), Chapter 743, Statutes of 2011, provided that the Department of Justice may use dealer record of sale funds for costs associated with its firearms-related regulatory and enforcement activities regarding the possession as well as the sale, purchase, loan, or transfer of firearms, as specified.
- c) AB 302 (Beall), Chapter 344, Statutes of 2010, requires that by July 1, 2012, specified mental health facilities shall report to the Department of Justice exclusively by electronic means when a person is admitted to that facility either because that person was found to be a danger to themselves or others, or was certified for intensive treatment for a mental disorder, as specified.

REGISTERED SUPPORT / OPPOSITION:

Support

American Academy of Pediatrics
California Chapters of the Brady Campaign to Prevent Gun Violence
Law Center to Prevent Gun Violence

Opposition

California Sportsman's Lobby
California Right to Carry
Firearms Policy Coalition
National Shooting Sports Foundation
Outdoor Sportsmen's Coalition of California
Safari Club International

Analysis Prepared by: Gabriel Caswell / PUB. S. / (916) 319-3744

2016 MAR 25 AM 10:00

DRAFT

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBERS DESLEY BROOKS, DAN KALB, AND
REBECCA KAPLAN

RESOLUTION IN SUPPORT OF AB 1695 (BONTA) THAT WOULD INFORM POTENTIAL PURCHASERS OF THEIR RIGHTS AND RESPONSIBILITIES SURROUNDING THE TRANSFER OF FIREARMS AND CREATE A LEGAL MECHANISM FOR STATE PROSECUTION IN THE EVENT OF FALSELY REPORTING A FIREARM LOST OR STOLEN

WHEREAS, the City of Oakland has suffered a high number of homicides and other crimes committed with or involving illegal firearms; and

WHEREAS, one way illegal firearms are acquired by criminals is through legal purchasers who engage in straw purchases to provide guns to someone with a disqualifying criminal record; and

WHEREAS, In 2007, the Los Angeles City Attorney's office engaged in a mail campaign to educate firearm purchasers of their rights and responsibilities during California's mandatory waiting period, premised on the idea that straw purchasers can be deterred from illegally transferring firearms more easily than individuals with an existing criminal history, either through failing to complete the transaction or declining to pass on the firearm; and

WHEREAS, a study of the 2007 Los Angeles mail firearm purchaser mail campaign found that the mail campaign resulted (1) in an increase in approved firearm transaction not being completed, suggesting a deterrent effect against straw purchasers, and (2) a significant increase in the reporting of lost and stolen firearms, though it was not clear if the latter increase was due to increased compliance or straw purchasers covering their tracks; and

WHEREAS, while most legislative efforts regarding reporting lost and stolen firearms have focused on creating consequences for failure to report and state law prohibits falsely reporting a crime, there is a need for a clear legal mechanism to prosecute not only false reporting of firearm theft but also of lost firearms; and

WHEREAS, Assembly Bill (AB) 1695 (Bonta) would (1) require the Attorney General to send a notice to each individual who has applied to purchase a firearm informing him or her of laws relating to firearms, gun trafficking, and safe storage and (2) make it a misdemeanor to

report to a local law enforcement agency that a firearm has been lost or stolen, knowing that report to be false; and

WHEREAS, AB 1695 is endorsed by the Law Center to Prevent Gun Violence, California Chapters of the Brady Campaign to Prevent Gun Violence, and the American Academy of Pediatrics; and now, therefore, be it

RESOLVED: That the Oakland City Council hereby endorses AB 1695 and urges the California State Legislature and Governor Jerry Brown to support its enactment into law.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, AND
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California