



## 2009 State Legislation Summary December 1, 2009

Legal Community Against Violence (“LCAV”) is tracking state firearms legislation in all fifty states and the District of Columbia in the policy areas listed below. A description of each policy is available at: [http://www.lcav.org/content/policy\\_descriptions.asp](http://www.lcav.org/content/policy_descriptions.asp).

- Ammunition
- Background Checks
- Ballistic Identification
- Carrying Weapons
- Child Access Prevention
- Crime Data Collection/Reporting
- Dealer Regulations
- Design and Safety Standards
- Disarming Prohibited Persons
- Domestic Violence
- “Firearms Freedom Act”
- Gun Crime Penalties
- Gun Offender Registries
- Gun Shows
- Guns in Vehicles
- Guns on Campus
- Interstate Long Gun Sales
- Licensing
- Locking Devices/ Safe Storage
- Machine Guns
- Mental Health Reporting
- Microstamping
- Military-style Weapons
- Minimum Age Requirements
- Multiple Purchases or Sales
- Preemption
- Private Sales
- Prohibited Persons
- Registration
- Reporting of Lost or Stolen Firearms
- Shoot First
- State Right to Bear Arms
- Trafficking
- Waiting Periods

Please consult LCAV Senior Staff Attorney Laura Cutilletta at 415-433-2062, ext. 307, for more in-depth information about the bills described below and for legislation addressing additional firearms policy areas not included here. Detailed information about these and other bills is also available in chart form.

Descriptions of bills enacted since January 2009 are available at: [http://www.lcav.org/states/recent\\_developments.asp](http://www.lcav.org/states/recent_developments.asp) (organized by state) and [http://www.lcav.org/content/recent\\_developments\\_policies.asp](http://www.lcav.org/content/recent_developments_policies.asp) (organized by policy).

### **Bills Recently Enacted Into Law:**

Since LCAV’s last update in September 2009, several bills were enacted in California.

**Ammunition:** California A 962 requires persons or businesses engaged in the retail sale of handgun ammunition to: 1) maintain records containing certain identifying information about the purchaser and the ammunition being sold; and 2) store handgun ammunition so that it is inaccessible to purchasers without the assistance of the vendor. The law also requires that ammunition sales be completed in face-to-face transactions, prohibits persons subject to gang injunctions from possessing ammunition, and prohibits ammunition sales to any person the seller knows or has cause to believe is prohibited from possessing ammunition.

Disarming Prohibited Persons: California A 532 authorizes courts to issue search warrants to seize firearms where, upon finding sufficient probable cause, the weapon is owned by or in the possession of a person detained for a mental health examination or arrested in connection with an incident of domestic violence. Similarly, California A 789 authorizes the issuance of a search warrant to seize a firearm possessed by a person subject to a protective order prohibiting firearm possession.

Pawnbroker Reporting: Another recently enacted law, California S 449, requires pawnbrokers and secondhand dealers to report to the California Department of Justice (DOJ) each firearm received on the date of receipt. The pawnbroker must retain a copy of the submitted report and make it available for inspection by DOJ or local law enforcement. DOJ may review the reports to determine whether a firearm has been reported lost or stolen.

Carrying Weapons: California A 1363 clarifies that a license to openly carry a loaded handgun -- which may be issued in a county with a population of under 200,000 persons - - only authorizes carrying in the county that issued the license.

### **Bills Recently Pre-Filed or Introduced that Strengthen Firearm Regulation<sup>1</sup>**

Assault Weapon Storage: Florida bills FL H 267 and S 134 would create a felony for storing an assault weapon within reach or easy access of another person who then accesses the weapon and uses it to cause injury or death.

Domestic Violence/Disarming Prohibited Persons: Bills in Florida, FL H 309 and S 194, would create a misdemeanor for a person's refusal to surrender firearms or ammunition when surrender is ordered in a domestic violence protective order.

In Wisconsin, WI A 559 and S 381 would create a procedure for notifying a person, when he or she is served with a petition for domestic violence protection order, of the prohibition against possessing a firearm and of the requirement to surrender firearms if the order is granted. The bills would also create a procedure for surrendering firearms when a protective order is granted. In addition, these procedures would apply to child abuse injunctions and harassment injunctions if a court determines that the subject may use a firearm to harm another or endanger public safety.

Reporting Lost or Stolen Firearms: In Wisconsin, WI A 518 and S 367 would require any person who owns a firearm and who discovers that the firearm is stolen or lost to, within 48 hours of the discovery, report the theft or loss to a law enforcement agency.

Carrying Weapons: A New York bill, NY A 9141, would prohibit possession of a handgun in public or in a motor vehicle while the possessor is under the influence of alcohol or controlled substance.

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<sup>1</sup> Most of the bills referenced here will not be acted on until the 2010 legislative sessions.

## **Bills Recently Pre-Filed or Introduced that Weaken Firearm Regulation**

“Firearms Freedom Act”: In six states, bills have been introduced or pre-filed to declare that firearms and/or ammunition manufactured and sold in the state are not subject to federal law or regulation. The bills are FL H21 and S98; KY BR 348; NH LSR 2014 (and several others); OH H 315; PA A 1988; and MI H 5232.

Last year, similar bills were enacted in Montana and Tennessee. Subsequently, the Bureau of Alcohol, Tobacco, Firearms and Explosives published open letters to licensed dealers and manufacturers in both states clarifying that federal laws and regulations continue to apply. In addition, a request for declaratory judgment and injunctive relief by the Montana Shooting Sports Association and the Second Amendment Foundation is pending before the U.S. District Court.<sup>2</sup>

Guns in the Workplace/Guns in Vehicles: In Michigan, MI S 792 would prohibit a business, employer or state service agency from prohibiting possession of a firearm or ammunition in a locked, privately owned vehicle parked in its parking lot or garage. Similarly, a Pennsylvania bill, PA H 2049, would prohibit public or private employers from prohibiting any customer, employee or invitee from possessing a firearm when the firearm is lawfully possessed and locked inside, or locked to, a private motor vehicle in the employer’s parking lot.

### **Select Recent Bill Activity:<sup>3</sup>**

In Wisconsin, two bills that would strengthen regulation of firearms were recently heard (but no vote was taken). WI A 518 was heard on December 10<sup>th</sup> in the Assembly Committee on Criminal Justice. This bill would require the owner of a firearm to report its theft or loss to law enforcement within 48 hours of the discovery of the theft or loss. On December 1<sup>st</sup>, the Senate Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing Committee heard WI S 174 which would require handgun microstamping which involves the transfer of an array of characters onto a cartridge case when a firearm is fired enabling the matching of the case to the gun that fired it.)

A New Jersey bill, A 4301, that amends the process for reporting mental health records to NICS and amends the state’s restoration of rights procedure was introduced on November 30, 2009 and has already passed the Assembly and Senate and is awaiting the Governor’s signature.

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<sup>2</sup> *Montana Shooting Sports Ass’n. v. Holder*, No. 09-147-Missoula-M-JCL (D. Mont. filed Oct. 1, 2009).

<sup>3</sup> Although this summary is dated December 1, some of the activity noted in this section occurred after that date.