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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair  
2021 - 2022 Regular

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**Bill No:** SB 829                      **Hearing Date:** April 5, 2022  
**Author:** Portantino  
**Version:** March 16, 2022  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** AB

**Subject:** *Motion picture production: armorers: firearm safety*

## HISTORY

Source: Author

Prior Legislation: SB 1080 (Public Safety Committee), Ch. 711, Stats. of 2010

Support: Motion Picture Association of America

Opposition: None known

## PURPOSE

*The purpose of this bill is to establish various requirements regarding the safe use of firearms, blanks and live ammunition in motion picture productions. This bill also requires the Office of the State Fire Marshal to develop training courses for armorers, specified employees, and performers in motion picture productions who handle and use firearms. This bill imposes a civil penalty upon entities that fail to comply with its provisions.*

*Existing law* permits a person who is at least 21 years of age to apply for an entertainment firearms permit from the Department of Justice (DOJ), which authorizes the permit holder to possess firearms loaned to the permit holder for use solely as a prop in a motion picture, television, video, theatrical, or other entertainment production or event. (Pen. Code §29500)

*Existing law* requires that applications for entertainment firearms permits include specified information. (Pen. Code §29505(a), (b).)

*Existing law* provides that the DOJ shall issue an entertainment firearms permit only if records indicate that the applicant is not prohibited from possessing or receiving firearms pursuant to any federal, state or local law. (Pen. Code §29515(b).)

*Existing law* provides that an entertainment firearms permit issued by the DOJ shall be valid for 1 year, and, if at any time during that year the permit holder becomes prohibited from possessing or receiving firearms pursuant to any law, the permit shall no longer be valid. (Pen. Code §29530(a), (b).)

*Existing law* generally requires individuals who purchase or receive a firearm to obtain a valid firearm safety certificate, subject to certain limitations. (Pen. Code §31615, et. seq.)

*Existing law* establishes various exceptions to the firearm safety certificate requirement, including an exception for the loan of a firearm to a person who possesses an entertainment firearms permit, when other conditions are met. (Pen. Code §§31820, 31825)

*Existing law* establishes the Office of the State Fire Marshal (OSFM) within the California Department of Forestry and Fire Protection (Health and Safety Code (HSC) §13100; Public Resources Code §702)

*Existing law* provides that the functions of the OSFM shall be to promote and develop ways and means of protecting life and property against fire and panic. (HSC §13100.1)

*Existing law* requires the State Fire Marshal to prepare and adopt building standards establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any motion picture or television production facility. (HSC §13143.1)

*Existing law* vests the State Fire Marshal with various responsibilities regarding fire-related training and education. (HSC 13159 et. seq.)

*Existing law* requires the California Film Commission to develop a model process for granting film permits, and authorizes local jurisdictions to require a permit for media productions, among other related provisions. (Government Code §14999.20 et. seq.)

*Existing law* establishes various requirements for persons licensed as private patrol operators who carry firearms in the course of their duties. (Business and Professions Code §§7583.2, 7583.3)

*Existing law* defines “peace officer” and establishes various requirements related to persons employed as peace officers. (Pen. Code §830 et. seq.)

*This bill* establishes definitions for various terms and phrases used throughout its provisions, including:

- “Ammunition” – one or more loaded cartridges consisting of a primed case, propellant, and with one or more projectiles. “Ammunition” does not include blanks.
- “Armorer” – an individual who holds an entertainment firearms permit or dangerous weapons permit from the Department of Justice and has completed an armorers safety course from a vendor approved by the Office of the State Fire Marshal.
- “Blank” – a cartridge or shell designed to be used in a firearm to, when fired, create an explosive sound, muzzle flash, or recoil, or to cycle the action of the firearm, but that does not contain a bullet or projectile that is expelled from the barrel when fired, although a paper or plastic wad may be expelled.
- “Employer” – a person or entity engaged in the production of motion pictures.
- “Firearm” – a device, designed to expel through a barrel a projectile by the force of an explosion or other form of combustion, including the frame or receiver of the device. “Firearm” does not include a replica or simulated firearm.

- “Industry-Wide Labor-Management Safety Committee” – the group composed of union, guild, and employer representatives active in motion picture health and safety programs that meets regularly.
- “Performer” – a person who plays a character or persona in a motion picture production.
- “Production of a motion picture” or “motion picture production” – the development, creation, presentation, or broadcasting of theatrical, televised, or streamed motion picture, television program, commercial advertisements, music videos, or any other moving images, including, but not limited to, productions made for entertainment, commercial, religious, or educational purposes, whether these productions are presented by means of film, tape, live broadcast, cable, satellite transmission, internet, or any other technology that is now in use or may be adopted in the future.

*This bill* provides that a firearm may be used on a production of a motion picture if the firearm is used with blanks and remains under the supervision of the armorer at all times.

*This bill* provides that the armorer has sole authority to furnish a performer with a firearm for use in the production of a motion picture, and that the use of the firearm shall be limited to the duration of the performance by the performer, at the end of which the armorer shall retrieve the firearm.

*This bill* provides that the armorer shall have no other duties or responsibilities during the time that a performer is using a firearm.

*This bill* requires an employer to ensure that a fire code official is present on any motion picture production during the time that any firearm and blanks are used, and that the motion picture production shall be responsible for associated costs.

*This bill* prohibits the use of live ammunition in the production of a motion picture, unless the motion picture production is a reality or documentary production that incidentally includes firearms and ammunition, or the following requirements have been met:

- The ammunition is used in a controlled environment, as specified.
- The employer has a film permit issued by the appropriate local jurisdiction.
- The employer has given notice to the motion picture production’s insurance company.
- The employer has notified the motion picture production’s safety department or production management.
- The employer has conducted a safety meeting to explain the procedures that will occur.
- Performers and production employees are limited to those required for the performance.

*This bill* requires the OSFM, in consultation with the Industry-Wide Labor-Management Safety Committee, to develop, by July 1, 2023, a course on the safe use and supervision of firearms and blanks by armorers in motion picture production, and sets forth the topics to be included in the curriculum for that course.

*This bill* requires the OSFM to develop, by January 1, 2024, a list of vendors approved to administer the armorers safety course and issue a certificate of completion.

*This bill*, beginning July 1, 2024, prohibits an employer from employing an armorer unless they have completed an armorers safety course from an approved vendor, and requires the employer to request and retain the armorer’s certificate of completion of the course.

*This bill* requires the OSFM, in consultation with the Industry-Wide Labor-Management Safety Committee to develop, by July 1, 2023, a web-based firearms safety course for motion picture production employees who work in close proximity to an armorer or a performer who will be using a firearm and for performers who will be using a firearm, and sets forth the topics to be included in the curriculum for that course.

*This bill* requires the OSFM to develop, by January 1, 2024, a list of vendors approved to administer the firearms safety course for employees and performers and issue a certificate of completion.

*This bill*, beginning July 1, 2024, requires an employer of a motion picture production employee who works in close proximity to an armorer or performer using a firearm or of a performer using a firearm to require that employee or performer to take the online firearms safety course and request and retain a certificate of completion of the course.

*This bill* requires any person seeking to work as an armorer to complete an armorers safety course.

*This bill* provides that an employer that fails to comply with its requirements may be liable for a civil penalty of an unspecified amount, and that an action to impose this penalty may be brought by the Attorney General, a city attorney, or a county counsel.

*This bill* specifies that its provisions do not apply to a registered security guard carrying a firearm in compliance with existing law who is employed to provide security to the motion picture production or to sworn peace officers.

## COMMENTS

### 1. Need for This Bill

According to the author:

While motion picture and television production is a large and vital component of the California economy, there is lack of safety protocols for the handling of firearms on set. The need for such regulation is underscored by the tragic death of cinematographer Halyna Hutchkins last October while on set. Currently, the guidelines that address safety during filming are given through the Industry-Wide Labor Management Safety Committee. However, these operate as “best practice” guides as opposed to established safety protocols. Given the immensity of the film industry here in California, legislation that solidifies the voluntary standards pertaining to firearms is overdue. SB 829 will require that those who handle firearms are properly trained and prohibit the use of ammunition except in limited circumstances. This bill will make California production safer and help ensure that another tragic incidence does not occur.

## 2. October 2021 Shooting Incident on the Set of “Rust”

On October 21, 2021, a firearm being used as a prop by actor Alec Baldwin on the New Mexico set of the film “Rust” discharged a live round, killing cinematographer Halyna Hutchins, and injuring director Joel Souza. According to an affidavit filed by a deputy with the Santa Fe County Sheriff’s Office, an assistant director grabbed one of three prop guns that the film’s armorer had placed on set and yelled “cold gun,” indicating to the cast and crew that the firearm did not contain a live round. He then handed the gun to Baldwin. When Baldwin drew the gun from a holster to rehearse the scene, it fired a round in the direction of Hutchins and Souza. Baldwin maintains that he never pulled the trigger.<sup>1</sup>

Weeks before the fatal shooting, unionized employees working on the set of “Rust” voted to strike over working conditions and low pay. Several crewmembers alleged that there were significant shortcomings in the production’s firearms safety protocols. Indeed, before the incident on October 21, two prop guns had unintentionally discharged three times, two of which occurred when the guns had previously been declared “cold.”<sup>2</sup> Another crewmember claimed that the gun that killed Hutchins was used by other crew members earlier in the day for live-ammunition target practice, though this claim has not been fully corroborated.<sup>3</sup> Law enforcement officials are still investigating the incident to determine how a live round got into the gun and why the responsible crewmembers failed to notice. This incident is the impetus for this bill.

## 3. Best Practices for Motion Picture Firearms Safety

Existing law imposes no explicit requirements upon motion picture or other entertainment productions with regard to firearm safety. However, despite the absence of a clear regulatory framework, the motion picture and television industries operate under a series of published best practices, or “bulletins,” which are researched, written and distributed by the Industry-Wide Labor-Management Safety Committee (hereinafter, the “Industry Committee.”) The Industry Committee is a voluntary organization composed of guild, union and management representatives active in entertainment industry health and safety programs. The Industry Committee’s Bulletin #1 and Bulletin #2 provide safety guidelines regarding safety with firearms using blank ammunition and the special use of live ammunition, respectively.<sup>4</sup> Many of this bill’s provisions, especially those related to live ammunition, have been adapted from these bulletins.

The only existing law related to firearms in entertainment productions is the existence of an “entertainment firearms permit,” which the DOJ may issue to qualified applicants, and which

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<sup>1</sup> “Alec Baldwin Was Told Gun in Fatal Shooting on Set Was Safe, Officials Say.” *New York Times*. 21 October 2021. <https://www.nytimes.com/2021/10/21/us/alec-baldwin-shooting-rust-movie.html>

<sup>2</sup> “‘Rust’ crew describes on-set gun safety issues and misfires days before fatal shooting.” *Los Angeles Times*. 22 October 2021. <https://www.latimes.com/entertainment-arts/business/story/2021-10-22/alec-baldwin-rust-camera-crew-walked-off-set> ; “What We Know About the Fatal Shooting on Alec Baldwin’s New Mexico Movie Set.” *New York Times*. 16 February 2022. <https://www.nytimes.com/article/alec-baldwin-shooting-investigation.html>

<sup>3</sup> “‘Rust’ Shooting: Gun that killed Halyna Hutchins was used that morning for live-ammo target practice.” *The Wrap*. 25 October 2021. <https://www.thewrap.com/halyna-hutchins-live-ammo-target-practice/>

<sup>4</sup> “Safety Bulletin #1: Recommendations for Safety with Firearms and Use of Blank Ammunition.” *Industry-Wide Labor-Management Safety Committee*. Revised 16 April 2003. <https://www.csatf.org/wp-content/uploads/2018/05/01FIREARMS.pdf> ; “Safety Bulletin #2: Special Use of Live Ammunition.” *Industry-Wide Labor-Management Safety Committee*. Issued 16 April 2003. [https://www.csatf.org/wp-content/uploads/2018/05/02LIVE\\_AMMUNITION.pdf](https://www.csatf.org/wp-content/uploads/2018/05/02LIVE_AMMUNITION.pdf)

authorizes the permit holder to possess firearms solely for use as a prop in an entertainment production or event.<sup>5</sup> Although entertainment firearm permits are not required by law as a precondition to employment as an armorer or weapons master in the entertainment industry, industry best practices generally do impose such a requirement. The Author may wish to amend this bill to clarify whether the possession of such a permit should be prerequisite to employment as an armorer or weapons master.

#### 4. Duties of the State Fire Marshal

First created in the early 20<sup>th</sup> Century, the mission of the State Fire Marshal (OSFM) is “to protect life and property through the development and application of fire prevention engineering, education and enforcement.”<sup>6</sup> In 1987, after the death of actor Vic Morrow due to an on-set accident, the OSFM created the Motion Picture & Entertainment Unit (hereinafter, the “MPE”) to act as a liaison between the California fire service and the motion picture and television industry. The MPE provides training, inspections and on-location technical assistance, primarily related to fire safety and the use of pyrotechnic special effects. A critical function of the MPE is to provide training for fire safety officers, or “FSOs.” FSOs are usually firefighters from the local jurisdiction in which an entertainment production is being filmed, and are responsible for overseeing the safe use of pyrotechnic special effects. Generally, entertainment productions will contract with local fire agencies to have an FSO on set while fire-related or pyrotechnic effects are being used. FSOs are not trained or certified by OSFM in the use or safe handling of firearms.

This bill requires the OSFM, in consultation with the Industry Committee, to develop two different firearm safety courses: one on the safe use and supervision of firearms and blanks by armorers and another, internet-based course on firearms safety for motion picture production employees who work in close proximity to armorers or performers that use a firearm and for performers who will be using a firearm. Although the bill requires the OSFM to develop a list of vendors who can administer the training, it is very specific about the firearm-related curricula that the OSFM must develop. The Author and Committee may wish to consider whether the OSFM, a state entity that has no firearm-related expertise or responsibilities, is the correct entity to develop these trainings.

Additionally, this bill requires that a fire code official be present on any motion picture production during the time any firearm and blanks are used in the motion picture production, and that the motion picture production shall be responsible for the costs associated with the presence of the fire code official. A “fire code official” is an employee of a local fire department or other designated local official charged with the administration and enforcement of the California Fire Code.<sup>7</sup> These individuals are generally not required to possess firearms-related qualifications or undertake firearms training in connection with their duties as fire code officials. Accordingly, the Author and Committee may wish to consider whether it is more appropriate to require the presence of a public official or government representative with more firearms-specific expertise.

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<sup>5</sup> Penal Code §29500 et. seq.

<sup>6</sup> “About the Office of the State Fire Marshal.” <https://osfm.fire.ca.gov/about-us/>

<sup>7</sup> Cal. Code of Regulations, Title 24, Part 9.

## 5. Related Legislation – SB 831 (Cortese)

SB 831 (Cortese) also seeks to address the issue of firearm safety in motion picture productions. Like this measure, SB 831 establishes various requirements for armorers and prohibits the use of live ammunition except under specific circumstances. However, SB 831 is enforced by the Division of Occupational Health and Safety and requires that entity to propose general safety standards to the Occupational Health and Safety Standards Board. That measure also requires motion picture productions to hire a ‘set safety supervisor’ with various responsibilities that go beyond firearm safety. That measure awaits a hearing in the Labor, Public Employment and Retirement Committee.

## 6. Argument in Support

According to the Motion Picture Association of America:

“For the MPA members and the guilds and unions that represent production employees, safety issues are addressed by the Industry-Wide Labor Management Safety Committee (“Safety Committee”), which meets monthly and has done so for more than 25 years. The Safety Committee has developed more than 40 Safety Bulletins that establish industry best practices for many elements and procedures of production, including the safe handling of firearms used as props, as well as for the very limited circumstances for use of ammunition. [SB 829] will incorporate these best practices, which have guided productions safely, into law and ensure that these high standards will apply to all productions in California.”

-- END --