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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

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**Bill No:** AB 1769                      **Hearing Date:** June 8, 2022  
**Author:** Bennett  
**Version:** February 2, 2022  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** AB

**Subject:** *Firearms: prohibited places*

### HISTORY

**Source:** Author

**Prior Legislation:** SB 264 (Min), Ch. 684, Stats. of 2021  
AB 893 (Gloria), Ch. 731, Stats. of 2019  
SB 221 (Wiener), 2017, vetoed  
SB 475 (Leno), 2013, vetoed  
SB 585 (Leno), 2009, vetoed  
AB 2948 (Leno), 2008, failed passage on the Senate Floor  
SB 1733 (Speier), 2004, failed passage on the Assembly Floor  
AB 295 (Corbett), Ch. 247, Stats. of 1999  
AB 1107 (Ortiz), 1997, failed passage in Assembly Appropriations

**Support:** County of Ventura

**Opposition:** California Rifle & Pistol Association; California Sportsman's Lobby; Outdoor Sportsmen's Coalition of California; Safari Club International – California Chapter

**Assembly Floor Vote:** 53 - 19

### PURPOSE

***The purpose of this bill is to prohibit the sale of any firearm, firearm precursor part, or ammunition on the property of the 31<sup>st</sup> District Agricultural Association, comprising of the Ventura County Fair and Event Center in Ventura County.***

*Existing law* 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 (a), 171b (b)(7)(A).)

*Existing law* 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.)

*Existing law* excludes persons with a valid federal firearms license and a current certificate of eligibility issued by the Department of Justice from the prohibitions on the sale, lease, or transfer of used firearms, other than handguns, at gun shows or events. (Pen. Code § 26525.)

*Existing law* permits licensed dealers to sell firearms only from their licensed premises and at gun shows. (Pen. Code § 26805.)

*Existing law* 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.)

*Existing law* 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 the Department of Justice. (Pen. Code § 27200.)

*Existing law* 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 Department of Justice, as specified. (Pen. Code §§ 27200, 27245.)

*Existing law* divides the state into agricultural districts. (Food and Agr. Code §3851.)

*Existing law* authorizes the establishment of District Agricultural Associations within each agricultural district, for the purposes of holding fairs, expositions and exhibitions, and constructing, maintaining, and operating recreational and cultural facilities of general public interest. (Food & Agr. Code, § 3951.)

*Existing law* 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.)

*Existing law* provides that an officer, employee, operator, lessee or licensee of the 32<sup>nd</sup> District Agricultural Association shall not contract for, authorize, or allow the sale of any firearm, firearm precursor part, or ammunition on the property or in the buildings that comprise the Orange County (OC) Fair and Event Center, in the County of Orange, the City of Costa Mesa, or any successor or additional property owned, leased or otherwise occupied or operated by the district. (Pen. Code §27575(a).)

*Existing law* exempts the following from the prohibition in Penal Code § 27575(a):

- A gun buyback event held by a law enforcement agency.
- The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties
- The sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before January 1, 2022.

- The purchase of ammunition on state property by a law enforcement agency in the course of its regular duties. (Pen. Code §27575(b).)

*Existing law* provides that notwithstanding any other law, an officer, employee, operator, lessee or licensee of the 22<sup>nd</sup> District Agricultural Association shall not contract for, authorize, or allow the sale of any firearm or ammunition on the property or in the buildings that comprise the Del Mar Fairgrounds in the County of San Diego, the City of Del Mar, the City of San Diego, or any successor or additional property owned, leased, or otherwise occupied or operated by the district. (Food and Agr. Code §4158(a).)

*Existing law* provides that the above prohibition on the sale of firearms and ammunition in the 22<sup>nd</sup> District Agricultural Association does not apply to a gun buyback event held by a law enforcement agency. (Food and Agr. Code §4158(c).)

*Existing law* designates agricultural district 31 as Ventura County. (Food and Agr. Code §3883.)

*This bill* prohibits an officer, employee, operator, lessee, or licensee of the 31<sup>st</sup> District Agricultural Association 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 Ventura County Fair and Event Center, in the County of Ventura, the City of Ventura, or any successor or additional property owned, leased, or otherwise occupied by the district.

*This bill* provides that the prohibition does not apply to any of the following:

- A gun buyback event held by a law enforcement agency.
- The sale of a firearm by a public administrator, public conservator, or public guardian within the course of their duties
- The sale of a firearm, firearm precursor part, or ammunition on state property that occurs pursuant to a contract that was entered into before January 1, 2023.
- The purchase of ammunition on state property by a law enforcement agency in the course of its regular duties.

## COMMENTS

### 1. Need for This Bill

According to the Author:

Firearms are a leading cause of morbidity and mortality in the United States and accounted for more than 36,000 deaths and nearly 85,000 injuries in 2015. In 2020, California saw a troubling rise of more than 500 homicides, the largest jump in state history since record-keeping began in 1960. Gun homicides drive the rise. California saw 1,658 homicides in 2019; the number climbed to 2,161 in 2020—an increase of 503 homicides (or 30.3%). Of these deaths, gun homicides jumped by 460 in 2020 (or 40.6%). In other words, the increase in gun deaths account for 91% of the overall jump in homicides. While the 2020 homicide rate is far lower than past peaks, the past year deviates from historically low rates of the last decade.

Gun shows are events dedicated to the display and sale of firearms and firearm-related accessories. Often held at public venues like fairgrounds or civic centers, gun shows operate as temporary, largely unregulated markets for the transfer of firearms. Thousands of people attend the more than 4,000 gun shows held in the United States each year. Firearm purchases from gun shows account for 4% to 9% of annual firearm sales, and 3% of gun owners report acquiring their most recent firearm from a gun show.

Over the past few years, gun violence has risen to the forefront of public consciousness. The consequences of gun violence are more pervasive and affect entire communities, families, and children. With more than 25% of children witnessing an act of violence in their homes, schools, or community over the past year, and more than 5% witnessing a shooting, it is time to address gun violence in our community.

## 2. Gun Shows Generally

Gun shows are essentially a flea market for firearms. At gun shows, individuals may buy, sell, and trade firearms and 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.<sup>1</sup>

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.<sup>2</sup> 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."<sup>3</sup>

Concerns about gun shows extend beyond the state. A report by the Government Accountability Office regarding gun trafficking to Mexico confirmed that many traffickers buy guns at gun shows.<sup>4</sup> In fact, 87% of firearms seized by Mexican authorities and traced in the last 5 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.<sup>5</sup>

## 3. Gun Show Regulations in California

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

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<sup>1</sup> Bureau of Alcohol, Tobacco, Firearms and Explosives, <https://www.atf.gov/file/57506/download>.

<sup>2</sup> NRA-ILA, <https://www.nraila.org/get-the-facts/background-checks-nics>.

<sup>3</sup> Center for American Progress, <http://www.americanprogress.org/issues/guns-crime/report/2013/12/13/80795/the-gun-debate-1-year-after-newtown/>.

<sup>4</sup> <https://www.gao.gov/assets/680/674570.pdf>.

<sup>5</sup> <https://www.ucdmc.ucdavis.edu/vprp/pdf/IGS/IGS1web.pdf>.

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 the Cow Palace in Daly City.

#### **4. Banning Gun Shows on State Agricultural Land**

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 District Agricultural Association (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." This bill would apply to all DAAs equally.

Another attempt to prohibit gun sales at the Cow Palace was similarly vetoed by Governor Brown. SB 475 would have permitted gun shows at the 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 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, Ch. 731, Stats. of 2019) 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, this bill effectively terminated the possibility for future gun shows at the Del Mar Fairgrounds.

In 2021, SB 264 (Min, Ch. 684, Stats. of 2021), which was initially introduced as a statewide ban on firearm and ammunition sales on state property, was ultimately limited to a ban on the sale of firearms, ammunition and firearm precursor parts at the OC Fair and Event Center, with limited exceptions for specified governmental functions and contractual obligations.

The language of this bill is identical to that of SB 264 and would have the same effect within the boundaries of the 31<sup>st</sup> District Agricultural Association, which comprises the Ventura County Fair and Event Center in Ventura County.

## **5. Related Legislation – AB 311 (Ward) and SB 915 (Min)**

AB 311 (Ward) updates the prohibition originally enacted by AB 893 by including a prohibition on the sale of firearm precursor parts at the Del Mar Fairgrounds. SB 915 (Min) prohibits the sale of firearms, ammunition and precursor parts on all state property, and if signed into law, would render both AB 1769 and AB 311 unnecessary. AB 311 recently passed the Senate Public Safety Committee and SB 915 awaits a hearing in the Assembly Public Safety Committee.

## **6. Argument in Support**

According to the Ventura County Board of Supervisors:

The tragic events of November 7, 2018 at the Borderline Bar & Grill in Thousand Oaks continue to reverberate in our community. In the wake of this senseless mass shooting that claimed 12 lives, the Ventura County Board of Supervisors has taken a more proactive stance on firearms legislation. Specifically, the Board advocates for

legislation that (1) limits access to firearms for individuals who are at risk of harming themselves or others and (2) reduces the likelihood of accidental or intentional homicides, in particular mass homicides. Additionally, the Board took distinct and separate action in December 2018 to support the pursuit of any necessary remedies to cease contracts for new gun shows at the Ventura County Fairgrounds. The Board believes that gun shows promote the gun culture and inappropriately place profits associated with gun sales above community safety. Given that this measure explicitly bans the sale of firearms on the property and buildings of the Ventura County fairgrounds, we are pleased to support AB 1769. This proposed policy change is necessary to reduce the prevalence of gun violence in our state.

## 7. Argument in Opposition

According to the Gun Owners of California, Inc.:

This legislation is an unfortunate attempt to needlessly cripple gun shows who have operated in the state practically without incident for over 50 years. Given that each District Agricultural Association is a state agency of the Department of Food and Agriculture's Division of Fairs and Expositions, this means they belong to the State of California, and by extension, all Californians. The same applies to county owned properties as well.

As a case in point, Crossroads of the West Gun Shows have attracted more than half a million guests per year, more than any other gun exhibitions in America. In California, the Crossroads shows at Del Mar, Costa Mesa and the Cow Palace have presented some of America's best opportunities to see a variety of outdoor gear – guns and otherwise. But most importantly, a fact often ignored is that every gun show must comply with every statute: background checks, waiting periods and registration requirements. There are zero exceptions; no one can walk into a gun show empty handed and walk out with a firearm. Any statement to this effect is 100% incorrect and designed to manipulate public sentiment about a perfectly legal activity.

It's important to note there have been virtually no instances of violence at gun shows in California; what's more, firearms purchased at gun shows account for an insignificant number used in actual gun crimes. Over 80% of gun crimes are committed by individuals who do not legally own the firearm in question. The overwhelming majority of firearms used in crimes are either stolen or secured on the black market by thieves – in fact, according to the 2019 U.S. Department of Justice Report on the "Source and Use of Firearms involved in Crimes" only 1.3% obtained the gun from retail source, and 0.8% obtained it from a gun show. The evidence is very clear that gun shows themselves and the law abiding attendees are not the problem.

-- END --