
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair
2023 - 2024 Regular

Bill No: SB 368 **Hearing Date:** March 28, 2023
Author: Portantino
Version: February 8, 2023
Urgency: No **Fiscal:** Yes
Consultant: AB

Subject: *Firearms: requirements for licensed dealers*

HISTORY

Source: Author

Prior Legislation: AB 645 (Irwin), Ch. 729, Stats. of 2019
SB 172 (Portantino), Ch. 840, Stats. of 2019
SB 376 (Portantino), Ch. 738, Stats. of 2019
AB 2817 (Santiago, 2018), held in Assembly Appropriations
AB 3199 (Holden, 2018), not heard in Assembly Gov. Organization
AB 950 (Melendez), Ch. 205, Stats. of 2015
SB 347 (Jackson, 2015), vetoed by the Governor
AB 232 (Ting, 2013), not heard in Assembly Public Safety

Support: California District Attorneys Association; March for Our Lives Action Fund; Women Against Gun Violence

Opposition: None known

PURPOSE

The purpose of this bill is to:

- 1) Establish a process by which firearms can be temporarily transferred to licensed firearms dealers for storage in order to prevent it from being used to attempt suicide by the owner or someone else who may gain access to it.*
- 2) Require firearms licensees to establish and maintain a buyback program in consultation with the Department of Justice.*
- 3) Prohibit firearms licensees from offering an opportunity to win an item of inventory in a game dominated by chance, with narrow exceptions.*
- 4) Establish that a violation of the 10-year ban on purchasing and possessing firearms for specified misdemeanors is itself a misdemeanor subject to a 10-year firearms ban.*
- 5) Require DOJ to create an evaluation process to determine whether, prior to the end of a person's 10-year firearms ban, the ban should be extended, as specified.*

Existing law generally prohibits the sale, lease or transfer of firearms unless the person has been issued a license by the California Department of Justice, and establishes various exceptions to this prohibition. (Penal Code §§26500 – 26625.)

Existing law provides that a license to sell firearms is subject to forfeiture for any violation of a number of specified prohibitions and requirements, with limited exceptions. (Penal Code §§26800 – 26915.)

Existing law requires firearms licensees to conspicuously post within the licensed premises a notice provided by a suicide prevention program, as specified. (Penal Code §26835(b).)

Existing law provides that where neither party to a firearms transaction holds a dealer's license, the parties shall complete the transaction through a licensed firearms dealer. (Penal Code §27545.)

Existing law establishes an exception to the above requirement if the firearm is voluntarily and temporarily transferred to another person who is 18 years of age or older for safekeeping to prevent it from being accessed or used to attempt suicide by the transferor or another person that might access it, and if other specified conditions are met. (Penal Code §27882(a).)

Existing law provides that the requirement that the sale, delivery, lease or transfer of a firearm be conducted by a licensed firearms dealer does not apply to the sale, delivery or transfer of a firearm to an authorized representative of a city, city and county, county, or state government, or of the federal government, where the firearm is being acquired for the governmental entity, and the entity is acquiring the firearm as part of an authorized, voluntary program in which the entity is buying or receiving firearms from private individuals. (Penal Code § 26576(a).)

Existing law provides that the requirement that private party transactions be conducted through a licensed firearms dealer does not apply to the sale, delivery or transfer of a firearm to an authorized representative of a city, city and county, county, or state government, or of the federal government, where the firearm is being acquired for the governmental entity, and the entity is acquiring the firearm as part of an authorized, voluntary program in which the entity is buying or receiving firearms from private individuals. (Penal Code § 27850(a).)

Existing law provides that the requirement that private party transactions be conducted through a licensed firearms dealer does not apply to the loan or transfer of a firearm other than a handgun in certain situations related to charity auctions, raffles or similar events, subject to other limitations. (Penal Code §§27900, 27905.)

Existing law requires the Attorney General to keep a properly file a complete record of various criminal records, documents, report and licenses in order to assist in the investigation of crime, the prosecution of civil actions by city attorneys, the arrest and prosecution of criminals, and the recovery of lost, stolen or found property. (Penal Code § 11106(a).)

Existing law generally prohibits the carrying of a concealed firearm, punishable as a misdemeanor, and provides that the prohibition does not apply to, or affect, the transportation of a firearm by a person in order to comply with specified provisions of existing law. (Penal Code §§ 25400 & 25555.)

Existing law generally prohibits openly carrying an unloaded handgun on the person, as specified, and provides that the prohibition does not apply to, or affect, the open carrying of an unloaded handgun incident to or in order to comply with specified provisions of existing law. (Penal Code §§26350 & 26379)

Existing law generally prohibits carrying an unloaded non-handgun on the person, as specified, and provides that the prohibition does not apply to, or affect, the carrying of an unloaded non-firearm handgun under specified circumstances, including incident to or in order to comply with specified provisions of existing law. (Penal Code §§26400 & 26405.)

Existing law contains various rules, definitions and prohibitions governing unsafe handguns and provides that specified conduct is exempt from those rules, definitions and prohibitions. (Penal Code §§31900 et. seq. and §32110.) n

Existing law provides that the Legislature has no power to authorize lotteries, and shall prohibit the sale of lottery tickets in the State, except through the California State Lottery. (Cal. Const. Art IV. Sec 19(a), (d).)

Existing law provides that notwithstanding the above restriction, the Legislature may authorize private, nonprofit, eligible organizations, as defined by the Legislature, to conduct raffles as a funding mechanism to provide support for their own or another private, nonprofit, eligible organization's beneficial and charitable works, under specified conditions. (Cal. Const. Art IV. Sec. 19(f).)

Existing law defines a lottery as any scheme for the disposal or distribution of property by chance, among persons who have paid or promised to pay any valuable consideration for the chance of obtaining such property or a portion of it, upon any agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance, whether called a lottery, raffle, gift enterprise, or by whatever name the same may be known. (Penal Code §319.)

Existing law makes it a misdemeanor for any person to contrive, prepare, set up, propose, or draw any lottery, except as specified. (Penal Code §320 et. seq.)

Existing law provides that persons convicted of specified serious or violent misdemeanors are prohibited from possession of firearms for a period of 10 years and that a violation of that prohibition is punishable as a misdemeanor with imprisonment up to one year or as a state prison felony. (Pen. Code, § 29805 (a).)

Existing law includes within the list of misdemeanors triggering a 10 year firearm prohibition the crimes of stalking, sexual battery, assault with a deadly weapon, battery with serious bodily injury, brandishing a firearm or deadly weapon, assault with force likely to produce great bodily injury, battery on a peace officer, corporal injury to spouse, cohabitant or fellow parent, child abuse, elder abuse, unsafe storage of a firearm, and threats of bodily injury or death, among other misdemeanors. (Penal Code, § 29805 (a).)

Existing law provides that a person who is prohibited from owning or possessing a firearm, ammunition feeding device, or ammunition may transfer any firearm, ammunition feeding device or ammunition in his or her possession to a licensed firearms or ammunition dealer for storage during the duration of the prohibition, as specified. (Penal Code §29830.)

Existing law permits any person convicted of a specified misdemeanor, before that misdemeanor was added to the list of misdemeanors triggering a 10-year prohibition, to petition for relief. In deciding the petition, a court must ensure the petitioner is not otherwise prohibited, and may consider the interest of justice, any relevant evidence, and the totality of the circumstances. (Pen. Code, § 29860.)

This bill provides that a licensed firearms dealer shall accept a firearm for storage from an individual if all of the following conditions are met:

- The firearm is voluntarily and temporarily transferred to the licensee for safekeeping to prevent it from being accessed or used to attempt suicide by the transferor or another person that may gain access to it in the transferor's household.
- The licensee does not use the firearm for any purpose except storage.
- The duration of the loan is limited to the amount of time reasonably necessary to prevent the harm described above.

This bill authorizes a licensee to accept a firearm for storage from an individual for a purpose that is not unlawful and not otherwise set forth in this bill or under specified provisions of existing law.

This bill provides that a licensee who accepts a firearm for storage pursuant to the provision above shall not use the firearm for any other purpose than storage.

This bill provides that a firearm that is returned by a dealer to the owner of the firearm pursuant to its provisions shall be returned in accordance with specified procedures set forth in existing law.

This bill specifies that if the dealer cannot legally return the firearm to the seller, transferor, or person loaning the firearm, then the following procedure shall apply:

- The seller, transferor, or person loaning the firearm may request, and the dealer shall grant, that the dealer retain possession of the firearm for up to 45 days, in addition to the 10-day waiting period and any time needed to process a transaction, so that the transferor may designate a person to take possession pursuant to existing law.
- If, before the end of the 45-day period, the seller, transferor or person loaning the firearm designates a person to receive the firearm and that person completes an application to purchase, the dealer shall process the transaction in accordance with existing law.
- If the seller, transferor, or person loaning the firearm does not request that the firearm be held by the dealer, or the firearm cannot be delivered to the designated person, the dealer shall deliver the firearm to the sheriff of the county or the chief of police or other local law enforcement head where the dealership is located, who shall then dispose of the firearm in accordance with existing law.

This bill provides that a dealer who takes possession of a firearm pursuant to its provisions shall, within 48 hours of taking possession, notify the DOJ in a manner and format prescribed by the department.

This bill provides that if a dealer retains possession of a firearm pursuant to its provisions, the dealer shall within 72 hours after retaining possession of the firearm, notify the DOJ in a manner and format prescribed by the department.

This bill requires the DOJ to keep and properly file a complete record of information it receives pursuant to the above provisions.

This bill provides that the prohibitions against concealed carry of a firearm and openly carrying a firearm, as well as rules, definition, and prohibitions related to unsafe handguns, shall not apply to specified conduct undertaken in order to comply with the provisions above related to the transfer of a firearm to a licensee.

This bill requires each firearm licensee, in consultation with the Department of Justice, to establish and maintain a program to repurchase firearms.

This bill provides that a firearm licensee shall not offer an opportunity to win an item of inventory in a game dominated by chance.

This bill specifies that the prohibition above shall not apply to a raffle conducted by a licensee organized as a nonprofit public benefit corporation or mutual benefit corporation pursuant to existing law if both of the following conditions are satisfied:

- The nonprofit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions, raffles, or similar events at which firearms are auctioned or raffled off to fund the activities of that corporation or the local chapters of the corporation.
- The firearms are not handguns.

This bill provides that any person who is convicted on or after January 1, 2024 of misdemeanor violation of the 10-year ban on owning and possessing firearms for specified misdemeanors, is guilty of a misdemeanor, except as specified.

This bill requires the DOJ to create an evaluation process to determine whether an extension of a 10-year prohibition for specified misdemeanors imposed pursuant to existing law is warranted.

This bill provides that prior to the end of a person's 10-year prohibition, the DOJ shall review whether the prohibition shall be extended and provide notice and opportunity to be heard, and shall establish a process for the person to appeal any extension of the prohibition instituted by the department.

This bill specifies that the above extension process shall only apply to those persons who are prohibited from owning, purchasing, receiving, possessing, or having under their custody or control a firearm due to a conviction on or after January 1, 2024.

This bill provides that its provisions are severable.

COMMENTS

1. Need for This Bill

According to the Author:

“As we are witnessing the proliferation of tragic gun violence, it is our moral obligation to ensure public safety by enacting comprehensive firearm reform policies. The data tells us that when compared to households without firearms, households with firearms have a higher risk of suicide and accidental firearm injury to members of that household. Currently there is no review for people coming off the prohibited gun list and there are many offenses that clearly make someone incapable of being a responsible gun owner. Implementing gun buyback programs can reduce violence and risk of suicide by compensating participants who voluntarily turn in firearms to a public agency or community-based organization, especially during a mental health crisis. SB 368 will save lives.”

2. Protective Firearm Transfers

California law generally requires all firearm sales, loans and transfers to be conducted through a licensed firearms dealer. This rule holds even when neither party to the transaction is a licensed dealer – these types of transactions are generally referred to as “private party transactions.” In a private party transaction, the seller, transferor or lender must deliver the firearm to a licensed dealer, who may only deliver the firearm to the recipient after the expiration of the 10-day waiting period and the completion of a background check. Further, the dealer may not deliver the firearm if a background check shows that the recipient is prohibited from possessing firearms, or the dealer is notified by the DOJ that the transaction may not proceed.¹ The requirement that a private party transfer be completed through a licensed dealer is subject to several relatively narrow exceptions.²

In 2019, the author of this bill authored a measure (SB 172, Portantino, Ch. 840, Stats. of 2019), adding another exemption to that list, permitting the temporary transfer of a firearm without a dealer’s participation to a person who is 18 years of age or older for safekeeping to prevent it from being used to attempt suicide by the transferor or another person that may gain access to it in the transferor’s household.³ SB 172 also placed several restrictions on the protective transfer authorized under its provisions, namely, that the transferee may not use the firearm for any purpose, the firearm must be unloaded and safely secure, the duration of the transfer is limited to the amount of time reasonably necessary to prevent the harm, and that the transferee must deliver the firearm to law enforcement if the transferor becomes a prohibited person.

According to the author, the problem of firearm suicides persists, and further efforts to safely store firearms away from potential victims is needed. The author argues:

The number of gun suicides has [...] risen in recent years – climbing 10% over five years and 25% over 10 years – and is near its highest point on record. [...] Suicide by firearm accounts for more than half of all suicides, and nearly 7 out of every 10

¹ Penal Code §§27540, 28050.

² Penal Code §27850 et.seq.

³ Penal Code §27882.

veteran deaths by suicide are the result of firearm injuries. Men who own handguns are eight times more likely to die of self-inflicted gunshot wounds, while women are 35 times more likely. Safe storage of firearms can prevent this, and removing them completely from households, especially during a mental health crisis, saves lives.

This bill seeks to address this issue by expanding the scope of permissible protective transfers and requiring licensees to accept a firearm for storage if 1) the firearm is voluntarily and temporarily transferred to the licensee to prevent it from being used in a suicide, 2) the licensee does not use the firearm for any purpose except storage, and 3) the duration of the transfer is limited to the amount of time reasonably necessary to prevent the harm. The bill also permits dealers to accept a firearm for storage for any lawful purpose, as long as the dealer does not use the firearm for any purpose besides storage.

Additionally, the bill establishes a procedure for instances in which the dealer cannot legally return the firearm to the person delivering the gun for storage. In those instances, the person delivering the firearm may request that the dealer retain possession for a period of up to 45 and designate another individual who can purchase or otherwise take possession of the firearm. When the person delivering the firearm does not request that it be retained by the dealer, or the firearm cannot be delivered to the designated person, the dealer must deliver the firearm to law enforcement. However, the bill does not prescribe a procedure in instances where the 45-day period elapses without action from the person delivering the firearm to the dealer. To address these issues, the Author plans to amend the bill in committee to clarify that in these instances, the dealer must transfer the weapon to law enforcement. Additionally, the Author plans to strike references to “the seller” in these provisions, as there is no provision of this bill or existing law authorizing the person delivering the firearm to also sell that firearm.

3. Gun Buyback Programs

A number of local jurisdictions in California and throughout the country conduct gun buyback programs, which compensate individuals who voluntarily turn over firearms to a public agency, usually with no questions asked regarding the identity of the seller or the source of the firearm. The objective of these programs is to reduce firearm violence by limiting the stock of firearms in the community. In exchange for firearms received, law enforcement agencies have given out cash, grocery and other retail gift cards, and other items.⁴ Several local jurisdictions in California have reported considerable success in recent buyback programs, including the City of Santa Rosa, which, in 2022, distributed \$76,000 in cash from private donations in exchange for 423 firearms.⁵ The Los Angeles Police Department has hosted an annual gun buyback program which has netted almost 18,000 firearms since its inception in 2009.⁶

Despite their ubiquity, gun buyback programs have faced their share of criticism for not being nearly as effective as proponents claim. Research conducted on buyback programs in the United States over the past two decades has generally reached the conclusion that such programs do not reduce gun violence, primarily because they do not result in guns being taken from people who

⁴ An attempt to prohibit local jurisdictions from providing a gift card for a gun or ammo dealer in exchange for a gun at a buyback program, but it was vetoed by the Governor (AB 1903, Gonzalez Fletcher, 2018).

⁵ “423 Guns Set for Destruction Following City Gun Buyback Event.” City of Santa Rosa Civic Alert. Posted 27 October, 2022. <https://www.srcity.org/CivicAlerts.aspx?AID=2010>

⁶ “LA Gun Buyback Urges Residents to Surrender Firearms for Gift Cards.” City News Service. <https://heysocal.com/2022/12/03/la-gun-buyback-urges-residents-to-surrender-firearms-for-gift-cards/> ;

are not supposed to have them, and simply do not recover a large enough share of the guns circulating in a community.⁷ Once recent study conducted by researchers at the National Bureau of Economic Research found no evidence that gun buyback programs reduce suicides or homicides where a firearm was involved.⁸ However, several studies acknowledge that the lack of evidence on the effectiveness of buyback programs may be due to intrinsic limitations in the research, and suggest that further study and policy experimentation would be useful.

This bill requires each licensed firearm dealer in California, in consultation with the DOJ, to establish and maintain a program to repurchase firearms, but includes no other specifics about that requirement. This brevity and vagueness of this language leads to several questions about how the required programs will work and how compliance with this provision can be achieved. Can each licensee develop an entirely unique program? Must licensees purchase every gun offered to them for sale? For instance, will licensees be in compliance if their “program” entails the purchase of just one gun a year? Must they offer a fair market price? Must licensees pay cash or can they pay in kind (with another firearm)? Are the programs required to be anonymous? To what extent must DOJ be involved in each licensee’s program? Are licensees required to report to the DOJ or another law enforcement entity how many guns were recovered? What must licensees do with the guns that are repurchased? The Author plans to amend the bill in committee to remove the repurchase program provision from the bill (see Comment 6 below).

4. Firearm Raffles and Lotteries

Generally, existing law prohibits lotteries and raffles, with exceptions for the California State Lottery, bingo for charitable purposes, and charitable raffles conducted by a nonprofit organization.⁹ In addition, as mentioned above, generally all firearm transactions must be completed through a licensed dealer, with specific processes laid out for private party transactions. However, existing law creates narrow exceptions for certain private party transactions that do not need to be completed through a licensed dealer. In 2019, the Author of this bill authored SB 376 (Portantino, Ch. 738, Stats. of 2019, which added specific exceptions to this list related to firearm raffles (where they previously only applied to firearm charity auctions): 1) where a firearm other than a handgun is loaned at an auction, raffle or similar event conducted by a nonprofit, as long as certain conditions are met, and 2) where a donated firearm is transferred to a nonprofit for an auction, raffle or similar event immediately preceding or contemporaneous with that event.¹⁰ Existing law contains various related exemptions ensuring that parties transporting the donated firearm are not liable for other firearms violations.¹¹

This bill provides that firearms licensees may not offer an opportunity to win an item of inventory in a game dominated by chance. However, the bill carves out an exception for raffles conducted by licensees organized as a nonprofit or mutual benefit organization, as long as 1) the organization obtained the dealer’s license for the sole purpose of conducting firearm auctions and raffles to fund its activities, and 2) the firearms are not handguns. Thus, this bill would only

⁷ “Gun buybacks take weapons out of circulation, but experts say there’s no evidence the programs reduce violence/” CNN. 16 April 2022. <https://www.cnn.com/2022/04/16/us/chicago-gun-buybacks/index.html> ; Charbonneau, Amanda, “Gun Buyback Programs in the United States.” 10 January 2023. <https://www.rand.org/research/gun-policy/analysis/essays/gun-buyback-programs.html>

⁸ Ferrazares, et. al. “Have U.S. Gun Buyback Programs Misfired?” National Bureau of Economic Research. Working Paper 28763. Revised December 2022. [w28763.pdf \(nber.org\)](https://www.nber.org/papers/w28763)

⁹ Penal Code §§319-329.

¹⁰ Penal Code §§27900, 27905

¹¹ See Penal Code §§ 26581, 26384, 26405

allow the small fraction of California firearms licensees that are also nonprofit or mutual benefit organizations – usually conservation and sportsman’s groups – to hold firearm raffles and similar events. Because the bill only permits raffles in these limited circumstances and requires that proceeds directly fund affected organizations’ public benefit or mutual benefit activities, it is unclear why the bill expressly prohibits the raffling of handguns yet permits the raffling of other legal firearms. The Author plans to amend the bill in committee to remove the prohibition against raffling handguns (see Comment 6 below).

5. Firearm Possession Prohibitions and Constitutional Issues

Existing state and federal law contains a myriad of prohibitions on the possession and attempted purchase of firearms by certain individuals. Under both state and federal law, all felony convictions lead to a lifetime prohibition.¹² California law goes further and imposes a 10-year prohibition on the possession and purchase of firearms for individuals convicted of numerous misdemeanor offenses that involve either violence or threat of violence.¹³ Violation of the ban is itself a misdemeanor. Additionally, a person may be prohibited from possessing a firearm due to a protective order or as a condition of probation. If a person communicates to his or her psychotherapist a serious threat of physical violence against a reasonably-identifiable victim or victims, the person is prohibited from owning or purchasing a firearm for five years, starting from the date the psychotherapist reports to local law enforcement the identity of the person making the threat. If a person is admitted into a facility because that person is a danger to himself, herself, or to others, the person is prohibited from owning or purchasing a firearm for five years.¹⁴ Individuals under domestic violence restraining orders are also subject to a prohibition on firearm possession and purchase for the duration of that court order.¹⁵

This bill adds to the list of misdemeanors that triggers a 10-year firearm ban a violation of the ban itself, conviction for which occurs on or after January 1, 2024. That is, if someone already subject to a 10-year ban is convicted of the misdemeanor crime of possessing, owning or purchasing a firearm during that time, the 10 year clock starts again. This bill also requires the DOJ to create an evaluation process to determine whether an extension of the 10-year firearms prohibition is warranted. To this end, the bill requires, prior to the end of a person’s 10-year prohibition and only for bans due to a conviction on or after January 1, 2024, the DOJ to review whether an individual’s prohibition should be extended and provide notice and opportunity to be heard to the person. The DOJ must also establish a process by which a person can appeal the extension of their firearms prohibition.

Despite the bill’s inclusion of certain due process protections, its provision authorizing the DOJ to unilaterally extend an individual’s firearms prohibition raises potential constitutional issues, primarily under the California Constitution’s separation of powers clause. The California Constitution recognizes the separation of the three branches of our state government. “The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.”¹⁶ This division of power “limits the authority of one of the three branches of government to arrogate to itself the core functions of another branch.”¹⁷ The core functions of the

¹² 18 U.S.C. § 922(g); Penal Code § 29800

¹³ Penal Code §29805

¹⁴ Welfare and Institutions Code §§ 8100, 8103.

¹⁵ Penal Code §29825.

¹⁶ Cal Const, Art. III, Section 3.

¹⁷ *In re Lira* (2014) 58 Cal.4th 573, 583.

legislative branch include passing laws, levying taxes, and making appropriations, and encompassed within the Legislature's core function of passing laws in the responsibility for defining crimes and prescribing punishments.¹⁸ As the California Supreme Court has made clear, only the Legislature may make conduct criminal.¹⁹

Under the provisions of this bill, the DOJ would presumably be responsible for establishing criteria under which a person's 10-year firearms prohibition could be extended by an indefinite duration. The existing violations that initiate or extend a 10-year firearms prohibition are set forth in Penal Code Section 29805, additions to which must be made by the Legislature and the Legislature alone. To authorize the DOJ to effectively add to this list of violations via administrative action is to permit the executive branch operate within the sole province of the Legislature by, in essence, making conduct criminal. Further, it is unlikely that amending the bill to include criteria by which the DOJ might extend a firearms prohibition will resolve the issue, as the DOJ will still be responsible for how a prohibition might be extended, thereby "prescribing punishment." Consequently, the Author and Committee may wish to consider deleting this provision altogether.

6. Amendments to Be Taken in Committee

The Author intends to take amendments in committee to address issues raised in Comments 2, 3 and 4 above, per the following:

- On Page 13, in lines 12 – 28, strike references to "the seller" of the firearm, and in Section 26892(d)(3), clarify that in instances where a dealer cannot legally return the firearm to the transferor or person loaning the firearm, if that person takes no action within 45 days of transferring the firearm to the dealer, the dealer must deliver the firearm to law enforcement for disposal.
- On Page 14, strike lines 5 – 7, deleting the repurchasing program requirement.
- On Page 14, strike line 24, deleting the prohibition on the raffling of handguns by nonprofit or mutual benefit firearms licensees.

7. Argument in Support

According to Women Against Gun Violence:

Women Against Gun Violence [...] is proud to support SB 368 (Portantino), which will require that licensed firearm dealers establish a voluntary buyback program in consultation with the Department of Justice. This bill will also require a licensed firearms dealer to accept for storage a firearm transferred by an individual to prevent it from being used to attempt suicide. Licensed retailers may also store firearms for other lawful reasons outside of mental health crises.

When compared to households without firearms, households that have firearms face a higher risk of suicide of a household member. Voluntary, temporary transfer of

¹⁸ *Carmel Valley Fire Protection Dist. V. State of California* (2001) 25 Cal.4th 287; *People v. Anderson* (2009) 47 Cal.4th 92.

¹⁹ See *People v. Gonzalez* (2014) 60 Cal.4th 533, 537.

firearms for the duration of a crisis can save lives. Currently, however, licensed retailers and law enforcement agencies are not required to accept and temporarily store firearms during a mental health crisis. This bill provides those battling suicidal thoughts and struggling with severe mental health issues an option to protect themselves by temporarily limiting their access to firearms during a time of crisis. We know suicide can be an impulsive decision that most survivors regret. Guns are lethal and, unfortunately, rarely allow for second chances.

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