

Gun Shows

Background

Gun shows are events dedicated to the display and sale of firearms and firearm-related accessories. Often held at public venues such as fairgrounds or civic centers, gun shows operate as temporary markets for the transfer of firearms. A 2007 report by the Office of the Inspector General of the U.S. Department of Justice found that the number of gun shows in the U.S. each year ranges from 2,000 to 5,200.¹ Gun shows typically attract several thousand people and over 1,000 firearm sales transactions can be made at single gun show over the course of one weekend.²

Federal and state undercover investigations have established that gun shows are rife with criminal activity. A federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) study³ reviewed over 1,500 ATF investigations and concluded that gun shows are a “major trafficking channel” associated with approximately 26,000 firearms diverted from legal to illegal commerce.

ATF does not have a formal gun show enforcement program, and conducts investigations of gun shows only when it has law enforcement intelligence that illegal firearms activity is likely to occur.⁴ From 2004 – 2006, ATF conducted 202 investigative operations at 195 guns shows, or roughly 3% of the gun shows held nationwide during this period. These operations resulted in 121 arrests and the seizure of 5,345 firearms.⁵ Offenses included convicted felons buying guns, straw purchases, unlicensed individuals selling firearms as a business, FFLs failing to document transfers or conducting background checks on purchasers, and persons possessing prohibited firearms, including machine guns and sawed-off shotguns.⁶

In California, a 1999 California Department of Justice (CA DOJ) sting operation at the Great Western Gun Show in Los Angeles County unearthed evidence of illegal firearms trafficking.⁷ During this event, CA DOJ agents purchased several firearms and firearm components illegal for sale in California. The agents were able to purchase illegal guns

¹ Office of the Inspector General, U.S. Dep't of Justice, *The Bureau of Alcohol, Tobacco, Firearms and Explosives' Investigative Operations at Gun Shows* i (June 2007), at <http://www.justice.gov/oig/reports/ATF/e0707/final.pdf>.

² *Id.* at 6; U.S. Dep't of Justice & Bureau of Alcohol, Tobacco and Firearms, U.S. Dep't of Treasury, *Gun Shows: Brady Checks and Crime Gun Traces* 4-7 (Jan. 1999), at <http://www.atf.gov/publications/download/treas/treas-gun-shows-brady-checks-and-crime-gun-traces.pdf>.

³ Bureau of Alcohol, Tobacco and Firearms, U.S. Dep't of Treasury, *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers* xi, 1, 12 (June 2000), at http://www.mayorsagainstilllegalguns.org/downloads/pdf/Following_the_Gun%202000.pdf.

⁴ Office of the Inspector General, U.S. Dep't of Justice, *supra* note 1, at iii.

⁵ *Id.*, at iv-v.

⁶ *Id.* at v.

⁷ L.A. County, Cal. Code § 13.67.10(L). See also Press Release, California Dep't of Justice, *Attorney General Lockyer Announces the Arrest of Four Individuals Who Broke Gun Laws at Los Angeles Gun Show* (June 8, 1999), at http://oag.ca.gov/news/press_release?id=499&p=3&y=1999.

without undergoing a background check as required by federal and state law, and took immediate possession of the guns, in violation of California’s 10-day waiting period.⁸

More recently, a 2007 study compared gun shows in California, which extensively regulates both gun shows and private firearm transfers, with shows in states with little regulation. That study found that, at gun shows in states with less regulation, straw purchases were more common, armed attendees selling guns were more common, and vendors were more likely to sell assault weapons and 50 caliber rifles.⁹

Summary of Federal Law

Federal law defines “gun show” as a “function sponsored by any national, State, or local organization, devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors functions devoted to the collection, competitive use, or other sporting use of firearms in the community.”¹⁰ A federally licensed firearms dealer (FFL) may conduct business at a gun show or event located in the same state specified on the license.¹¹ FFLs must conduct background checks on prospective purchasers and maintain records of sales transactions at gun shows.¹²

Persons who are not federally licensed dealers are also permitted to transfer firearms at gun shows, however. Because unlicensed, private sellers are exempt from the federal background check requirement, this creates a loophole in the law (the “private sale” loophole) that enables certain categories of persons prohibited from purchasing or possessing firearms – such as felons, domestic violence perpetrators and mentally ill individuals – to obtain them. Likewise, private sellers at gun shows (and elsewhere) are not required to maintain records of sales.¹³ A 1999 ATF study found that 25% to 50% of gun show vendors are unlicensed.¹⁴

SUMMARY OF STATE GUN SHOW REGULATION

Two states and the District of Columbia require universal background checks on all firearm purchases, including purchases at gun shows. Three other states require universal background checks on purchases of some firearms. Five states specifically require background checks on purchases of all firearms at gun shows. Eight states impose other regulations on gun shows.

⁸ *Id.*, L.A. County, Cal. Code § 13.67.10(L). That same year, ATF agents and local law enforcement made arrests for the possession and sale of illegal firearms following an investigation at the Great Western Gun Show, Fairplex Complex in Pomona, California. L.A. County, Cal. Code § 13.67.10(M).

⁹ Garen J. Wintemute, *Gun Shows Across a Multistate American Gun Market: Observational Evidence of the Effects of Regulatory Policies*, 13 *Inj. Prevention* 150, 154-55 (2007).

¹⁰ 27 C.F.R. § 478.100(b).

¹¹ 27 C.F.R. § 478.100(a)(1).

¹² 27 C.F.R. § 478.100(c).

¹³ Additional information on the “private sale” loophole is contained in LCAV’s policy summary on [Private Sales](#).

¹⁴ U.S. Dep’t of Justice & Bureau of Alcohol, Tobacco & Firearms, U.S. Dep’t of Treasury, *supra* note 2, at 4.

Universal Background Check States

[California](#)

[Connecticut \(handguns only\)](#)

[District of Columbia](#)

[Maryland \(“regulated firearms” only\)¹⁵](#)

[Pennsylvania \(handguns only\)](#)

[Rhode Island](#)

Cal. Penal Code §§ 12072(d), 12082

Conn. Gen. Stat. § 29-33c

D.C. Code Ann. §§ 7-2502.01, 7-2502.03,
7-2505.01, 7-2505.02

Md. Code Ann., Pub. Safety §§ 5-101(r), 5-124,
5-130(j)

18 Pa. Cons. Stat. §§ 6111(b), 6111(c), 6111(f)(1), (2)

R.I. Gen. Laws §§ 11-47-35 – 11-47-35.2

Gun Show Background Check States

[Colorado](#)

[Connecticut](#)

[Illinois](#)

[New York](#)

[Oregon](#)

Colo. Rev. Stat. §§ 12-26.1-101 – 12-26.1-108

Conn. Gen. Stat. §§ 29-37g, 29-36l

430 Ill. Comp. Stat. 65/3, 65/3.1

N.Y. Gen. Bus. Law §§ 895 – 897;

N.Y. Penal Law § 400.00

Or. Rev. Stat. §§ 166.432 – 166.441

Other State Regulation of Gun Shows

[California](#)

[Colorado](#)

[Connecticut](#)

[Illinois](#)

[Maryland](#)

[New York](#)

[Oregon](#)

[Virginia](#)

Cal. Penal Code §§ 12071(b)(1), 12071.1,
12071.4

Colo. Rev. Stat. § 12-26.1-102

Conn. Gen. Stat. §§ 29-33, 29-37g

430 Ill. Comp. Stat. 65/3

Md. Code Ann., Pub. Safety §§ 5-106,
5-130(c), (i)

N.Y. Gen. Bus. Law §§ 895 – 897

Or. Rev. Stat. §§ 166.432 – 166.441

Va. Code Ann. §§ 54.1-4200, 54.1-4201.1

Description of State Laws Regulating Gun Shows

1. *Universal Background Checks for All Firearm Transfers:* The most comprehensive approach to ensuring that sales are only made to eligible purchasers is through a requirement for universal background checks prior to all firearm transfers. California, Rhode Island¹⁶ and the District of Columbia require that, prior to any firearm transfer, a licensed dealer or law enforcement agency conduct a background check on every prospective firearm transferee. Maryland requires a background check on every prospective transferee of certain “regulated firearms” (defined as handguns and assault weapons). Connecticut requires a background check prior to any handgun transfer, and Pennsylvania requires that all handgun sales be completed by licensed dealers (thereby necessitating a background check).

¹⁵ In Maryland, “regulated firearms” are defined to include handguns and assault weapons.

¹⁶ In Rhode Island, the background check requirement does not apply to persons licensed to carry a concealed handgun. R.I. Gen. Laws §§ 11-47-35.1, 11-47-35.2.

2. *Background Checks at Gun Shows:* Colorado, Connecticut, New York and Oregon require unlicensed sellers to request a licensed dealer or law enforcement agency to perform a background check prior to any firearm transfer at a gun show. Illinois requires unlicensed sellers at gun shows to request the Department of State Police to conduct a background check on the prospective recipient of a firearm.

3. *Additional State Gun Show Regulations:* Several states impose additional requirements on gun shows.

a. *Safety and security requirements:* In 1999, California enacted the nation's broadest legislation to increase oversight at gun shows. California's statute specifies that gun show promoters must obtain a certificate of eligibility from the state Department of Justice following a background check. Promoters are also required to: (1) prepare security plans for gun shows and notify state and local law enforcement of those plans; (2) certify that they will comply with all applicable federal, state and local laws; (3) obtain liability insurance in an amount not less than \$1 million; (4) ensure that all firearms brought into the shows are cleared of ammunition and tagged for identification purposes; and (5) prohibit anyone under age 18 from entering unless accompanied by a parent, grandparent or legal guardian.

b. *Licensing of gun show vendors:* Maryland requires all vendors of handguns and assault weapons to possess a valid state dealer license or, alternatively, a temporary transfer permit (requiring a background check on the permittee) for persons displaying a handgun or assault weapon at five or fewer shows per year.

c. *Recordkeeping requirements:* Several states impose various types of recordkeeping requirements on gun show promoters and/or sellers.¹⁷ Colorado, Illinois, New York and Oregon require that records be maintained of all firearm transactions at gun shows. New York requires that dealers retain records for 10 years; Oregon calls for records to be kept by the transferor for 5 years. In Illinois, the record of a firearm transfer at a gun show must include the unique identification number assigned to the transfer by the State Police. The record of the gun show transfer, like all firearm transfer records in Illinois, must be kept by the transferor for 10 years.

Virginia requires "firearms show" promoters to give notice of each show to state and local police at least 30 days prior to the show. Promoters must maintain a list of all exhibitors for the duration of the show and transmit a copy of that list to law enforcement within five days of the show's completion.

¹⁷ Federal law requires licensed dealers to maintain firearm sales records indefinitely. 18 U.S.C. § 923(g)(1)(A).

SUMMARY OF SELECTED¹⁸ LOCAL LAWS REGULATING GUN SHOWS¹⁹

Local Laws Regulating Gun Shows²⁰

Omaha

Omaha, Neb., Code §§ 19-383, 19-384, 19-386, 19-387, 19-391, 19-392, 19-392.1, 19-392.2

Omaha requires that any person promoting or sponsoring a “firearms exhibition” first obtain a permit. Applicants for such a permit must have a federal firearms dealer license.

The fee for firearms exhibition permits is \$10. Firearms exhibitions may not last more than three consecutive days.

A firearms exhibition promoter or sponsor must provide: (1) security personnel at all exhibition entrances, who must ensure that firearms brought into the exhibition are not loaded; (2) 24 hour security at the exhibition site; (3) written notice to all exhibitors stating that all laws and ordinances must be observed; and (4) the names and addresses of all exhibitors to the chief of police. Exhibitors also must record all firearms transferred or acquired, and make this information available to law enforcement. Exhibitors are required to retain these records for two years.

Omaha prohibits the exhibition or sale of ammunition “in an assembled state” at firearms exhibitions.

¹⁸ This section is based on research and analysis of existing firearms laws in: Boston, Massachusetts; Chicago, Illinois; Hartford, Connecticut; Los Angeles, California; Newark, New Jersey; New York, New York; Omaha, Nebraska; and San Francisco, California. LCAV selected these cities because they are located in states that grant local jurisdictions broad authority to regulate firearms. It also includes existing laws in Cleveland and Columbus, Ohio. Note, however, that in 2006, the Ohio Legislature passed House Bill 347 (overriding the Governor’s veto), which created Ohio Rev. Code Ann. § 9.68(A), a provision that purports to preempt all local authority to regulate firearms with few, limited exceptions. Legal challenges to the law are pending. Additional information about state laws governing local authority to regulate firearms is contained in the section of this report titled [“The Legal Background.”](#)

¹⁹ Several California counties prohibit the sale or possession of firearms and ammunition on county-owned property, effectively prohibiting gun shows on such property. Los Angeles County prohibits the sale of firearms and ammunition on county-owned property. L.A. County, Cal., Code §§ 13.67.010 – 13.67.070. Alameda County prohibits the possession of firearms and ammunition on county-owned property. Alameda County, Cal., General Ordinance Code § 9.12.120. The local bans include county fairgrounds, where gun shows were typically held. The Los Angeles County ordinance was upheld by the California Supreme Court in *Great Western Shows, Inc. v. County of Los Angeles*, 44 P.3d 120 (Cal. 2002). Litigation challenging the Alameda County ordinance is pending in the trial court, following the Ninth Circuit’s decision rejecting the plaintiffs’ motion for preliminary injunction raising First and Second Amendment claims. See *Nordyke v. King*, 319 F.3d 1185 (9th Cir. 2003). The California Supreme Court also rejected a preemption challenge to the Alameda County ordinance in *Nordyke v. King*, 44 P.3d 133 (Cal. 2002). Marin, San Mateo and Sonoma Counties have ordinances similar to the Alameda County ordinance. Marin County, Cal., Code § 6.50.040; San Mateo County, Cal., Code § 3.53.010; Sonoma County, Cal., Code § 19-14.

²⁰ Chicago, Columbus and New York have other regulations that affect gun shows indirectly. These ordinances are detailed in the section on [Private Sales](#).

Nonresidents who attend firearms exhibitions may legally possess concealable firearms at the exhibition site, and while in direct route to or from the exhibition, without registering them with local law enforcement.

FEATURES OF COMPREHENSIVE LAW REGULATING GUN SHOWS

The features listed below are intended to provide a framework from which policy options may be considered and debated. LCAV has not attempted to include every provision or every creative approach identified in the analysis above, nor have we addressed appropriate exceptions so that the regulation does not produce unintended consequences. A jurisdiction considering modifying existing, or developing new legislation in this area should consult with counsel to ensure its legal sufficiency and compatibility with existing codes and statutes, as appropriate.

- For all firearm transfers, private sellers at gun shows are subject to similar requirements as licensed dealers, including background checks and recordkeeping requirements:
 - The most comprehensive option requires all firearm transfers to be conducted through licensed dealers, so that background checks will be completed on all purchasers (including purchases from unlicensed sellers), and sales records will be maintained (*California, District of Columbia, Chicago*)
 - If the jurisdiction does not require that all firearm transfers be conducted through licensed dealers, private sellers at gun shows are required to:
 - conduct background checks through a central law enforcement agency (or licensed dealer) that has access to federal and state databases of prohibited purchasers (*Colorado, Connecticut, Illinois, New York, Oregon*);
 - retain records of all firearm transfers for a lengthy period (*Illinois and New York require records to be retained for 10 years*); and
 - report all such transfers to state and local law enforcement
- If gun show vendors are not licensed dealers, they are required to obtain a permit, including a background check, to sell any weapons (*Maryland requires a permit but only for vendors of handguns and assault weapons*)
- Gun show promoters are required to obtain a permit (*California, Omaha*) after undergoing a background check (*California*), and/or be a licensed dealer (*Omaha*)
- Safety and security requirements are imposed on the promoter, requiring, for example, that:
 - A list of exhibitors is maintained and provided to law enforcement (*Virginia, Omaha*)
 - There is a security plan and state and local law enforcement are notified of the plan (*California*)
 - All firearms brought into the shows are cleared of ammunition (*California, Omaha*) and tagged for identification purposes (*California*)
 - Entry into gun shows by minors is restricted (*California*)

- The promoter has a specified minimum level of liability insurance (*California*)
- There are trained law enforcement personnel on site