

CLASSES OF WEAPONS

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Assault Weapons

Background

Assault weapons are a class of semi-automatic firearms designed with military features to allow rapid and accurate spray firing. They are not designed for "sport;" they are designed to kill humans quickly and efficiently. Features such as pistol grips and the ability to accept a detachable magazine clearly distinguish assault weapons from standard sporting firearms by enabling assault weapons to spray large amounts of fire quickly and accurately.

Assault weapons have been used in many high-profile shooting incidents, including the 1999 Columbine High School massacre in Colorado, the 1993 office shooting at the 101 California Street building in San Francisco, and the December 2007 shopping mall killings in Omaha, Nebraska. Some assault rifles are also accurate enough for use as sniper rifles, as illustrated by the Washington, D.C.-area sniper shootings in October 2002.

A recent study analyzing FBI data shows that 20% of the law enforcement officers killed in the line of duty from 1998 to 2001 were killed with an assault weapon.¹ Anecdotal evidence from law enforcement leaders suggests that military-style assault weapons are increasingly being used against law enforcement by drug dealers and gang members.² In response, law enforcement agencies are upgrading their arsenals to include more assault weapons.³

There is widespread public support for banning assault weapons. For example, 77% of likely 2004 presidential election voters supported renewal of the federal assault weapon ban, while only 21% opposed renewal.⁴ Sixty-five percent of Americans favored *strengthening* the federal assault weapon ban, including 51% of gun owners.⁵ Sixty-seven percent of *Field & Stream* readers did not consider assault weapons to be legitimate sporting guns.⁶

Summary of Federal Law

On September 13, 1994, Congress adopted the Violent Crime Control and Law Enforcement Act of 1994. That Act amended the Gun Control Act of 1968, making it "unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon."⁷

¹ Violence Policy Center, "Officer Down" — *Assault Weapons and the War on Law Enforcement, Section One: Assault Weapons, the Gun Industry, and Law Enforcement* (May 2003), at <http://www.vpc.org/studies/officene.htm>.

² International Association of Chiefs of Police (IACP), *Taking a Stand: Reducing Gun Violence in Our Communities* 26-7 (Sept. 2007).

³ See, e.g., Susan Candiotti, *Cops Find Themselves in Arms Race with Criminals*, Cable News Network, Nov. 6, 2007, available at <http://www.cnn.com/2007/US/11/05/cops.guns/index.html> (last visited Nov. 26, 2007); Kevin Johnson, *Police Needing Heavier Weapons*, USA Today, Feb. 20, 2007, at 1A.

⁴ Third Way, *Taking Back the Second Amendment: Seven Steps Progressives Must Take to Close the Gun Gap* 5 (Jan. 2006), at http://third-way.com/data/product/file/21/taking_back_2nd_amendment.pdf.

⁵ Consumer Federation of America, *Consumers Strongly Support Renewing and Strengthening the Federal Assault Weapons Ban* 3 (Feb. 2004).

⁶ Field & Stream, *The 2003 National Hunting Survey* (July 2003).

⁷ 18 U.S.C. § 922(v)(1). All references to sections of the Violent Crime Control and Law Enforcement Act of 1994, codified at 18 U.S.C. § 921 *et seq.*, are to the sections as they appeared on September 12, 2004.

The term "semiautomatic assault weapon" was defined to include 19 named firearms and copies of those firearms, as well as certain semi-automatic rifles, pistols and shotguns with at least two specified characteristics from a list of features.⁸ The two-feature test and the inclusion in the list of features that were purely cosmetic in nature created a loophole that allowed manufacturers to successfully circumvent the law by making minor modifications to the weapons they already produced.

The 1994 Act also banned the transfer and possession of any "large capacity ammunition feeding device," defined to include magazines manufactured after the enactment of the Act that are capable of holding more than 10 rounds of ammunition.⁹

The 1994 Act did not, however, prohibit the continued transfer or possession of assault weapons or large capacity ammunition magazines manufactured before the law's effective date. Manufacturers took advantage of this loophole by boosting production of assault weapons and large capacity magazines in the months leading up to the ban, creating a legal stockpile of these items. As a result, assault weapons and large capacity magazines continued to be readily available – and legal – nationwide, except where specifically banned by state or local law.

In addition, the assault weapon ban was enacted with a sunset clause, providing for its expiration after ten years. Despite overwhelming public support for its renewal, Congress and the President allowed the assault weapon ban to expire on September 13, 2004. Thus, semi-automatic, military style weapons that were formerly banned under the federal law are now legal unless banned by state or local law.¹⁰

SUMMARY OF STATE ASSAULT WEAPON LAWS

Seven states have enacted laws banning assault weapons: California, Connecticut, Hawaii, Maryland, Massachusetts, New Jersey and New York. In addition, Maryland, Minnesota and Virginia regulate assault weapons. The District of Columbia bans certain assault weapons indirectly, through laws banning other classes of weapons.

Assault weapon bans can be categorized according to: (1) the definition(s) of "assault weapon;" (2) the activities that are prohibited; (3) whether pre-ban weapons are grandfathered; (4) whether grandfathered weapons must be registered; and (5) how transfer and possession of grandfathered weapons are treated.

⁸ 18 U.S.C. § 921(a)(30).

⁹ 18 U.S.C. §§ 921(a)(31), 922(w)(1). Additional information about large capacity ammunition magazines is contained in the section entitled Large Capacity Ammunition Magazines.

¹⁰ The 2007 report by the International Association of Chiefs of Police recommended that Congress enact an effective ban on military-style assault weapons. See *Taking a Stand: Reducing Gun Violence in Our Communities*, *supra* note 2, at 26-7.

State Bans

California	Cal. Penal Code §§ 12275 – 12290
Connecticut	Conn. Gen. Stat. §§ 53-202a – 53-202o
Hawaii (assault pistols)	Haw. Rev. Stat. Ann. §§ 134-1, 134-4, 134-8
Maryland (assault pistols)	Md. Code Ann., Crim. Law §§ 4-301 – 4-306
Massachusetts	Mass. Gen. Laws ch. 140, §§ 121, 122, 123, 131, 131M
New Jersey	N.J. Stat. Ann. §§ 2C:39-1w, 2C:39-5, 2C:58-5, 2C:58-12, 2C:58-13
New York	N.Y. Penal Law §§ 265.00(22), 265.02(7), 265.10

State Regulations

Maryland	Md. Code Ann., Pub. Safety § 5-101(p)
Minnesota	Minn. Stat. §§ 624.712 – 624.7141
Virginia	Va. Code Ann. §§ 18.2-287.4, 18.2-308.2:01, 18.2-308.2:2, 18.2-308.7, 18.2-308.8

Other Laws

District of Columbia	D.C. Code Ann. §§ 7-2501.01(10), (12), 7-2502.01, 7-2502.02, 7-2551.01, 7-2551.02
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States that include a list of assault weapons banned by name

California
Connecticut
Maryland (assault pistols)
Massachusetts
New Jersey
New York

States that provide a generic feature definition of assault weapon (asterisks indicate states that use a one-feature test)

California*
Connecticut
Hawaii (assault pistols only)
Massachusetts
New Jersey*
New York

States that require registration of grandfathered weapons

California
Connecticut
Hawaii
Maryland
New Jersey

States that generally prohibit the transfer of grandfathered weapons

California
Connecticut
Hawaii
Maryland

States that limit the places a grandfathered weapon may be possessed or require a license for possession

California

Connecticut

Massachusetts (license)

New Jersey (license)

Description of State Laws Banning Assault Weapons

1. *Definition:* Most state assault weapon bans prohibit specific weapons by listing them by name. Some bans also list features that, when present, make a gun an assault weapon. These are known as generic feature tests. Generic feature tests, emphasizing high capacity and enhanced control during firing, are intended to identify assault weapons based on the military features that enhance a weapon's lethality. Generic feature tests that require a weapon to have only one of a list of features are more comprehensive than those that require two. A one-feature test captures more assault weapons and makes it harder for the gun industry to evade the law by modifying the weapon.

California and New Jersey have the most comprehensive approaches to defining assault weapons. California law also bans roughly 75 assault weapon types, models and series by name and provides a one-feature generic test for rifles and pistols. New Jersey bans roughly 65 assault weapon types, models and series and uses a one-feature generic test for shotguns.¹¹ New Jersey also bans parts that may be readily assembled into an assault weapon. The generic feature tests in most other bans, including the expired federal ban, are two-feature tests.¹²

Connecticut, Hawaii (assault pistols only), Massachusetts and New York use the definition of "assault weapon" from the expired federal law. Connecticut and Hawaii use the generic feature definition from the federal law. Massachusetts and New York use both the federal law's generic feature definition and its list of named weapons.

2. *Prohibited Activities:* Assault weapon bans vary as to which activities are prohibited. California and Connecticut prohibit the broadest range of activities. Both prohibit possession, distribution, importation, transportation, and keeping or offering for sale of assault weapons.¹³ In addition, California prohibits the manufacture and transfer of assault weapons, while Connecticut also prohibits giving an assault weapon to another person. New Jersey's law is also comprehensive, prohibiting the manufacture, transportation, sale, shipping, transfer, disposing and possession of assault weapons.

¹¹ California's definition of assault weapon also includes a semi-automatic, centerfire rifle or pistol with a fixed magazine capacity exceeding 10 rounds; a semi-automatic, centerfire rifle less than 30 inches in length; and a semi-automatic shotgun with two listed features, or the ability to accept a detachable magazine, or a revolving cylinder. New Jersey also bans semi-automatic rifles with a fixed magazine capacity exceeding 15 rounds.

¹² Like the expired federal assault weapon ban, many of the state bans also include in their generic feature definitions some features that are purely cosmetic, such as bayonet mounts and grenade launchers. Defining a firearm as an assault weapon based on such cosmetic features creates a loophole, making it possible for manufacturers to evade the ban by making cosmetic modifications to their weapons. Columbus, Ohio's assault weapon ban (*see infra* p. 25) is the best example of a ban that does not include cosmetic features in its definition of assault weapon.

¹³ In 2006 California amended its law to make possession of an assault weapon a public nuisance. Cal. Penal Code § 12282.

3. *Grandfathering*: Assault weapon bans differ in their treatment of pre-ban weapons. Each state grandfathers pre-ban weapons. However, California, Connecticut, Hawaii, Maryland and New Jersey also require registration of such weapons.¹⁴ New Jersey's law is particularly strong because only assault weapons with a legitimate target-shooting purpose may be registered (effectively requiring over 60 models, types and series of assault weapons to be transferred out of state, rendered inoperable, or surrendered to law enforcement). California, Connecticut, Hawaii, and Maryland prohibit transfer of all or most grandfathered weapons. Only California and Connecticut limit the places where a grandfathered weapon may be possessed.¹⁵ In Massachusetts and New Jersey, grandfathered weapons may only be sold and possessed if the owner has a license.

Description of State Regulations Governing Assault Weapons

1. *Maryland*: In addition to its ban on assault pistols, Maryland also regulates the sale of other assault weapons, defined to include a list of specified firearms or their copies. Assault weapons are defined as "regulated firearms" under state law, and transfers are subject to various regulations, including: requiring enhanced background checks on purchasers; requiring dealers to obtain a state license; and requiring private transfers to be processed through licensed dealers or a law enforcement agency. Additionally, purchasers: (1) must be age 21 or older; (2) are subject to a seven-day waiting period; and (3) are limited to one assault weapon in any 30-day period.¹⁶

2. *Minnesota*: Minnesota prohibits the possession of "semiautomatic military-style assault weapons" by persons under 18 years of age, as well as other prohibited persons, and imposes additional restrictions on transfers through firearms dealers.

3. *Virginia*: Virginia limits the knowing and intentional possession and transportation of certain semi-automatic "assault firearms" to citizens and permanent residents age 18 and older. These weapons may not be carried, loaded, in public places in certain cities and counties. Virginia also imposes a general ban on the importation, sale, possession and transfer of the "Striker 12" and semi-automatic folding stock shotguns of like kind, but does not refer to them as "assault firearms."

¹⁴ Registration is critical to any law that exempts pre-ban weapons. Without such a provision, it would be nearly impossible to enforce a possession ban because there would be no way to determine the date an individual acquired possession of a banned weapon.

¹⁵ California and Connecticut allow possession of a grandfathered assault weapon only at, or when being transported among: the possessor's property or workplace; the property of an expressly-consenting owner; a licensed gun dealer (for service or repair); certain target ranges; licensed shooting clubs; or an exhibition, display or education project about firearms approved by law enforcement or a recognized firearm-education entity. Cal. Penal Code § 12285(c); Conn. Gen. Stat. § 53-202d(d). California also allows possession of a grandfathered assault weapon on publicly owned land, provided it is specifically permitted by the managing authority. Cal. Penal Code § 12285(c)(6).

¹⁶ See Md. Code Ann., Pub. Safety §§ 5-101 – 5-143.

District of Columbia Regulations Governing Assault Weapons¹⁷

Although the District of Columbia does not have a specific ban on assault weapons, its handgun ban encompasses assault pistols and its machine gun ban encompasses firearms that can discharge “[s]emiautomatically, more than 12 shots without manual reloading.” Under a separate law, the District of Columbia imposes strict tort liability on manufacturers, importers and dealers of assault weapons for all direct and consequential damages that arise from injury or death due to the discharge of an assault weapon in the District (with limited exceptions).¹⁸

¹⁷ In 2007 the U.S. Court of Appeals for the District of Columbia Circuit struck down the District of Columbia’s strict laws banning most handgun possession in the District, and requiring lawfully owned firearms to be kept unloaded and disassembled or bound by a trigger lock or similar device. *Parker v. District of Columbia*, 478 F.3d 370 (D.C. Cir. 2007). The court held that the laws violate the Second Amendment, interpreting the Amendment to protect an individual right to keep and bear firearms unrelated to service in the militia. The U.S. Supreme Court granted *certiorari* on the following question: Whether the challenged provisions violate the Second Amendment rights of individuals who are not affiliated with any state-regulated militia, but who wish to keep handguns and other firearms for private use in their homes? *District of Columbia v. Heller*, 128 S. Ct. 645, 169 L. Ed. 2d 417 (2007). The Supreme Court is expected to issue its ruling in the case by June 2008.

¹⁸ D.C. Code Ann. §§ 7-2551.01 – 7-2551.03. In 2005, Congress passed and the President signed into law the Protection of Lawful Commerce in Arms Act (PLCAA). The PLCAA grants firearms dealers and others immunity from some civil lawsuits. 15 U.S.C. §§ 7901 - 7903. The Act includes, *inter alia*, the following exceptions:

- (ii) an action brought against a seller for negligent entrustment or negligence per se;
- (iii) an action in which a manufacturer or seller of a [firearm] knowingly violated a State or Federal statute applicable to the sale or marketing of the [firearm], and the violation was a proximate cause of the harm for which relief is sought, including —
 - (I) any case in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record required to be kept under Federal or State law with respect to the [firearm], or aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a [firearm]; or
 - (II) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a [firearm], knowing, or having reasonable cause to believe, that the actual buyer of the [firearm] was prohibited from possessing or receiving a firearm or ammunition under subsection (g) or (n) of section 922 of title 18, United States Code[.]

15 U.S.C. § 7903(5)(A)(ii),(iii).

The scope of the PLCAA and its exceptions is being tested in the courts in several pending cases. In *District of Columbia v. Beretta U.S.A. Corp.*, 2008 D.C. App. LEXIS 4 (D.C. Cir. 2008), the court affirmed a judgment on the pleadings in favor of defendants (various manufacturers, importers and distributors of firearms), concluding that the District’s claims under the Assault Weapon Manufacturing Strict Liability Act were barred by the PLCAA. *See also Iletto v. Glock, Inc.*, 421 F. Supp.2d 1274 (C.D. Cal. 2006) (granting defendants’ motion for judgment on the pleadings under PLCAA). By contrast, in 2005 a federal district court denied a motion to dismiss a suit brought by the City of New York against gun manufacturers and distributors alleging a public nuisance, finding that the case was not precluded by the PLCAA. *City of New York v. Beretta U.S.A. Corp.*, 401 F. Supp.2d 244, 298 (E.D.N.Y. 2005), *appeal pending*.

SUMMARY OF SELECTED LOCAL LAWS¹⁹ BANNING ASSAULT WEAPONS

Local Laws Banning Assault Weapons²⁰

Boston	1989 Mass. Acts 596, §§ 1-7
Chicago	Chicago, Ill., Code §§ 8-24-025, 8-20-030(h)
Cleveland	Cleveland, Ohio, Code §§ 628.01 – 628.99
Columbus	Columbus, Ohio, Code §§ 2323.11(L), (M), 2323.31, 545.04(a)
New York City	New York, N.Y., Admin. Code §§ 10-301(16), 10- 303.1; New York, N.Y., Rules tit. 38, § 17-01

Boston: With some exceptions, Boston prohibits possession, transfer, purchase and display of assault weapons, large capacity magazines and ammunition belts. “Assault weapons” are defined as semi-automatic rifles with a fixed magazine with a capacity exceeding ten rounds, shotguns with a fixed magazine with a capacity exceeding six rounds, and shotguns with a revolving cylinder. The definition also includes a list of named weapons and any rifle or shotgun determined to be an assault weapon by an assault weapon roster board. In addition, any rifle or shotgun that is substantially identical to a weapon included in the definition is deemed an assault weapon. Finally, any modified semi-automatic firearm with the same make, caliber and action as a weapon included in the definition is considered an assault weapon.

Within 90 days of the date the law took effect, any individual in lawful possession of an assault weapon and a firearm identification card for the weapon was permitted to apply for a license to possess it in his or her residence. Any person denied such a license was required to dispose of the weapon within 90 days of the denial. Any person lawfully in possession of an assault weapon obtained by bequest or intestate succession or recently added to the assault weapon roster has 90 days to apply for a license or dispose of the weapon.

Chicago: Chicago prohibits persons from selling, offering or displaying for sale, giving, lending, transferring, possessing or acquiring an assault weapon or “assault ammunition.”²¹ “Assault weapon” is defined to include a list of named weapons, and also includes any weapon that the Superintendent of Police defines as such by regulation. Chicago does not grandfather pre-ban assault weapons.

Cleveland: Cleveland prohibits any person from selling, offering or displaying for sale, giving, lending or transferring ownership of, acquiring or possessing any assault weapon. “Assault

¹⁹ 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.”

²⁰ Los Angeles passed the country’s first ban on assault weapons in February 1989. That law prohibited the transfer and possession of assault weapons within the city. San Francisco also banned the possession, sale and transfer of assault weapons. Later that year, California became the first state to ban assault weapons and both Los Angeles and San Francisco subsequently repealed their laws.

²¹ Chicago defines “assault ammunition” as any ammunition magazine with a capacity of more than 12 rounds of ammunition.

weapons” are defined as semiautomatic rifles and handguns that accept a detachable magazine with a capacity of 20 rounds or more, and semiautomatic shotguns with a magazine capacity of more than six rounds. Cleveland does not grandfather pre-ban weapons.

Columbus: In 2005, Columbus, Ohio became the first major U.S. city to ban assault weapons after the expiration of the federal ban. Columbus prohibits any person from knowingly selling, offering or displaying for sale, giving, lending or transferring ownership of, or acquiring or possessing any assault weapon. “Assault weapons” are defined using a one-feature test for semi-automatic rifles and pistols, and a two-feature test for semi-automatic shotguns.²² In addition, the city defines as “assault weapons” semi-automatic pistols with fixed magazines, and centerfire rifles with fixed magazines, that have the capacity to accept more than 10 rounds of ammunition, and revolving cylinder shotguns. Columbus grandfathers pre-ban assault weapons provided they are registered. The owner of a registered assault weapon may not sell, give, lend or transfer ownership of that weapon.

New York City: New York City prohibits possession or transfer of any assault weapon. “Assault weapon” is defined to include any semiautomatic centerfire or rimfire rifle or semiautomatic shotgun with one or more of a list of specified features. The definition also includes features and/or models of firearms that are “particularly suitable for military and not sporting purposes” as determined by the police commissioner. The city’s rules contain a list of named weapons that also are included in the definition of assault weapon. New York City does not grandfather pre-ban weapons.²³

FEATURES OF COMPREHENSIVE LAW BANNING ASSAULT WEAPONS

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.

- Definition of assault weapon is based on the generic features that characterize assault weapons (*California, New Jersey and Columbus have the most comprehensive definitions*)
- Definition of assault weapon is based on a one-feature test (*New Jersey uses a one-feature test for shotguns; California and Columbus use a one-feature test for rifles and pistols; New York City uses a one-feature test for rifles and shotguns*)
- Although a generic feature test is the most comprehensive approach, if the law also includes a list of banned weapons by name, it provides a mechanism authorizing an

²² Columbus’ definition of assault weapons is derived in large part from LCAV’s model law banning assault weapons, which is contained in LCAV’s April 2004 report (reprinted August 2005), *Banning Assault Weapons – A Legal Primer for State and Local Action*, available at http://www.lcav.org/library/reports_analyses/assaultweaponreport.asp. LCAV’s model law uses a one-feature test for shotguns as well as rifles and pistols.

²³ In addition to criminal penalties, any person who violates the city’s ban on assault weapons is subject to a civil penalty of up to \$25,000 for each assault weapon possessed or transferred. Such penalty is recoverable in a civil action by the city’s corporation counsel. New York, N.Y., Admin. Code § 10-303.1(c).

- appropriate governmental official or agency to add new and/or modified models to the list (*Chicago, New York City*)
- Prohibited activities include possession, sale, purchase, transfer, loan, pledge, transportation, distribution, importation, and manufacture of assault weapons (*California, Connecticut and New Jersey have the broadest prohibitions*)
 - Pre-ban weapons are not grandfathered and instead are to be rendered inoperable or removed from the jurisdiction (*Chicago, Cleveland, New York City*)
 - Alternatively, if pre-ban weapons are grandfathered, there is a registration mechanism for grandfathered weapons, with strict limits on their transferability, use and storage²⁴ (*California, Connecticut, Hawaii, Maryland, New Jersey, Boston, Columbus*)

²⁴ See section on Registration of Firearms for features of comprehensive registration laws. The most comprehensive system of regulating the purchase, possession and ownership of firearms combines registration of firearms with licensing of gun owners. Additional information on licensing of firearm owners is contained in the section on Licensing of Gun Owners or Purchasers.

Large Capacity Ammunition Magazines

Background

Automatic and semi-automatic firearms often use a detachable magazine or feeding device to store cartridges (which hold ammunition). Inside the magazine, a spring forces the cartridges into position to be fed into the chamber by operation of the firearm's action.

Although the statutory definitions vary, magazines with a capacity of more than 10 rounds of ammunition are generally considered to be "large capacity" magazines. In some cases, large capacity magazines can hold up to 100 rounds of ammunition. Although detachable large capacity magazines are typically associated with machine guns or semi-automatic assault weapons, such devices are generally available for any semi-automatic firearm that accepts a detachable magazine.

Because of their ability to hold so many rounds of ammunition, large capacity magazines significantly increase the lethality of the automatic and semi-automatic firearms using them. Other types of firearms, in contrast, are generally capable of holding far less ammunition. For example, revolvers typically hold six rounds of ammunition in a rotating cylinder.

Bans on large capacity ammunition magazines are often adopted in concert with bans on assault weapons. However, the impact of large capacity ammunition magazine bans is not limited to assault weapons. Large capacity ammunition magazine bans reduce the capacity, and thus the potential lethality, of any firearm that can accept a large capacity ammunition magazine, including a firearm that is not an assault weapon. As of 1994, 21% of civilian-owned handguns and 18% of all civilian-owned firearms were equipped with magazines that could hold 10 or more rounds.¹ Assault weapons make up only about 1% of the firearms estimated to be in civilian hands.²

Crime data also support the conclusion that a ban on large capacity magazines would have a greater impact on gun crime than a ban on assault weapons alone. Guns equipped with large capacity magazines were involved in 14% to 26% of gun crimes prior to the assault weapon ban in 1994, as compared with assault weapons, which accounted for 6% of gun crimes.³ Thus, a ban on large capacity ammunition magazines would reduce the capacity and lethality of many more firearms than would a ban on assault weapons alone.

Summary of Federal Law

On September 13, 1994, Congress adopted the Violent Crime Control and Law Enforcement Act of 1994. That Act amended the Gun Control Act of 1968, making it unlawful to transfer or possess a "large capacity ammunition feeding device" not lawfully

¹ Christopher S. Koper, *An Updated Assessment of the Federal Assault Weapons Ban: Impacts on Gun Markets and Gun Violence, 1994-2003*, Report to the National Institute of Justice, United States Department of Justice 6, 18 (June 2004).

² Bureau of Justice Statistics Selected Findings, U.S. Department of Justice, *Firearms, Crime, and Criminal Justice: Guns Used in Crime* 6 (July 1995).

³ Koper, *supra* note 1, at 18-19.

possessed on or before the law's enactment.⁴ The law also banned the manufacture, transfer and possession of semi-automatic assault weapons.⁵

The 1994 Act defined "large capacity ammunition feeding device" as "a magazine, belt, drum, feed strip, or similar device . . . that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition."⁶

The ban contained a loophole, however, allowing for the continued transfer and possession of large capacity ammunition magazines manufactured or possessed on or before enactment of the law. Manufacturers took advantage of this loophole in the months leading up to the ban by boosting production of the magazines. As a result, they continued to be readily available – and legal – nationwide, except where specifically banned by state or local law. This loophole also made enforcement difficult, as most magazines do not have any identifying marks to distinguish those that were manufactured before or after the effective date of the ban.⁷

The federal law was enacted with a sunset clause, providing for its expiration after ten years. Congress and the President allowed the 10 year-old ban to expire on September 13, 2004, despite overwhelming support for its renewal. Thus, large capacity ammunition magazines (and semi-automatic, military style assault weapons) that were formerly banned under the federal law are now legal unless banned by state or local law.

SUMMARY OF STATE LAWS BANNING LARGE CAPACITY AMMUNITION MAGAZINES

Six states have enacted laws banning large capacity ammunition magazines: California, Hawaii, Maryland, Massachusetts, New Jersey and New York. All of these states also ban assault weapons.

State Bans

California	Cal. Penal Code § 12020(a)(2), (b), (c)(25)
Hawaii	Haw. Rev. Stat. Ann. § 134-8(c)
Maryland	Md. Code Ann., Crim. Law § 4-305
Massachusetts	Mass. Gen. Laws ch. 140, §§ 121, 131M
New Jersey	N.J. Stat. Ann. §§ 2C:39-9(h), 2C:39-1(y), 2C:39-3(j)
New York	N.Y. Penal Law §§ 265.00(23), 265.02(8), 265.10

⁴ 18 U.S.C. § 922(w)(1), (2). All references to sections of the Violent Crime Control and Law Enforcement Act of 1994, codified at 18 U.S.C. § 921 *et seq.*, are to the sections as they appeared on September 12, 2004.

⁵ Additional information on assault weapons is contained in the section on Assault Weapons.

⁶ 18 U.S.C. § 921(a)(31)(A). However, "attached tubular device[s] designed to accept, and capable of operating only with, .22 caliber rimfire ammunition" were exempted from the definition. 18 U.S.C. § 921(a)(31)(B).

⁷ Importation of Ammunition Feeding Devices with a Capacity of More Than 10 Rounds, 61 Fed. Reg. 39, 320 (July 29, 1996) (amending 27 C.F.R. § 178.119).

States that ban large capacity magazines designed for use with any firearm

California
Maryland
Massachusetts
New Jersey
New York

States that ban large capacity magazines designed for use with handguns only

Hawaii

States that ban large capacity magazines capable of firing more than 10 rounds

California
Hawaii
Massachusetts
New York

States that ban large capacity magazines capable of firing more than 15 rounds

New Jersey

States that ban large capacity magazines capable of firing more than 20 rounds

Maryland

States that grandfather pre-ban magazines

Massachusetts
New York

Description of State Laws Banning Large Capacity Ammunition Magazines

Large capacity ammunition magazine bans can be broken down into the following general categories:

1. *States that Ban Large Capacity Magazines for Use with Any Firearm:* California, Maryland, Massachusetts, New Jersey and New York all ban large capacity ammunition magazines for use with any firearm.
2. *States that Ban Large Capacity Magazines for Use with Handguns Only:* Hawaii prohibits the manufacture, transfer and possession of large capacity magazines designed for or capable of use with a handgun.
3. *Definition of Large Capacity Magazine:* State laws vary as to how the term “large capacity magazine” is defined. California, Hawaii, Massachusetts and New York define a large capacity magazine as a magazine that is capable of firing more than 10 rounds. The New Jersey definition includes magazines capable of firing more than 15 rounds, while Maryland includes magazines that can fire more than 20 rounds.
4. *States that Ban Manufacture, Transfer, Transportation and Possession of Large Capacity Magazines:* New Jersey and New York have the most comprehensive prohibitions, banning manufacture, transfer, transportation and possession of large capacity magazines. New Jersey allows possession of large capacity magazines by a

person who has registered an assault firearm and uses the magazine in connection with competitive shooting matches sanctioned by the Director of Civilian Marksmanship of the U.S. Department of the Army.⁸

5. *States that Ban Other Activities Related to Large Capacity Magazines:* Other states ban various combinations of activities related to large capacity magazines. Hawaii bans manufacture, transfer and possession; Massachusetts bans transfer and possession; California bans manufacture, transfer and importation; and Maryland bans manufacture and transfer.

6. *States that Grandfather Pre-Ban Magazines:* The Massachusetts ban exempts magazines that were lawfully possessed on September 13, 1994 (the date the federal ban took effect). The New York ban applies to only those magazines manufactured after September 13, 1994. As noted above,⁹ enforcement of laws grandfathering pre-ban magazines is difficult because most magazines do not contain any markings to identify those that were manufactured before or after the effective date of the ban.

SUMMARY OF SELECTED¹⁰ LOCAL LAWS BANNING LARGE CAPACITY AMMUNITION MAGAZINES

Local Laws Banning Large Capacity Ammunition Magazines

Boston	1989 Mass. Acts 596, §§ 1-7
Chicago	Chicago, Ill., Code §§ 8-20-030(i), 8-24-025
Columbus	Columbus, Ohio, Code §§ 2323.11(F), 2323.32(A), (B)(2)
Los Angeles	Los Angeles, Cal., Municipal Code ch. V, art. 5, § 55.13
New York City	New York, N.Y., Admin. Code §§ 10-131(i) 10-301(17), 10-306

Boston: With some exceptions, Boston prohibits possession, transfer, purchase and display of large capacity magazines and ammunition belts that can be used with semi-automatic rifles and shotguns. A large capacity magazine is defined as a box, drum or container which can hold more than 10 rounds of ammunition to be fed continuously into a semi-automatic rifle or shotgun. A large capacity ammunition belt is the same as a large capacity magazine except that the ammunition is held on a belt or strip. Magazines and belts which can be readily converted into large capacity versions are also banned.

⁸ New Jersey allows registration only of assault weapons with a legitimate target-shooting purpose. Additional information on New Jersey's assault weapon ban is contained in the section on Assault Weapons.

⁹ See *supra* note 7 and accompanying text.

¹⁰ 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."

Chicago: Chicago bans the transfer, acquisition or possession of any ammunition magazine having a capacity of more than 12 rounds.

Columbus: Columbus prohibits any person from knowingly possessing a large capacity magazine with a capacity of more than 20 rounds. Pre-ban magazines are grandfathered if the possessor has registered his or her assault weapon and the magazine “belongs to or is a part of” the registered weapon.¹¹

Los Angeles: Los Angeles prohibits the sale or other transfer of a clip, magazine, belt, drum, feed strip or similar device which has a capacity of, or which can be readily restored or converted to accept, more than 10 rounds of ammunition.¹²

New York City: New York City regulates ammunition feeding devices, which are defined as a magazine, belt, feedstrip, drum or clip that can be attached to or used with a firearm.

- *Ammunition feeding devices for use with handguns and short-barreled rifles and shotguns:* Subject to certain exceptions, New York City prohibits possession of ammunition feeding devices designed for handguns and short-barreled rifles and shotguns. One such exception allows handgun licensees to possess an ammunition feeding device designed for use in the handgun he or she is authorized to use, so long as the capacity of the device is not more than 17 rounds and the device does not extend below the handgun’s grip. Ammunition feeding devices designed for use in a handgun or short-barreled rifle or shotgun may not be transferred except between an authorized possessor and a dealer in handguns and short-barreled rifles and shotguns.
- *Ammunition feeding devices for use with rifles and shotguns:* Subject to limited exceptions, no person may possess an ammunition feeding device designed for use in a rifle or shotgun if the device has the capacity to hold more than five rounds of ammunition. Ammunition feeding devices designed for use in a rifle or shotgun may not be transferred except between an authorized possessor (a rifle or shotgun permit holder) and a dealer in rifles and shotguns.

FEATURES OF COMPREHENSIVE LAW BANNING LARGE CAPACITY AMMUNITION MAGAZINES

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

¹¹ Note that Columbus’s ordinance banning large capacity ammunition magazines predates the ban on assault weapons enacted by Columbus in 2005, and has not been revised subsequently.

¹² The Los Angeles ordinance was adopted in 1998. In 1999, the State of California adopted a similar law. San Francisco also prohibited firearms dealers from selling any ammunition clip or magazine with the capacity to contain more than 10 rounds of ammunition, but repealed the ordinance after the State of California adopted the state law.

should consult with counsel to ensure its legal sufficiency and compatibility with existing codes and statutes, as appropriate.

- Definition of “large capacity ammunition magazine” includes magazines capable of holding in excess of 10 rounds (*Hawaii, California, Massachusetts, New York, Boston, Los Angeles*)¹³
- Ban applies to large capacity ammunition magazines for use with all firearms (*California, Maryland, Massachusetts, New Jersey, New York, Chicago, Columbus, Los Angeles, New York City*)
- Prohibited activities include possession, sale, purchase, transfer, loan, pledge, transportation, distribution, importation, and manufacture of large capacity ammunition magazines (*New Jersey and New York are the most comprehensive, banning manufacture, transfer, transportation and possession*)
- No allowance for pre-ban magazines (*California,¹⁴ Hawaii, Maryland, New Jersey, Boston, Chicago, Los Angeles, New York City*)

¹³ While New York City does not define large capacity ammunition magazines based on the number of rounds they can hold, it does ban possession of large capacity ammunition feeding devices designed for use in a rifle or shotgun if the device has the capacity to hold more than five rounds. Possession of large capacity ammunition feeding devices for use in handguns is prohibited without regard to the capacity, although there is an exception for handgun licensees that allows possession of large capacity feeding devices so long as the capacity of the device is not more than 17 rounds and the device does not extend below the handgun’s grip.

¹⁴ Note, however, that California does not ban possession of large capacity ammunition magazines.

Fifty Caliber Rifles

Background

Fifty caliber rifles are military firearms, used by armed forces across the globe, that combine long range, accuracy, and massive power. Designed for use in urban combat situations, these weapons can penetrate structures and destroy or disable light armored vehicles, radar dishes, helicopters, stationary and taxiing airplanes, and other “high-value” military targets. The 50 caliber rifle is considered one of the most powerful and destructive weapons legally available to civilians in the United States.¹ It can hit a target accurately from distances of 1,000 to 2,000 yards, depending on the skill of the shooter, and can reach targets at a longer range, sacrificing accuracy.²

The destructive power of the 50 caliber rifle can be magnified by the use of certain types of ammunition that are legal under federal law (although banned in some states). In addition to the standard “ball” round of 50 caliber ammunition, armor-piercing,³ incendiary, and combination armor-piercing and incendiary ammunition for 50 caliber rifles can significantly enhance their destructive capacity,⁴ particularly against chemical and industrial facilities⁵ and civil aviation targets.⁶ Federal law enforcement has “identified some examples of criminal misuse of the .50 caliber rifle with a nexus to terrorism, outlaw motorcycle gangs, international and domestic drug trafficking, and violent crime.”⁷

Despite their deadly power, or possibly because of it, 50 caliber rifles are proliferating on the civilian firearms market, yet are subject to less regulation than handguns.⁸

Although most of the data regarding 50 caliber firearms relate to rifles, the industry also has introduced 50 caliber handguns. Smith & Wesson now manufactures a handgun which can fire a 50 caliber round and which may be capable of penetrating the highest grade of concealable body armor typically worn by law enforcement officers.⁹

¹ Violence Policy Center, *Voting From the Rooftops: How the Gun Industry Armed Osama bin Laden, Other Foreign and Domestic Terrorists, and Common Criminals with 50 Caliber Sniper Rifles* 7-12 (Oct. 2001).

² *Id.* at 8.

³ For additional information on armor-piercing ammunition, see section on Ammunition Regulation.

⁴ *Voting From the Rooftops*, *supra* note 1, at 12-20.

⁵ See generally Violence Policy Center, *Sitting Ducks: The Threat to the Chemical and Refinery Industry from 50 Caliber Sniper Rifles* (Aug. 2002).

⁶ See generally Violence Policy Center, *Just Like Bird Hunting: The Threat to Civil Aviation From 50 Caliber Sniper Rifles* (Jan. 2003).

⁷ Office of Special Investigations, U.S. General Accounting Office, *Weaponry: Availability of .50 Caliber Semiautomatic Rifles* 6-7 (June 30, 1999). See also Violence Policy Center, *Criminal Use of the 50 Caliber Sniper Rifle Fact Sheet* (2007), available at <http://www.vpc.org/snipercrime.htm> (last visited Nov. 27, 2007).

⁸ Violence Policy Center, *One Shot, One Kill: Civilian Sales of Military Sniper Rifles* 41-42 (May 1999); *Voting from the Rooftops*, *supra* note 1, at 62-68; and Violence Policy Center, *Clear and Present Danger: National Security Experts Warn About the Danger of Unrestricted Sales of 50 Caliber Anti-Armor Sniper Rifles to Civilians* 5 (July 2005).

⁹ Violence Policy Center, *Vest Buster: The .500 Smith & Wesson Magnum – The Gun Industry’s Latest Challenge to Law Enforcement Body Armor* 25 (June 2004).

Summary of Federal Law

Federal law does not ban 50 caliber rifles. Moreover, because 50 caliber rifles are classified as long guns, they can be purchased legally from a federally licensed dealer by an 18 year-old.¹⁰ Legislation was introduced in the U.S. Senate in 1999, 2001, 2003 and 2005 to bring 50 caliber rifles under the National Firearms Act, thereby imposing registration requirements and other regulations on their importation, manufacture and transfer. Similar legislation was introduced in the House of Representatives in 1999, 2001, 2004 and 2005. Some of the bills introduced in the House also would have banned the transfer and possession of 50 caliber rifles. To date, there has been no movement on these bills.¹¹

SUMMARY OF STATE LAWS REGARDING 50 CALIBER RIFLES

California is the only state that bans 50 caliber rifles. Connecticut bans a single model of 50 caliber rifle. Maryland imposes various regulations on transfers of 50 caliber rifles.

State Ban

California

Cal. Penal Code §§ 12275.5(b), 12278, 12280 – 12289.5

Single Model Ban

Connecticut

Conn. Gen. Stat. § 53-202a(a)(1)

State Regulation

Maryland

Md. Code Ann., Pub. Safety §§ 5-101(p)(2)(ix), 5-102 – 5-143

Description of State Laws Banning and/or Regulating 50 Caliber Rifles

1. *California:*

a. *Prohibited Activities:* California's 50 caliber ban prohibits a wide range of activities; it applies to manufacture, possession, distribution, and importation of 50 caliber rifles, as well as sale, offering for sale, and transfer.

b. *Definition of Banned Weapon:* California's ban on 50 caliber rifles defines the banned weapons based on the type of cartridge they are capable of firing. California's ban prohibits "50 caliber BMG rifles" which are defined as any "center fire rifle that can fire a .50 BMG cartridge." A BMG cartridge is then defined in detail based on specific length and diameter.¹²

¹⁰ 18 U.S.C. § 922(b)(1), (c)(1). By contrast, federally licensed dealers can only sell or transfer handguns to persons age 21 or older. 18 U.S.C. § 922(x)(1), (3), (5).

¹¹ A 2007 report by the International Association of Chiefs of Police (IACP) recommended that Congress enact an effective ban on 50 caliber sniper rifles. International Association of Chiefs of Police, *Taking a Stand: Reducing Gun Violence in Our Communities* 27 (Sept. 2007).

¹² Under the definition of "destructive device," California also bans the possession, sale, offer for sale, and knowing transportation of incendiary and tracer ammunition that is equal to or less than .60 caliber, for use in rifles, including .50 caliber rifles. Cal. Penal Code §§ 12301(a), 12303, 12303.6. Connecticut also bans distribution, transportation, importation, sale and transfer of armor piercing or incendiary 50 caliber bullets. Conn. Gen. Stat. § 53-202l.

c. *Grandfathering*: The California law provides that in order to retain possession of a 50 caliber rifle, any person who lawfully possessed such a weapon prior to January 1, 2005 must have registered it no later than April 30, 2006.¹³

2. *Connecticut*: Connecticut bans the possession, distribution, importation, transportation, and keeping or offering for sale of the “Barrett Light-Fifty model 82A1,” which is included in the state’s definition of assault weapon.

3. *Maryland*: Maryland is the only other state that in some manner regulates the 50 caliber rifle, including the “Barrett light .50 cal. semi-auto” in the list of assault weapons defined as “regulated firearms.” Transfers of regulated firearms are subject to enhanced background checks, minimum age restrictions and waiting periods. Moreover, firearms dealers and private/secondary sellers must comply with additional regulations when transferring a regulated firearm, and purchasers are limited to the purchase of one regulated firearm per month.

SUMMARY OF SELECTED¹⁴ LOCAL LAWS BANNING 50 CALIBER RIFLES

Local Laws Banning 50 Caliber Rifles

Los Angeles

Los Angeles, Cal., Municipal Code ch. V, art. 5, § 55.18(a), (d)

San Francisco

San Francisco, Cal., Police Code art. 9, § 613.10-1(c), (d), (g)

Both Los Angeles and San Francisco enacted laws banning 50 caliber rifles. As highlighted below, Los Angeles also bans 50 caliber handguns, and San Francisco also bans 50 caliber ammunition and 50 caliber handguns.

Los Angeles: In June 2003, Los Angeles became the first jurisdiction to ban 50 caliber rifles (as well as 50 caliber handguns). Section 55.18 of Chapter V, Article 5 of the Los Angeles Municipal Code provides that no person “shall sell, give, transfer ownership of, transfer, offer for sale, or display for sale any large caliber firearm.” The term “large caliber firearm” is defined as any firearm “capable of firing a center-fire cartridge of .50 caliber or larger either by designation or actual measurement.” The term ‘large caliber firearm’ shall include any rifle or handgun.”¹⁵

San Francisco: San Francisco is the only jurisdiction that bans 50 caliber cartridges along with 50 caliber firearms. Section 613.10-1 of Article 9 of the San Francisco Police

¹³ Registration is critical to any law that exempts pre-ban weapons. Without such a provision, it would be nearly impossible to enforce a possession ban because there would be no way to determine the date an individual acquired possession of a banned weapon.

¹⁴ 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.”

¹⁵ The State of California adopted its ban on .50 BMG rifles in 2004. In June 2005, as a result of litigation challenging the Los Angeles ordinance, the city amended the law to exclude .50 BMG rifles.

Code provides that no person shall sell, give, transfer, offer for sale or display for sale any 50 caliber firearm (including rifles and handguns) or 50 caliber cartridge.

The San Francisco ordinance has a sunset provision which provides that if the State of California enacts legislation which is covered by the law, the requirements of the ordinance shall be suspended. The state's ban on 50 caliber rifles went into effect after San Francisco adopted its ordinance. Accordingly, that provision of the ordinance is no longer in effect. San Francisco's bans on 50 caliber handguns and 50 caliber cartridges remain in effect.

FEATURES OF COMPREHENSIVE LAW BANNING 50 CALIBER RIFLES

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.

- Ban applies to 50 caliber rifles (*California, Los Angeles*¹⁶) and 50 caliber cartridges (*San Francisco*), and may include 50 caliber handguns (*Los Angeles, San Francisco*)
- Prohibited activities include possession, sale, purchase, transfer, loan, pledge, transportation, distribution, importation, and manufacture of 50 caliber rifles (*California bans manufacture, possession, distribution, importation, sale, offering for sale, and transfer*)
- Pre-ban weapons are not grandfathered and instead are to be rendered inoperable or removed from the jurisdiction
- Alternatively, if pre-ban firearms are grandfathered, there is a registration mechanism for grandfathered firearms, with strict limits on transferability, use and storage of pre-ban weapons¹⁷ (*California*)

¹⁶ See *supra* note 15.

¹⁷ See section on Registration of Firearms for features of comprehensive registration laws. The most comprehensive system of regulating the purchase, possession and ownership of firearms combines registration of firearms with licensing of gun owners. Additional information on licensing of firearm owners is contained in the section on Licensing of Gun Owners or Purchasers.

Banning Handguns

Background

Handguns are a generic class of weapons to be differentiated from long guns (i.e., rifles and shotguns) and generally include revolvers and pistols.¹ The policy issue of whether all handguns should be banned, as opposed to regulated, is a topic of debate inside, as well as outside, the gun violence prevention movement.² As noted below, there are no federal or state laws banning all handguns.³ The District of Columbia, Chicago and at least 12 other Illinois communities have adopted bans on the possession and/or sale of handguns as a generic class of weapons.

Handguns are a particular focus of regulatory efforts – up to and including total bans – because of their frequent use in violent crime as compared to other firearms. From 1993 to 2001, an average of 737,360 violent crimes were committed with handguns in the U.S. each year, making handguns seven times more likely to be used to commit violent crimes than other firearms.⁴ Although handguns make up only 34% of firearms, approximately 80% of firearm homicides are committed with a handgun.⁵ Women face an especially high risk of handgun violence.⁶ In 2005, 72% of female homicide victims were killed with a handgun.⁷

Suicides committed with handguns are also a major area of concern. A California study found that in the first year after the purchase of a handgun, suicide was the leading cause of death among handgun purchasers.⁸ In the first week after the purchase of a handgun, the firearm suicide rate among purchasers was 57 times as high as the adjusted rate in the general population.⁹

Several studies have documented the risks associated with guns in the home. Adults living in homes with guns are at a significantly higher risk of homicide and suicide than

¹ Federal law defines a handgun as “a firearm which has a short stock and is designed to be held and fired by the use of a single hand,” and any combination of parts from which such a firearm can be assembled. 18 U.S.C. § 921(a)(29).

² For a thorough discussion of various regulatory models other than outright bans for reducing death and injury caused by handguns, see generally David Hemenway, *Private Guns, Public Health* (2004).

³ A number of jurisdictions ban some types of handguns, including “ultracompact” handguns, junk guns and other unsafe handguns, assault pistols and 50 caliber handguns. These laws are described in the sections on Dealer Regulations, Design Safety Standards for Handguns: Regulating Junk Guns/Saturday Night Specials, Assault Weapons and 50 Caliber Rifles, respectively.

⁴ Office of Justice Programs, U.S. Department of Justice, *Bureau of Justice Statistics Special Report, National Crime Victimization Survey, 1993-2001 -- Weapon Use and Violent Crime* 3 (Sept. 2003).

⁵ Violence Policy Center, *Handgun Ban Background* (1999), at http://www.vpc.org/fact_sht/hgbanfs.htm.

⁶ Garen J. Wintemute et al., *Mortality among Recent Purchasers of Handguns*, 341 *New Eng. J. Med.* 1583, 1585 (Nov. 18, 1999).

⁷ Violence Policy Center, *When Men Murder Women: An Analysis of 2005 Homicide Data* 7 (Sept. 2007), at <http://www.vpc.org/studies/wmmw2007.pdf>.

⁸ Wintemute, *supra* note 6, at 1583-84.

⁹ *Id.* at 1585.

adults in homes without guns.¹⁰ The risk of unintentional firearm injury is also substantially higher for adults living in homes with guns,¹¹ with handguns in the home posing a particular threat.¹² For every incident in which a gun in the home is used in self-defense or in another legally-justified shooting, there are 22 unintentional or criminal shootings or suicide attempts using a gun kept at home.¹³

A 1991 study documented the effectiveness of Washington, D.C.'s law banning handguns.¹⁴ Following the enactment of the ban in 1976, there was a 25% decline in homicides committed with firearms and a 23% decline in suicides committed with firearms within the District of Columbia.¹⁵ No similar reductions were observed in the number of homicides or suicides committed by other means, nor were similar reductions found in the adjacent metropolitan areas in Maryland and Virginia.¹⁶ A recent study concluded that, as a result of the District's handgun ban, the District of Columbia had the lowest rate of youth suicide in the nation – lower than any state.¹⁷

This report discusses a number of policies that would reduce the risks of injury and death associated with handguns, short of banning the possession and/or sale of all handguns. The many gaps in federal regulation have prompted some communities to advance and test aggressive policies, such as handgun bans, in their attempt to solve the problem of gun violence – policies that would not be politically viable on a statewide or national level.

Handgun bans may prohibit a range of activities, such as possession and/or sale, manufacture, purchase, and transfer. Bans that include a prohibition on possession are generally more restrictive than bans prohibiting sale, manufacture, purchase and transfer because of their impact on existing gun owners.

Summary of Federal Law

There is no federal law banning handguns, although there is a ban on certain handgun ammunition.¹⁸

¹⁰ Douglas J. Wiebe, *Homicide and Suicide Risks Associated with Firearms in the Home: a National Case-Control Study*, 41 *Annals Emergency Med.* 771, 777-78 (June 2003).

¹¹ Douglas J. Wiebe, *Firearms in U.S. Homes as a Risk Factor for Unintentional Gunshot Fatality*, 35 *Accident Analysis & Prevention* 711, 713-14 (2003) (finding the relative risk of dying from an unintentional gunshot injury to be 3.7 times higher for adults living in homes with guns).

¹² *Id.*

¹³ Arthur L. Kellerman et al., *Injuries and Deaths Due to Firearms in the Home*, 45 *J. Trauma* 263, 265 (1998).

¹⁴ Colin Loftin et al., *Effects of Restrictive Licensing of Handguns on Homicide and Suicide in the District of Columbia*, 325 *New Eng. J. Med.* 1615, 1615-1620 (Dec. 5, 1991).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Violence Policy Center, *Safe at Home: How D.C.'s Gun Laws Save Children's Lives* (July 2005), at <http://www.vpc.org/studies/dcsuicide.pdf>.

¹⁸ Federal law prohibits the manufacture, importation, sale or delivery of armor-piercing ammunition for use in handguns, except for certain uses (including use by federal, state or local governments, and for export). 18 U.S.C. § 922(a)(7), (8). For additional information on armor-piercing ammunition, see section on Ammunition Regulation.

SUMMARY OF HANDGUN BANS IN THE U.S.

No state bans all handguns. Chicago, a number of other Illinois communities¹⁹ and the District of Columbia²⁰ currently ban handguns.²¹

Chicago and District of Columbia Handgun Bans²²

Chicago	Chicago, Ill., Code §§ 8-20-040, 8-20-050(c), 8-20-190, 4-144-061, 4-144-062
District of Columbia	D.C. Code Ann. §§ 7-2502.01, 7-2502.02, 7-2504.01, 7-2505.01, 7-2505.02, 7-2506.01

In both Chicago and the District of Columbia, handguns are banned via a regulatory scheme that requires all firearms within the jurisdiction to be registered. In both Chicago and the District of Columbia, handguns are defined as unregistrable weapons.

Chicago bans possession, retail sales and private sales or transfers of handguns and also bans the sale and/or transfer of certain handgun ammunition.

¹⁹ At least twelve other Illinois communities also ban handguns, making Illinois unique among the states in the number of local ordinances banning handguns. Other Illinois communities that ban the sale or transfer of handguns include Deerfield, Elk Grove Village, Evanston, Forest Park, Highland Park, Morton Grove, Niles, Northbrook, Oak Park, River Grove, Westmont and Wilmette. Evanston, Morton Grove, Oak Park and Wilmette also ban possession of handguns.

²⁰ In 2007 the U.S. Court of Appeals for the District of Columbia Circuit struck down the District of Columbia's strict laws banning most handgun possession in the District, and requiring lawfully owned firearms to be kept unloaded and disassembled or bound by a trigger lock or similar device. *Parker v. District of Columbia*, 478 F.3d 370 (D.C. Cir. 2007). The court held that the laws violate the Second Amendment, interpreting the Amendment to protect an individual right to keep and bear firearms unrelated to service in the militia. The U.S. Supreme Court granted *certiorari* on the following question: Whether the challenged provisions violate the Second Amendment rights of individuals who are not affiliated with any state-regulated militia, but who wish to keep handguns and other firearms for private use in their homes? *District of Columbia v. Heller*, 128 S. Ct. 645, 169 L. Ed. 2d 417 (2007). The Supreme Court is expected to issue its ruling in the case by June 2008.

²¹ In November 2005, San Francisco voters approved Proposition H, an ordinance to prohibit the possession of handguns by San Francisco residents and ban the manufacture, distribution, sale and transfer of firearms and ammunition in the city. The National Rifle Association and others immediately challenged the ordinance, and in a recent decision an appellate court struck down the ordinance, finding it preempted by state law. *Fiscal v. City & County of San Francisco*, No. A115018, 2008 Cal. App. LEXIS 21 (Cal. Ct. App. Jan. 9, 2008). The City has indicated that it will appeal the decision. Additional information on state preemption of local firearm regulation is contained in the section of this report titled "The Legal Background."

²² Several courts have upheld local handgun bans. See, e.g., *Quilici v. Village of Morton Grove*, 695 F.2d 261 (7th Cir. 1982) (rejecting Second, Fifth and Ninth Amendment challenges and state "right to bear arms" challenge to Village of Morton Grove handgun ban); *Seegars v. Ashcroft*, 297 F. Supp. 2d 201 (D.D.C. 2004), *rev'd in part* (on standing grounds), 396 F.3d 1248 (D.C. Cir. 2005), *en banc hearing denied sub nom. Seegars v. Gonzales*, 413 F.3d 1 (D.C. Cir. 2005), *cert. denied*, 546 U.S. 1157 (2006) (rejecting, on standing grounds, Second Amendment challenge to D.C. handgun ban); *Kalodimos v. Village of Morton Grove*, 470 N.E.2d 266 (Ill. 1984) (rejecting state "right to bear arms" challenge to Village of Morton Grove handgun ban). *But see Doe v. City and County of San Francisco*, 136 Cal. App. 3d 509 (Cal. Ct. App. 1982) (upholding state preemption challenge to San Francisco ordinance banning all handgun possession in the city).

The District of Columbia's ban is more comprehensive, prohibiting possession, sale, transfer, manufacture, purchase and repair of handguns.²³ The District also bans the possession and manufacture of handgun ammunition, as well as the sale and transfer of handgun ammunition to residents of the District (except to owners of validly registered handguns).

The District of Columbia and Chicago both require surrender of handguns to law enforcement but also allow registration of certain handguns owned prior to the effective date of the ban. In the District of Columbia, handguns registered prior to September 24, 1976 are exempt from the ban. Chicago allows possession of handguns registered prior to March 30, 1982, provided they have a safety mechanism and load indicator device.²⁴

FEATURES OF COMPREHENSIVE LAW BANNING HANDGUNS

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.

- Prohibited activities include possession and/or sale, purchase, transfer, loan, pledge, transportation, distribution, importation, and manufacture of handguns (*District of Columbia has most comprehensive list of prohibited activities*)
- If pre-ban handguns are grandfathered, there is a registration mechanism for grandfathered handguns, with strict limits on their transferability, use and storage²⁵ (*District of Columbia and Chicago require registration; Chicago requires registered handguns to have safety mechanism and load indicator*)
- Ban applies to handgun ammunition (*District of Columbia*)

²³ The ban on possession does not apply to federal, state or local law enforcement officers or members of the armed forces, so long as they are authorized to possess the firearm while on duty in the performance of authorized functions. D.C. Code Ann. § 7-2502.01. The manufacture ban applies to all firearms and ammunition. D.C. Code Ann. § 7-2504.01.

²⁴ "Load indicator" is defined as "a device which plainly indicates that a bullet is placed in the handgun in a way that pulling the trigger or otherwise handling the handgun may result in detonation." Chicago, Ill., Municipal Code § 8-20-030(z).

²⁵ See section on Registration of Firearms for features of comprehensive registration laws. The most comprehensive system of regulating the purchase, possession and ownership of firearms combines registration of firearms with licensing of gun owners. Additional information on licensing of firearm owners is contained in the section on Licensing of Gun Owners or Purchasers.

Non-Powder Guns

Background

Non-powder guns, including BB, air and pellet guns, expel a projectile (usually made of metal or hard plastic) through the force of air pressure, CO₂ pressure, or spring action. Non-powder guns are distinguished from firearms, which use gunpowder to generate energy to launch a projectile. Because non-powder guns are designed to discharge a projectile, often at a high speed and with significant force, they should not be confused with toy guns.

The Centers for Disease Control and Prevention have compiled national data on non-powder gun injuries which illustrate the inherent danger of these weapons:

- 2005 – 19,675 people injured, including 14,052 children age 19 or younger
- 2006 – 25,580 people injured, including 17,325 children age 19 or younger.¹

From July 1993 to July 2003, non-powder guns caused 40 deaths nationwide.² Although injury rates for non-powder guns appear to have declined significantly since the early 1990's, non-powder guns are becoming more powerful and more accurate, and are often designed to appear almost indistinguishable from firearms.³

According to one study, there are an estimated 3.2 million BB/pellet guns sold in the U.S. each year.⁴ Numerous studies have documented the potentially severe or lethal nature of penetrating injuries from BB/pellet gunshots, especially those to the abdomen, chest, eye, and head of a child.⁵

Summary of Federal Law

There are no federal laws regulating the transfer, possession or use of non-powder guns. However, the Consumer Product Safety Commission (CPSC) has taken the position that non-powder guns and ammunition fall within its regulatory authority.⁶ Hence, non-powder guns are subject to generalized statutory limitations involving “substantial

¹ National Center for Injury Prevention and Control, U.S. Centers for Disease Control and Prevention, *Web-based Injury Statistics Query and Reporting System (WISQARS) Nonfatal Injury Reports 2005 and 2006*, at <http://webapp.cdc.gov/sasweb/ncipc/nfirates2001.html>.

² Jennifer E. Keller et al., *Air-Gun Injuries: Initial Evaluation and Resultant Morbidity*, 70 Am. Surgeon 484, 484 (June 2004).

³ Ann Marie McNeill & Joseph L. Annest, *The Ongoing Hazard of BB and Pellet Gun-Related Injuries in the United States*, 26 Annals Emergency Med. 187, 191-92 (Aug. 1995); Press Release, U.S. Consumer Product Safety Commission, *CPSC Chairman Challenges Toy Industry To Stop Producing Look-Alike Guns* (Oct. 17, 1994), at <http://www.cpsc.gov/CPSCPUB/PREREL/PRHTML95/95009.html>.

⁴ M. H. Nguyen et al., *Trends in BB/Pellet Gun Injuries in Children and Teenagers in the United States, 1985-99*, 8 Injury Prevention 185, 185 (2002).

⁵ *Id.*

⁶ See 15 U.S.C. § 2052(a)(1)(E); Rev. Rul. 67-453, 1967-2 C.B. 378; CPSC Advisory Opinion No. 127.

product hazard[s]” and articles that create “a substantial risk of injury to children.”⁷ However, the written standards that the CPSC relies on with respect to non-powder guns are voluntary standards.⁸

SUMMARY OF STATE LAWS REGULATING NON-POWDER GUNS

States that Regulate the Transfer, Use or Possession of Non-Powder Guns

California	Cal. Penal Code §§ 626.10, 12551-12552, 12556
Colorado	Colo. Rev. Stat. § 22-33-106(1)(d)(II)(b)
Connecticut	Conn. Gen. Stat. § 53-206(a)
Delaware	Del. Code Ann. tit. 11, §§ 1445, 1457
Florida	Fla. Stat. Ann. § 790.22
Illinois	430 Ill. Comp. Stat. 65/1.1
Massachusetts	Mass. Gen. Laws ch. 269, §§ 12A, 12B
Michigan	Mich. Comp. Laws § 750.222(d)
Minnesota	Minn. Stat. §§ 609.66, 624.7181
Mississippi	Miss. Code Ann. § 97-37-17(4)
New Jersey	N.J. Stat. Ann. § 2C:39-1(f)
New York	N.Y. Penal Law § 265.05
North Carolina	N.C. Gen. Stat. §§ 14-316, 14-269.2
North Dakota	N.D. Cent. Code § 62.1-01-01(1)
Pennsylvania	18 Pa. Cons. Stat. § 6304
Rhode Island	R.I. Gen. Laws § 11-47-2(3)
Virginia	Va. Code Ann. §§ 15.2-915.4, 22.1-277.07
Washington	Wash. Rev. Code Ann. § 9A.1.280(1)(e)
Wisconsin	Wis. Stat. § 948.61⁹

States that Define All Non-Powder Guns as Firearms

New Jersey
Rhode Island

States that Treat Certain Non-Powder Guns as Firearms

Illinois
Michigan

⁷ 15 U.S.C. §§ 1274(c)(1), (2), and (e); 2064. The CPSC has taken at least one enforcement action against a manufacturer of a non-powder gun on the grounds that the gun created a “substantial product hazard” and “a substantial risk of injury” to children. *See* Daisy Manufacturing Co; Complaint, 66 Fed. Reg. 56,082 (Nov. 6, 2001) (alleging that non-powder guns manufactured by Daisy Manufacturing Co. present a substantial product hazard and a substantial risk of injury to children); Daisy Manufacturing Company Provisional Acceptance of Settlement Agreement and Order, 68 Fed. Reg. 68,876 (Dec. 10, 2003) (accepting on behalf of the Consumer Product Safety Commission a consent agreement that imposed a series of labeling requirements on non-powder guns).

⁸ 15 U.S.C. § 2056(b)(1); *see also* S.K. Presnell, *Comment: Federal Regulation of BB Guns: Aiming to Protect Our Children*, 80 N.C.L.Rev. 975, 1015 (2002).

⁹ *See also In the Interest of Michelle A.D.*, 512 N.W.2d 248 (Wis. Ct. App. 1994) (finding that a BB gun is a dangerous weapon).

States that Define Non-Powder Guns as Dangerous Weapons

Connecticut
Delaware
North Dakota

States that Impose Age Restrictions on Possession, Use, or Transfer of Non-Powder Guns

California
Delaware
Florida
Illinois
Massachusetts
Minnesota
New York
North Carolina
Pennsylvania
Virginia

States that Explicitly Regulate Possession of Non-Powder Guns on School Grounds

California
Colorado
Delaware
Minnesota
Mississippi
North Carolina
Virginia
Washington
Wisconsin

Description of State Laws Regulating Non-Powder Guns

Nineteen states regulate the transfer, possession or use of non-powder guns to some degree. State non-powder gun regulations can be broken down into the following general categories:

1. *Defining All Non-Powder Guns as Firearms:* New Jersey and Rhode Island take this approach, which generally ensures that all non-powder guns are kept out of the hands of children (absent direct adult supervision), and that felons and other individuals prohibited from possessing firearms are similarly barred from possessing non-powder guns.
2. *Treating Certain Non-Powder Guns as Firearms:* Illinois and Michigan define high-power and/or large caliber non-powder guns as firearms. Illinois excludes from the definition of firearms non-powder guns of 18 caliber or less with a muzzle velocity of less than 700 feet per second. Michigan excludes the following non-powder guns from the definition of firearms: 1) smooth bore rifles or handguns designed and manufactured exclusively for propelling by gas or air; and 2) BB's, not exceeding .177 caliber,.

3. *Defining Non-Powder Guns as Dangerous Weapons:* Connecticut, Delaware and North Dakota list some or all non-powder guns as dangerous weapons. However, dangerous weapon laws tend to be much less comprehensive than laws regulating firearms. In Connecticut, it is unlawful to carry a dangerous weapon, although various exceptions exist for BB guns. It is also unlawful to transport a dangerous weapon in a vehicle without a permit. Delaware prohibits possession of dangerous weapons, which are defined to include certain large caliber BB or air guns. North Dakota applies enhanced penalties for the improper use or possession of dangerous weapons.

4. *Regulating Non-Powder Guns with Respect to Minors:* Most states that regulate non-powder guns do so by prohibiting transfers to children or by prohibiting/limiting where the guns can be possessed or used, although the restrictions are often inapplicable with parental consent or adult supervision. Depending on the state, the term “child” is defined as being anywhere from under 18 years of age to under 12 years of age. A number of states also criminalize the use or possession of non-powder guns on or near school property, or provide that such use or possession shall be grounds for expulsion.

SUMMARY OF SELECTED¹⁰ LOCAL LAWS REGULATING NON-POWDER GUNS

Local Laws Regulating Non-Powder Guns

Chicago	Chicago, Ill., Code §§ 4-144-140, 4-144-170, 4-144-180, 4-144-200, 4-144-210, 4-144-220
Cleveland	Cleveland, Ohio, Code § 627.10(a)
New York City	New York, N.Y., Admin. Code § 10-131(b)
Omaha	Omaha, Neb., Code § 20-195

Chicago: Chicago prohibits the sale of any air rifle or air gun without a dealer’s license. Dealers are required to submit daily reports of sales of air rifles and air guns. Dealers may not display air rifles or air guns in show cases, show windows, or on counters, and may not display any signs suggesting they are for sale. Purchasers are required to obtain a permit to purchase an air rifle or air gun from the Superintendent of Police. Permits may not be issued to minors or to persons who have been convicted of a crime. Chicago prohibits transfers of air rifles to persons under 18.

Cleveland: Cleveland prohibits any person from carrying or having in his or her possession or ready at hand any BB or pellet gun while at or about a public place.

¹⁰ 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.”

New York City: New York City prohibits the sale or possession of any air pistol or air rifle (defined as any instrument in which the propelling force is air or a spring) without an appropriate license. Persons who are licensed by the city to sell air pistols and rifles may do so only if they deliver the weapons to a location outside the city. Within the city, air pistol and rifle licensees may sell air pistols and rifles to each other. In addition, the use of air pistols and rifles in connection with “an amusement licensed by the department of consumer affairs” or at a shooting range is permitted. Air pistol or rifle dealers must keep records detailing the name and address of each purchaser and the place of delivery for each sale.

Omaha: Omaha prohibits any person from “knowingly or purposely” transporting or possessing off his or her premises any air gun or air rifle unless unloaded and contained in a gun case or broken down (several exceptions exist).

FEATURES OF COMPREHENSIVE LAW REGULATING NON-POWDER GUNS

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.

- Strict limits are imposed on the possession and sale of non-powder guns within the jurisdiction (*New York City*)
- If the sale and possession of non-powder guns are permitted within the jurisdiction, the most comprehensive approach is to define all non-powder guns as firearms, so that restrictions on purchase and possession by minors, felons and other prohibited purchasers will apply (*New Jersey, Rhode Island*)¹¹
- Alternatively, with respect to high-power and large caliber non-powder guns only:
 - all high-power and large caliber non-powder guns are defined as firearms, so that restrictions on purchase and possession by minors, felons and other prohibited persons will apply (*Illinois, Michigan*)
 - all transfers of high-power and large caliber non-powder guns are required to be made through a licensed firearms dealer, and the dealer is required to report all transfers to law enforcement
 - there is a registration mechanism for owners of high-power and large caliber non-powder guns¹²

¹¹ While Chicago does not define all non-powder guns as firearms, it requires that transfers of all non-powder guns be made through licensed dealers and be reported to law enforcement. Chicago also requires purchasers to obtain a permit, which may not be issued to persons under 18.

¹² See section on Registration of Firearms for features of comprehensive registration laws. The most comprehensive system of regulating the purchase, possession and ownership of firearms combines

- Minors are prohibited from possessing non-powder guns unless under direct adult supervision

registration of firearms with licensing of gun owners. Additional information on licensing of firearm owners is contained in the section on Licensing of Gun Owners or Purchasers.

Ammunition Regulation

Background

Firearms are designed to deliver ammunition. Without ammunition, firearms are no more dangerous than any blunt object, causing some scholars to refer to ammunition as the “actual agent of harm.”¹ While firearms are subject to various regulations (including licensing of dealers and background checks on prospective purchasers), ammunition is largely unregulated.

Laws regulating the purchase and possession of ammunition can help limit access by children, convicted felons and other prohibited persons, and can reduce the threat of firearms in the hands of these and other dangerous individuals. Except in a small number of states and municipalities that regulate ammunition transfers, ammunition purchasers are not subject to a background check, and sellers are not required to be licensed, keep a record of ammunition sales, or even request a purchaser to show proof of age. While federal law bans mail-order and internet firearm transactions, sales of ammunition by mail or over the internet are subject to no federal oversight.²

These and other measures would help reduce an important supply line of ammunition to persons who are prohibited from possessing firearms or who supply firearms and ammunition to criminals. A two-month study of Los Angeles’ ordinance requiring ammunition purchasers to present identification prior to purchase, and requiring ammunition sellers to maintain a sales log, found that prohibited purchasers accounted for nearly 3% of all ammunition purchasers over this period, acquiring roughly 10,000 rounds of ammunition.³ The study noted that a background check at the time of the transaction would have largely eliminated sales at retail outlets to these prohibited purchasers.⁴ In addition, ammunition sales records can be used by law enforcement to find prohibited possessors of ammunition and, likely, prohibited firearms possessors.⁵

Safe storage of ammunition is an important way to help reduce suicide and unintentional firearm injury. A 2005 study found that keeping a firearm unloaded and locked, with the ammunition stored separately, significantly decreased the risk of suicide and unintentional firearm injury and death involving both long guns and handguns.⁶

In addition, certain types of ammunition, such as armor-piercing handgun ammunition, 50 caliber rounds and Black Talon bullets, pose a particular danger to the public and to

¹ George E. Tita et al., *The Criminal Purchase of Firearm Ammunition*, 12 *Inj. Prevention* 308, 308 (2006).

² Massachusetts, which requires ammunition sellers to be licensed, has aggressively prosecuted unlicensed sellers who sell to its citizens over the internet. According to Massachusetts law, dealers must have a physical in-state location from which they conduct the ammunition sales. Mass. Gen. Laws ch. 140, § 122B. As of April, 2005, the Massachusetts Attorney General’s Office had obtained judgments against nine online firearms dealers for illegally selling ammunition over the internet. See Press Release, Office of Massachusetts Attorney General, *AG Reilly Stops Illegal Sale of Online Ammunition* (Apr. 6, 2005).

³ *The Criminal Purchase of Firearm Ammunition*, *supra* note 1, at 310.

⁴ *Id.*

⁵ *Id.*

⁶ David C. Grossman et al., *Gun Storage Practices and Risk of Youth Suicide and Unintentional Firearm Injuries*, 293 *JAMA* 707, 711, 712-13 (Feb. 2005).

law enforcement, and serve no legitimate sporting purpose. Strict controls on the manufacture, transfer and possession of these types of ammunition can help promote public safety.

Summary of Federal Law

Federal law governing ammunition is limited to prohibiting sales to and purchases by certain categories of persons, and prohibiting the manufacture, importation and sale of armor-piercing ammunition.

The federal Gun Control Act of 1968 imposed a series of regulations on ammunition manufacturers, dealers and purchasers. The Act required all ammunition manufacturers and dealers to be licensed and maintain ammunition sales logs, prohibited licensees from selling any ammunition to persons under age 18 and handgun ammunition to persons under age 21, and prohibited interstate sales to unlicensed purchasers (proscribing mail-order transactions).⁷ The Firearms Owners' Protection Act repealed most of these provisions, however, including the licensing of ammunition dealers, ammunition sales recordkeeping, and the ban on interstate transfers of ammunition to unlicensed purchasers.⁸ None has been reenacted by Congress.⁹

Prohibited Purchasers: Federal prohibited purchaser categories for firearms also apply to ammunition.¹⁰ Ammunition may not be sold or otherwise transferred to any person who:

- Is underage;
- Has been convicted of, or is under indictment for, a crime punishable by imprisonment for more than one year;
- Is a fugitive from justice;
- Is an unlawful user of or addicted to a controlled substance;
- Has been adjudicated as a mental defective or committed to a mental institution;
- Is an illegal alien;
- Has been dishonorably discharged from the military;
- Has renounced his or her U.S. citizenship;
- Is subject to a court order restraining him or her from harassing, stalking or threatening an intimate partner, his or her child or a child of a partner; or

⁷ Gun Control Act of 1968, Pub. L. No. 90-618, 82 Stat. 1213.

⁸ Firearms Owners' Protection Act, 99 Pub. L. No. 308, 100 Stat. 449 (1986). Recordkeeping continues to be required for transfers of armor-piercing ammunition. *See infra* note 19 and accompanying text.

⁹ In the mid-1990s, Congress, led by Senator Daniel Patrick Moynihan and then-Representative Charles Schumer, debated several proposals to regulate ammunition. The most far reaching of these bills would have reinstated the ban on mail-order sales of ammunition, brought ammunition under the Brady Act (requiring background checks at the time of transfer), limited the number of rounds a person could own, required ammunition dealer licensing with high licensing fees, placed strict sales restrictions on specific types of handgun ammunition disproportionately used in crime, and imposed high taxes on all ammunition. To date, none of these proposals has been adopted. For more information about these proposals, *See* Brendan J. Healey, *Plugging the Bullet Holes in U.S. Gun Law: An Ammunition-Based Proposal for Tightening Gun Control*, 32 J. Marshall L. Rev. 1 (Fall 1998); Scott D. Dailard, *The Role of Ammunition in a Balanced Program of Gun Control: A Critique of the Moynihan Bullet Bills*, 20 J. Legis. 19 (1994).

¹⁰ Additional information on restrictions on firearm sales and purchases is contained in the section on Prohibited Purchasers.

- Has been convicted of a misdemeanor offense of domestic violence.¹¹

Federal law does not require ammunition sellers to conduct background checks to determine if a prospective purchaser falls into a prohibited category, however.

Minimum Age to Purchase or Possess Ammunition: Federal minimum age laws governing firearms also apply to ammunition used for those firearms. Federally licensed firearms dealers (FFLs) are prohibited from selling or transferring a shotgun or rifle, or ammunition for a shotgun or rifle, to any person the dealer knows or has reasonable cause to believe is under the age of 18.¹² Federal law provides no age limitations with respect to the sale of a long gun or long gun ammunition by an unlicensed person.

FFLs are prohibited from selling or transferring handguns or handgun ammunition to any person the dealer knows or has reasonable cause to believe is under the age of 21.¹³ Unlicensed persons may not sell, deliver or otherwise transfer a handgun or handgun ammunition to any person the transferor knows or has reasonable cause to believe is under the age of 18.¹⁴

Federal law prohibits, with certain exceptions, the possession of a handgun or handgun ammunition by any person under the age of 18.¹⁵ Federal law provides no minimum age for the possession of long guns or long gun ammunition.

Federal law does not require ammunition sellers to conduct background checks or otherwise verify that a prospective purchaser is of legal age to purchase or possess ammunition.

Licensing of Ammunition Manufacturers or Importers: Federal law requires any person engaged in importing or manufacturing ammunition to obtain a license from the Attorney General.¹⁶

Armor-Piercing Ammunition: Federal law prohibits the manufacture, importation, sale or delivery of armor-piercing ammunition, with very limited exceptions.¹⁷ Licensed dealers are prohibited from “willfully” transferring armor-piercing ammunition.¹⁸ Federally

¹¹ 18 U.S.C. § 922(b)(1), (d), (x)(1).

¹² 18 U.S.C. § 922(b)(1), (c)(1).

¹³ *Id.*

¹⁴ 18 U.S.C. § 922(x)(1), (5).

¹⁵ 18 U.S.C. § 922(x)(2), (5).

¹⁶ 18 U.S.C. § 923(a).

¹⁷ 18 U.S.C. §§ 921(a)(17), 922(a)(7), (8); 27 C.F.R. § 478.37. Specific exceptions exist for armor-piercing ammunition that is manufactured for certain federal and state government divisions, exportation, or testing. 18 U.S.C. §§ 921(a)(17)(C), 922(a)(7), 922(a)(8); 27 C.F.R. § 478.37. The Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) may also exempt certain armor-piercing ammunition primarily intended for sporting or industrial purposes. 27 C.F.R. § 478.148.

¹⁸ An exception exists for ammunition that was received and maintained by the dealer as business inventory prior to August 28, 1986, which may be transferred to federal, state or local law enforcement. 27 C.F.R. § 478.99(e).

licensed dealers, to the extent they can transfer armor-piercing ammunition, must keep a record of any transfer.¹⁹

Armor-piercing ammunition, sometimes referred to as metal-piercing ammunition, is ammunition that is designed primarily to penetrate metal or armor, including body armor commonly worn by police officers. Under federal law, armor-piercing ammunition is defined as any projectile or projectile core that may be used in a handgun and that is constructed entirely from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium.²⁰ In addition, armor-piercing ammunition is defined as a full jacketed projectile “larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.”²¹

SUMMARY OF STATE LAWS REGULATING AMMUNITION

State Laws Requiring Licenses for Ammunition Sellers and/or Regulating Ammunition Sales

District of Columbia	D.C. Code Ann. §§ 7-2504.01, 7-2504.04(a)(3), 7-2504.07, 7-2531.01
Maryland	Md. Code Ann., Pub. Safety §§ 11-105(b)(1), 11-105(d)
Massachusetts	Mass. Gen. Laws ch. 140, §§ 122B, 124
Minnesota	Minn. Stat. § 609.663
Washington	Wash. Rev. Code Ann. §§ 9.41.010(10), 9.41.110(3)

State Laws Requiring a License to Purchase or Possess Ammunition

District of Columbia	D.C. Code Ann. §§ 7-2504.01(b), 7-2505.02(b), (d), (e)
Illinois	430 Ill. Comp. Stat. 65/2(a)(1), (2), 65/4, 65/8
Massachusetts	Mass. Gen. Laws ch. 140, §§ 129B, 129C, 131, 131A, 131E
New Jersey	N.J. Stat. Ann. § 2C:58-3.3 (adopted January 2008)

¹⁹ 18 U.S.C. § 922(b)(5).

²⁰ 18 U.S.C. § 921(a)(17); 27 C.F.R. § 478.11.

²¹ *Id.* The Attorney General is required to furnish information to each licensed dealer defining which projectiles are considered armor-piercing ammunition as defined in 18 U.S.C. § 921(a)(17)(B). 18 U.S.C. § 923(k). The federal definition of armor-piercing ammunition, which is based on its content and weight, rather than on the ammunition’s actual performance against body armor, has been criticized because it fails to halt the manufacture and sale of all types of ammunition that can penetrate body armor. Violence Policy Center, *Sitting Ducks: The Threat to the Chemical and Refinery Industry From 50 Caliber Sniper Rifles* 20 (Aug. 2002), available at <http://www.vpc.org/studies/duckcont.htm>. See also Violence Policy Center, *Vest Buster: The .500 Smith & Wesson Magnum – The Gun Industry’s Latest Challenge to Law Enforcement Body Armor* 25 (June 2004), available at <http://www.vpc.org/graphics/S&W500%20final.pdf>. The existing ban on armor-piercing ammunition can be made more effective by adopting performance standards that require ammunition to be tested for its ability to penetrate bullet-resistant vests and body armor, as opposed to the existing standard based on the bullet’s content. *Sitting Ducks, supra*. International Association of Chiefs of Police, *Taking a Stand: Reducing Gun Violence in Our Communities* 27 (Sept. 2007).

State Laws Prohibiting Certain Persons from Purchasing or Possessing Ammunition

Alaska	Alaska Stat. § 33.16.150(b)(1)
California	Cal. Penal Code §§ 12101, 12316
Delaware	Del. Code Ann. tit. 11 § 1448
Florida	Fla. Stat. Ann. §§ 790.23 – 790.235
Hawaii	Haw. Rev. Stat. Ann. § 134-7
Illinois	430 Ill. Comp. Stat. 65/2, 65/8
Michigan	Mich. Comp. Laws § 750.223(3)
Nevada	Nev. Rev. Stat. Ann. § 202.362(1)
North Dakota	N.D. Cent. Code §§ 62.1-02-01, 62.1-02-08,
Tennessee	Tenn. Code Ann. § 39-17-1303(a)(2)
Texas	Tex. Penal Code Ann. § 46.06(a)(3) – (4)

State Laws Imposing a Minimum Age to Purchase or Possess Ammunition

Arizona	Ariz. Rev. Stat. §§ 1-215(22), 13-3109
California	Cal. Penal Code §§ 12101(b), 12316(a)
Delaware	Del. Code Ann. tit. 11, § 1445(4)
District of Columbia	D.C. Code Ann. § 7-2507.06(1)
Idaho	Idaho Code Ann. § 18-3308
Illinois	430 Ill. Comp. Stat. 65/2, 65/4
Iowa	Iowa Code § 724.22(1)-(5)
Maine	Me. Rev. Stat. Ann. tit. 17-a, § 554(1)(B)
Maryland	Md. Code Ann., Pub. Safety § 5-133(d)
Massachusetts	Mass. Gen. Laws ch. 140, § 130
Minnesota	Minn. Stat. § 609.66
New Jersey	N.J. Stat. Ann. § 2C:58-3.3c (adopted January 2008)
New York	N.Y. Penal Law § 265.05
Rhode Island	R.I. Gen. Laws §§ 11-13-3(a), 11-47-31(a), 11-47-32
South Dakota	S.D. Codified Laws § 23-7-46
Vermont	Vt. Stat. Ann. tit. 13, § 4007

States Laws Regulating Ammunition at Gun Shows

California	Cal. Penal Code § 12071.4(d)
Maine	Me. Rev. Stat. Ann. tit. 15, § 455-A(1-A)

States Laws Restricting where Ammunition May be Carried

California	Cal. Penal Code § 12316(c)
Minnesota	Minn. Stat. § 609.66, Subd. 1g

States Laws Requiring the Safe Storage of Ammunition in the Home

Hawaii	Haw. Rev. Stat. Ann. § 134-27
Washington	Wash. Rev. Code Ann. § 70.74.330

States Laws Regulating Certain Types of Unreasonably Dangerous Ammunition

Alabama	Ala. Code § 13A-11-60
California	Cal. Penal Code §§ 12020, 12022.2(a), 12301, 12303, 12303.6, 12305, 12320, 12321, 12323
Connecticut	Conn. Gen. Stat. § 53-202I
District of Columbia	D.C. Code Ann. §§ 7-2501.01(2), (13a), 7-2505.02(b), 7-2506.01(3), 7-2507.06(3)
Florida	Fla. Stat. Ann. § 790.31
Hawaii	Haw. Rev. Stat. Ann. § 134-8(a)
Illinois	720 Ill. Comp. Stat. 5/24-1(a)(11), 5/24-2.1, 5/24-2.2, 5/24-3.1(a)(6), 5/24-3.2
Indiana	Ind. Code Ann. § 35-47-5-11
Iowa	Iowa Code §§ 724.1(7), 724.2, 724.3
Kansas	Kan. Stat. Ann. § 21-4201(a)(8)
Kentucky	Ky. Rev. Stat. Ann. §§ 237.060, 237.080, 527.080
Louisiana	La. Rev. Stat. Ann. §§ 40:1810 – 40:1812
Maine	Me. Rev. Stat. Ann. tit. 17-A, § 1056
Michigan	Mich. Comp. Laws § 750.224c
Minnesota	Minn. Stat. § 624.74
Mississippi	Miss. Code Ann. § 97-37-31
Missouri	Mo. Rev. Stat. § 571.150
Nevada	Nev. Rev. Stat. Ann. § 202.273(1)
New Hampshire	N.H. Rev. Stat. Ann. § 159:18
New Jersey	N.J. Stat. Ann. §§ 2C:39-3(f), 2C:39-9(f)(1)
New York	N.Y. Penal Law §§ 265.00(18), 265.01(7), (8)
North Carolina	N.C. Gen. Stat. § 14-34.3(a)
Oklahoma	Okla. Stat. tit. 21, §§ 1289.19 – 1289.22
Oregon	Or. Rev. Stat. § 166.350
Pennsylvania	18 Pa. Cons. Stat. § 6121(a)
Rhode Island	R.I. Gen. Laws §§ 11-47-20.1 – 11-47-20.3
South Carolina	S.C. Code Ann. § 16-23-520
Tennessee	Tenn. Code Ann. §§ 39-17-1301(10), 39-17-1304(a), (b)
Texas	Tex. Penal Code Ann. §§ 46.01(12), 46.05(a)(7)
Utah	Utah Code Ann. § 65A-3-2(1)(d)
Virginia	Va. Code Ann. § 18.2-308.3
Wisconsin	Wis. Stat. § 941.296(2)

Description of State Laws Regulating Ammunition

1. *State Laws Requiring Licenses for Ammunition Sellers and/or Regulating the Sale of Ammunition:* Four states (Maryland, Massachusetts, Minnesota and Washington) and the District of Columbia impose licensing or other sales requirements relating to ammunition.

Massachusetts requires anyone selling ammunition to obtain a license. The District of Columbia requires all persons who regularly engage in the business of selling

ammunition to obtain a license.²² In Washington, firearms dealers are required to obtain a license to transfer firearms and ammunition.²³ Maryland requires any person engaging in the business of “loading or reloading small arms ammunition” to obtain a license.

The District of Columbia requires ammunition dealers to keep a record of all ammunition received into inventory and/or subsequently sold or transferred, including the brand and number of rounds of each caliber or gauge, the registration certificate number of the firearm for which the ammunition is purchased, the date of the transfer and the price. The records are subject to inspection on demand by the District Metropolitan Police Department during normal business hours. Licensed dealers may not display any ammunition in windows visible from a street or sidewalk, and all ammunition must be kept in a securely locked place except when being shown to a customer or being repaired.

Minnesota does not require a license to sell ammunition, but prohibits the display of centerfire metallic-case handgun ammunition for sale to the public in a manner that makes the ammunition directly accessible to persons under age 18, unless the display is under observation of the seller or the seller’s employee or agent, or the seller takes reasonable steps to exclude underage persons from the immediate vicinity of the display.

2. *State Laws Requiring a License to Purchase or Possess Ammunition:* Illinois, Massachusetts, New Jersey and the District of Columbia require a license for all ammunition purchasers or possessors.

The District of Columbia provides that a licensed dealer may transfer ammunition only to limited categories of persons: 1) another licensed dealer; 2) a law enforcement officer; 3) a person with a registration certificate for a firearm or who held an ammunition collector’s certificate on September 24, 1976; or 4) to non-resident persons or businesses. The ammunition to be sold or transferred must be of the same caliber or gauge as the firearm described in the registration certificate. In the case of non-residents, purchasers must provide proof that the weapon is lawfully possessed in the jurisdiction where the person resides and is of the same gauge as the ammunition to be purchased. All transfers must be made in person, and the purchaser is required to sign a receipt which is maintained by the dealer for one year.

Illinois requires residents to obtain a valid Firearm Owner’s Identification (FOID) card before they can lawfully purchase or possess ammunition.²⁴

Massachusetts requires a firearm permit or license to purchase or possess ammunition. Any person with a Class A license is permitted to purchase, rent, lease, borrow, possess and carry all types of lawful firearms, including both large and non-large capacity handguns, rifles, shotguns, and feeding devices and ammunition for these firearms. Class

²² The District of Columbia prohibits the manufacture of ammunition. D.C. Code Ann. § 7-2504.01.

²³ A 1994 opinion by the Washington Attorney General concluded that a person who sells ammunition but does not also deal in firearms is not defined as a “dealer,” and thus is not required to obtain a license under Wash. Rev. Code Ann. § 9.41.110. 1994 Op. Att’y Gen. Wash. No. 22 (Dec. 13, 1994), 1994 Wash. AG LEXIS 71.

²⁴ For detailed information on the requirements for a FOID card under Illinois law, see section on Licensing of Gun Owners or Purchasers.

B license holders may purchase, rent, lease, borrow, possess and carry “non-large capacity” handguns, or any rifle or shotgun, including large capacity rifles and shotguns, and feeding devices and ammunition for these firearms.

Alternatively, in Massachusetts, any person may purchase and possess rifles, shotguns and “non large capacity” feeding devices and ammunition for rifles and shotguns with a valid firearm identification (FID) card. To purchase a handgun and ammunition for a handgun, a FID card holder must also obtain a permit to purchase a handgun.²⁵

New Jersey prohibits any person from selling or otherwise transferring, or purchasing or otherwise acquiring, any handgun ammunition unless the transferee is a licensed dealer, wholesaler or manufacturer, or possesses a valid Firearms Purchaser Identification Card, a valid copy of a permit to purchase a handgun, or a valid permit to carry a handgun and first exhibits such card or permit to the seller or transferor.²⁶

3. *State Laws Prohibiting Certain Persons from Purchasing or Possessing Ammunition*²⁷

Eleven states (Alaska, California, Delaware, Florida, Hawaii, Illinois, Michigan, Nevada, North Dakota, Tennessee, Texas) prohibit certain persons from purchasing or possessing ammunition. California, Delaware, Florida, Hawaii, Illinois and North Dakota prohibit the purchase or possession of ammunition by the same categories of persons who are ineligible to purchase or possess firearms under state law.²⁸ Similarly, Nevada prohibits the sale of ammunition to the same persons to which it prohibits the sale of firearms.

Michigan²⁹ and Texas³⁰ prohibit the transfer of ammunition to some, but not all, of the same categories of persons who are prohibited from purchasing firearms under state law.

In Alaska, the state parole board may require as a condition of special medical, discretionary, or mandatory parole, that a prisoner released on parole not possess or control ammunition.

²⁵ For detailed information on licensing requirements for firearm owners in Massachusetts, *see* section on Licensing of Gun Owners or Purchasers.

²⁶ N.J. Stat. Ann. § 2C:58-3.3a, b,; effective April 1, 2008.

²⁷ Federal law provides the minimum standards for the purchase or possession of ammunition. The transfer or possession of ammunition in all states is still governed by federal law, unless a state has adopted stricter standards.

²⁸ *See* section on Prohibited Purchasers for more information on state law restrictions on firearm sales and purchases.

²⁹ Ammunition sellers in Michigan may not sell to any person convicted of, or under indictment for, a felony (defined as a violation of federal or state law that is punishable by imprisonment for 4 years or more) until 5 years have passed since the person was released from imprisonment and completed all conditions or probation and parole. Mich. Comp. Laws § 28.422(3).

³⁰ Texas prohibits any person from intentionally, knowingly, or recklessly selling ammunition to any person who is intoxicated, and from knowingly selling ammunition to any person who has been convicted of a felony before the fifth anniversary of the later of: 1) the person’s release from confinement following conviction of the felony; or 2) the person’s release from supervision under community supervision, parole, or mandatory supervision following conviction of the felony.

Tennessee prohibits any person from intentionally, knowingly or recklessly selling ammunition to an intoxicated person.

4. *State Laws Imposing a Minimum Age to Purchase or Possess Ammunition:* Fifteen states and the District of Columbia impose a minimum age for purchase and/or possession of ammunition. Many of these state laws have exceptions for minors who have the consent of a parent or guardian.

a. *Under 21:* Illinois generally prohibits persons under age 21 from obtaining a Firearm Owner's Identification card, required to purchase or possess ammunition. Maryland prohibits the possession of ammunition designed for a handgun or assault weapon by a person under age 21. Massachusetts prohibits the sale of ammunition for a handgun, large capacity weapon or large capacity feeding device to a person under age 21. California and Iowa prohibit any person, corporation or dealer from selling handgun ammunition to persons under age 21. New Jersey prohibits any person from selling, giving, transferring, assigning or otherwise disposing of handgun ammunition to a person under age 21.

b. *Under 18:* Arizona, California (long gun ammunition), Delaware, Iowa (long gun ammunition), Massachusetts (long gun ammunition), Rhode Island, South Dakota and the District of Columbia limit the transfer of ammunition to, or purchase or possession of ammunition by, persons age 18 or older.³¹ Minnesota generally bans furnishing ammunition to a child under 18 years of age without the consent of the minor's parent or guardian or the police department of the municipality.³²

c. *Under 16:* Idaho, Maine, New York and Vermont prohibit the transfer of ammunition to, or purchase or possession of ammunition by, persons under 16.

5. *State Laws Regulating Ammunition at Gun Shows:* Only California and Maine regulate ammunition at gun shows in some manner.

In California, ammunition at a gun show can be displayed only in closed containers, unless the seller is showing the ammunition to a prospective buyer. In addition, no person at a gun show in California, other than security personnel or sworn peace officers, can possess at the same time both a firearm and ammunition that is designed to be fired in the firearm. Vendors selling such items at the show are exempt.

Maine requires that a warning regarding the safe storage of firearms and ammunition be conspicuously posed at all entrances of an organized gun show.

6. *State Laws Restricting where Ammunition May be Carried:* Two states, California and Minnesota, restrict the locations where ammunition may be carried. California prohibits carrying ammunition onto school grounds. Minnesota prohibits: 1)

³¹ In addition, South Dakota prohibits any person from selling, transferring, giving, loaning, furnishing, or delivering ammunition to any person under age 18, if such person knows or reasonably believes that the minor intends, at the time of transfer, to use the firearm or ammunition in the commission or attempted commission of a crime of violence.

³² Minnesota generally bans furnishing ammunition to a child under 14 years of age outside a municipality.

possessing ammunition within any courthouse complex; and 2) possessing ammunition in any state building within the Capitol Area other than the National Guard Armory.

7. *State Laws Requiring the Safe Storage of Ammunition:* Two states, Hawaii and Washington, require safe storage of ammunition. Hawaii requires all ammunition to be confined to the possessor's business or residence and only allows for the limited transport of ammunition in an enclosed container away from these locations. Washington requires small arms ammunition to be stored away from flammable liquids.

Many states require, by statute or regulation, that any firearms and ammunition kept or stored in child day care facilities, foster homes or similar locations be stored separately from each other, in locked safes or other containers.³³

8. *State Laws Regulating Certain Types of Unreasonably Dangerous Ammunition:* Thirty-one states and the District of Columbia regulate the sale, purchase, possession, use, manufacture, importation and/or transportation of certain types of ammunition that pose particular threats to public safety and serve no reasonable hunting, target shooting, or self-defense purpose.

a. *States Regulating Armor-Piercing Ammunition:* 29 states and the District of Columbia regulate armor-piercing or metal-piercing ammunition. This is commonly defined as ammunition made of specific materials that is designed to be fired in a handgun and to penetrate metal or armor, including body armor commonly worn by police officers.

(1) Sale or Transfer: Nineteen states (Alabama, California, Florida, Hawaii, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Nevada, New Jersey, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina and Texas) and the District of Columbia prohibit the sale or transfer of armor-piercing ammunition.

(2) Purchase or Acquisition: Eight states (Hawaii, Illinois, Kansas, Louisiana, North Carolina, Oregon, Rhode Island and South Carolina) prohibit the purchase or acquisition of armor-piercing ammunition.³⁴

(3) Possession: Sixteen states (Alabama, California, Hawaii, Illinois, Indiana, Kansas, Louisiana, Maine, Michigan, Mississippi, New Jersey, North Carolina, Oklahoma, Oregon, South Carolina and Texas) and the District of Columbia prohibit possession or use of armor-piercing ammunition. In addition, New York prohibits the possession of armor piercing ammunition with the intent to use it unlawfully against another, and Florida prohibits possession of armor piercing ammunition if the possessor knows of its capabilities and it is loaded in a handgun, or if the possessor has the intent to use the ammunition to assist in a criminal act.

³³ See, e.g., Ariz. Rev. Stat. § 41-1967, 225 Ill. Comp. Stat. 10/7, Ind. Code Ann. § 12-17.2-3.5-11, Mich. Admin. Code r. 400.12416(b), 391 Neb. Admin. Code § 6-007.07, Or. Admin. R. 414-350-0170(10)(d)), Nev. Admin. Code § 424.600, 22 Va. Admin. Code § 40-141-200.

³⁴ In Oregon, the statute requires an intent that ammunition be used in the commission of a felony.

(4) Manufacture: Eighteen states (California, Florida, Hawaii, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Nevada, New Jersey, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina and Texas) prohibit the manufacture of armor-piercing ammunition.

(5) Importation: Six states (California, Kentucky, Louisiana, North Carolina, Oklahoma and Rhode Island) prohibit importation of armor-piercing ammunition.

(6) Transportation: Seven states (California, Illinois, New Jersey, North Carolina, Oklahoma, South Carolina and Texas) prohibit transportation or carrying of armor-piercing ammunition.

(7) Other laws governing armor-piercing ammunition: Several states criminalize, or provide enhanced sentences for, the use or possession of armor-piercing ammunition in the commission or attempted commission of particular crimes. Alabama, California, Florida, Kentucky, Minnesota, Missouri, New Hampshire, Oregon, Pennsylvania, Rhode Island, Tennessee, Virginia and Wisconsin prohibit the possession or use of armor-piercing ammunition in the commission or attempted commission of a crime. Rhode Island specifically criminalizes the use of armor-piercing ammunition in the shooting of a law enforcement officer.

Connecticut prohibits distributing, transporting, importing, keeping for sale, offering for sale or giving any “armor piercing .50 caliber bullet.”³⁵

b. States Regulating Other Types of Ammunition

(1) Exploding Ammunition:³⁶ Eight states (California, Florida, Hawaii, Illinois, Iowa, New Hampshire, New York and Tennessee) regulate bullets or projectiles that are designed to explode, segment or detonate upon impact with a target.

³⁵ Fifty caliber rifle rounds are exceptionally dangerous, and possess great destructive power. Their use in the 50 caliber rifle, a weapon currently popular with the military but available to the general public, poses a particular threat, in light of the fact that the rifle can hit a target accurately from 1,000 to 2,000 yards. Violence Policy Center, *Voting from the Rooftops: How the Gun Industry Armed Osama bin Laden, Other Foreign and Domestic Terrorists, and Common Criminals with 50 Caliber Sniper Rifles* 8 (Oct. 2001) available at <http://www.vpc.org/studies/roofcont.htm>. When these cartridges are designed with armor-piercing and incendiary qualities, which allow the shooter to pierce armor-reinforced vehicles and ignite and explode targets containing flammable liquids, the destructive power is significantly enhanced. *Id.* at 12-20. See generally *Sitting Ducks*, *supra* note 21. This ammunition is widely available on the civilian market, fueled by the sale of surplus ammunition from the U.S. military. See Minority Staff Report, Committee on Government Reform, U.S. House of Representatives, *Fifty Caliber Armor Piercing Military Ammunition in the United States Civilian Market* 5-10, Prepared for Rep. Rod R. Blagojevich and Rep. Henry A. Waxman (June 18, 1999). Additional information on fifty caliber rifles is contained in the section on Fifty Caliber Rifles.

³⁶ Exploding bullets, sometimes referred to as “frangible” bullets, are designed to explode, segment or detonate upon impact with a target. See [GlobalSecurity.org, Military Munitions, Frangible Ammunition](http://www.globalsecurity.org/military/systems/munitions/frangible.htm), <http://www.globalsecurity.org/military/systems/munitions/frangible.htm> (last visited Jan. 15, 2008).

California,³⁷ Florida, Hawaii, Illinois and Tennessee prohibit sale, transfer and manufacture of exploding ammunition. Hawaii and Illinois also prohibit acquisition of such ammunition, while California prohibits importation of exploding ammunition.

California, Hawaii and Illinois prohibit possession of exploding ammunition, while Tennessee prohibits use of such ammunition.

Iowa and New York generally prohibit any person from possessing any bullet or projectile containing any explosive substance designed to explode or detonate upon impact. Florida prohibits possession of exploding ammunition if the possessor knows of its exploding capabilities when loaded in a handgun, or intends to use an exploding bullet in the commission of a criminal act. New Hampshire prohibits the use or attempted use of any bullet or cartridge containing an explosive substance designed to explode upon impact when the person is committing any misdemeanor or felony.

(2) Flechette Ammunition: Three states (California, Florida and Illinois) regulate flechette ammunition, which are shells that expel two or more pieces of solid metal wire, or two or more solid dart-type projectiles.³⁸ California and Florida prohibit the manufacture and transfer of such ammunition. California also prohibits importation and possession of this ammunition.

Florida prohibits possession of flechette ammunition if the possessor knows of its capabilities and it is loaded in a firearm, or if the possessor has the intent to use a flechette shell in the commission of a criminal act.

Illinois prohibits manufacture, sale, purchase, possession, or carrying of any flechette shell, as well as the manufacture, sale or transfer of shells represented to be flechette shells. Illinois also bans the knowing or reckless discharge of a flechette shell.

(3) Incendiary Ammunition: Connecticut and Utah regulate incendiary ammunition. Connecticut bans distribution, transportation or importation into the state, keeping or offering for sale, or giving away of any incendiary .50 caliber bullet. This banned projectile is defined as a bullet that is designed for the purpose of, held out by the manufacturer or distributor as, or generally recognized as having a specialized capability to ignite upon impact, including, but not limited to, such bullets commonly designated as “M1 Incendiary,” “M23 Incendiary,” “M8 Armor-Piercing Incendiary” or “API,” or “M20 Armor-Piercing Incendiary Tracer” or “APIT.”

Utah bans firing any incendiary ammunition on state lands, except within the confines of an established military reservation. The state does not define incendiary ammunition.

³⁷ California Penal Code §§ 12301, 12303, 12303.6 prohibit the possession, sale, offer for sale, or knowing transportation of a “destructive device,” defined to include “[a]ny projectile containing any explosive or incendiary material” and any “explosive missile.” California Penal Code § 12305 provides for the limited issuance of permits to possess or transport any destructive device, issued at the discretion of the California Department of Justice.

³⁸ See Cal. Penal Code § 12020(a)(1); Fla. Stat. Ann. § 790.31.

(4) Dragon's Breath & Bolo Shell Ammunition: Three states, Florida, Illinois and Iowa, regulate dragon's breath ammunition. Dragon's breath ammunition is a type of shotgun shell that contains exothermic pyrophoric mesh metal as the projectile and that is designed for the sole purpose of throwing or spewing a flame or fireball to simulate a flamethrower.³⁹

A bolo shell is another type of shotgun shell that expels as projectiles two or more metal balls connected by solid metal wire.⁴⁰

Florida prohibits manufacture, sale, offering for sale or delivery of any dragon's breath or bolo shells. Possession of such ammunition is prohibited if the possessor knows of its capabilities and it is loaded in a firearm, or if the possessor intends to use such shells in the commission of a criminal act.

Illinois prohibits manufacture, sale, purchase, possession, or carrying of any dragon's breath or bolo shell. Illinois also prohibits manufacture, sale or transfer of shells represented to be dragon's breath or bolo shells, as well as the knowing or reckless discharge of a dragon's breath or bolo shell.

Iowa generally prohibits possession of dragon's breath ammunition.

(5) Flanged Ammunition: Kentucky prohibits the use of firearms loaded with flanged ammunition during the commission of a felony. Flanged ammunition is ammunition with a soft lead core and sharp flanges that are designed to expand upon impact.⁴¹

(6) Hollow Nose or Dum-Dum Ammunition:⁴² New Jersey prohibits hollow nose or dum-dum ammunition, which are terms associated with bullets designed to expand on impact. New Jersey prohibits possession of any hollow nose or dum-dum bullet. These terms are not specifically defined under New Jersey law.

³⁹ See Fla. Stat. Ann. § 790.31(1)(d); 720 Ill. Comp. Stat. 5/24-2.1. See also Holt Bodinson, *Of Dragon's Breath and Hammer-shells: From Bizarre to Basic, these Shotshells Can 'Lighten-up' Your Life!*, Guns Magazine (Sept. 2004), available at http://findarticles.com/p/articles/mi_m0BQY/is_9_50/ai_n6125526.

⁴⁰ See Fla. Stat. Ann. § 790.31(1)(e); 720 Ill. Comp. Stat. 5/24-2.1. See also Answers.com, Bolo Shell, <http://www.answers.com/topic/bolo-shell> (last visited Jan. 25, 2008).

⁴¹ Ky. Rev. Stat. Ann. §§ 237.060, 527.080.

⁴² Hollow nose, or hollow point, bullets have a cavity in the nose of the projectile, which causes the bullet to expand once it hits a target and inflict greater damage than a bullet without such a point. Black Talon bullets are a notorious type of hollow point bullet that, despite much media attention, have not been regulated. Black Talon rounds are distinct from other hollow point bullets because they possess a special barbed configuration designed to deploy on impact with a target and expand the size of wound tracts to maximize tissue trauma. Firearms Tactical Institute, *Winchester Black Talon Revisited, Tactical Briefs #12* (Dec. 1998), available at <http://www.firearmstactical.com/briefs12.htm>; see also *The Role of Ammunition in a Balanced Program of Gun Control: A Critique of the Moynihan Bullet Bills*, supra note 9, at 27. Although Black Talons do not fit under the federal definition of armor-piercing ammunition, publicity about their dangers, including their use in the 101 California Street shooting in San Francisco in 1993, drove the manufacturer, Winchester, voluntarily to pull the bullets from the civilian market and sell Black Talons exclusively to law enforcement. Winchester is not legally barred from selling Black Talons on the civilian market, however. Judy Pasternak, *Column One; Taking Aim at Exotic Bullets; Lawmakers Move to Regulate the Ammunition Industry, as the Market Grows for Vicious Rounds Like Blammo Ammo. But Some Gun Experts & Police Say Such Controls Could be Duds*, L.A. Times, Jan. 11, 1994, at A1.

SUMMARY OF SELECTED⁴³ LOCAL LAWS REGULATING AMMUNITION

Local Laws Regulating Ammunition⁴⁴

Chicago	Chicago, Ill., Code §§ 4-144-061, 4-144-080, 4-380-070(a), 8-20-030(a), (i), (j), 8-20-160, 8-20-170(b) (f), 8-24-025, 8-24-026, 15-28-755(a), (b)
Los Angeles	Los Angeles, Cal., Code ch. II, art. 1, § 21.167.1; ch. IV, art. 5, §§ 45.01(l), 45.02; ch. V, art. 5, §§ 55.09, 55.11, 55.12.1, 55.17(2), 57.55.10(A)
New York City	New York, N.Y. Admin. Code §§ 10-131(i), 10-306, 10-308, § 27-4041; New York, N.Y., Rules tit. 38, §§ 1-02, 1-05, 1-06, 2-06, 2-07, 3-07, 3-11, 3-14, 4-04, 5-23
Omaha	Omaha, Neb., Code § 19-392.1, 20-198, 20-199
San Francisco	San Francisco, Cal., Police Code art. 9, §§ 613, 613.1(b) – (c), 613.10(e) – (i), 613.10-1, 615; Ord. 3600A

Chicago: Chicago prohibits the sale or other transfer of most types of ammunition. No person may display any signs, posters or display cards suggesting the sale of any banned ammunition. Only licensed weapons dealers, shooting galleries or gun clubs may transfer ammunition. The sale of ammunition may not be licensed as a home occupation.

Chicago prohibits the possession of ammunition unless the person has registered with the City a firearm of the same gauge or caliber as the ammunition, and possesses the registration certificate for the firearm while in possession of the ammunition.⁴⁵

Chicago specifically prohibits the transfer, acquisition or possession of assault ammunition. The city also bans the transfer, acquisition, possession or manufacture of fragmenting or metal-piercing bullets or disc projectile ammunition.⁴⁶

⁴³ 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."

⁴⁴ Baltimore, Maryland implemented another innovative approach to ammunition sales, using municipal health code authority to change zoning laws and restrict ammunition sales to a certain distance from parks, churches, schools, public buildings and places of public assembly. Baltimore also requires that all ammunition sellers implement business practices requiring registration with the health department, requiring purchasers to show photo identification, and maintaining a log of every ammunition sale. These changes decreased the number of businesses eligible to sell ammunition by 46%. Nancy L. Lewin et al., *The Baltimore Youth Ammunition Initiative: A Model Application of Local Public Health Authority in Preventing Gun Violence*, 95 Am. J. Pub. Health 762, 763 (May 2005).

⁴⁵ For more information about Chicago's requirements for registration of firearms, see section on Registration of Firearms.

Chicago also prohibits storing any ammunition in any self-service storage facility or residential storage facility.

Los Angeles: Los Angeles prohibits any licensed firearms dealer or vendor involved in the retail sale of ammunition to sell or otherwise transfer ammunition without recording at the time of transfer the: 1) date of the transaction; 2) name, address and date of birth of the transferee; 3) transferee's drivers license or other identification number and issuing state; 4) brand, type and amount of ammunition transferred; 5) transferee's signature; and 6) name of the sales person who processed the transaction. The vendor must also obtain the right thumbprint of the transferee on the transaction form at the time of transfer.

The records must be maintained on the vendor's premises for at least two years from the date of the transfer, and are subject to inspection by law enforcement at any time during normal business hours.

Los Angeles prohibits any person from selling, giving, or loaning any ammunition, cartridges or shells to any person under age 18. Also, no person under age 18 may possess any ammunition, cartridges or shells.

Los Angeles generally prohibits any person, including retail gun dealers, from selling, giving, lending or transferring ownership of any firearm ammunition during the seven day period prior to, or on, January 1 and July 4 each year.

Sellers of ammunition are required to pay a tax on the gross receipts of the seller's business.

Los Angeles prohibits any person from possessing any ammunition as defined in California Penal Code § 12316 within the area of an airport to which access is controlled by inspection and within the area in which these inspections are conducted.⁴⁷

New York City:

Transfer Restrictions: New York City prohibits any person from transferring any ammunition unless he or she is a licensed dealer in firearms or in rifles and shotguns. Dealers cannot transfer any pistol or revolver ammunition of a particular caliber to any person not authorized to possess a pistol or revolver of that caliber within New York City, and no pistol or revolver ammunition may be transferred to any person unless he or she exhibits a license or permit authorizing such possession within New York City or exhibits proof of exemption.

⁴⁶ Disc projectile ammunition is defined as any ammunition composed of multiple disc-shaped objects stacked together to form a single round of ammunition, including but not limited to the following types of ammunition: (i) Magdisc type; and (ii) Shatterdisc type.

⁴⁷ California Penal Code § 12316(b)(2) defines "ammunition" to include, but not be limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence.

Dealers in firearms may transfer rifle ammunition only to persons authorized to possess a rifle in New York City, and purchasers are required to show a rifle/shotgun permit and certificate of registration at the time of purchase. Rifle or shotgun ammunition may be sold only for the shotgun or for the specific caliber of rifle indicated on the certificate of registration.

Manufacturer Requirements: Manufacturers may not transport ammunition without the consent of the police commissioner. To obtain the police commissioner's consent, the manufacturer must notify the commissioner in writing of the name and address of the transporting manufacturer, the quantity, caliber and type of ammunition to be transported, and the place where the manufacturer regularly conducts business within New York City. Ammunition must be transported in a locked, opaque container.

Safety and Security Requirements: New York City prohibits any person from storing, selling or offering for sale more than 200 small arms cartridges without a storage permit from the Fire Commissioner. No storage permit will be issued for any premises: 1) where the building is occupied as a multiple dwelling, school, theatre or other place of public amusement or assembly; 2) used as a drug store, paint store, pawn shop or stationery store; 3) where cigars, cigarettes or tobaccos are stored or kept for sale; 4) where liquor is sold; 5) where other materials of a highly flammable nature are manufactured, stored or kept for sale; or 6) where fireworks are manufactured, stored or sold.

Rifle and shotgun dealer's licenses are not valid for the sale of ammunition unless the dealership is also in possession of a storage permit from the Fire Department. The sale or storage of ammunition without a valid permit is sufficient cause to revoke a dealer's license.

Ammunition must be stored in an area of the premises that can be reasonably secured, and that is not in view of the public. Holders of storage permits may not store, exhibit or display in the windows or doors of the permitted premises any cartridges or shells containing explosives.

Handgun ammunition may not be displayed in any area. Any handgun ammunition in a selling area must be kept in a locked container not visible to the public. Any other handgun ammunition must be stored in an area of the premises that can be secured and is not in view of the public.

Recordkeeping Requirements: Dealers must keep a record of each receipt and transfer of ammunition, including the quantity, caliber and type of ammunition transferred, the name and address of the transferee, the date and time of the transaction, and the number of the license or permit of the transferee. Dealers of rifle and shotgun ammunition must also record the caliber, make, model, manufacturer's name and serial number of the rifle or shotgun for which the transferee is purchasing ammunition, as well as the number of the certificate of registration exhibited or description of the proof of exemption exhibited. This information must be made available to all law enforcement agencies.

Loss/Theft Reporting: Rifle and shotgun dealers must report the loss or theft of any ammunition to the local police precinct, and must notify the Rifle/Shotgun Section of the License Division of the New York City Police Department by telephone on the next business day after discovery of the loss or theft, and in writing within 10 calendar days.

Possession Restrictions: Any person authorized to possess a pistol or revolver within New York City may possess ammunition for the pistol or revolver. Persons authorized to possess a pistol or revolver of a particular caliber within New York City cannot possess pistol or revolver ammunition of a different caliber.

Any person authorized to possess a rifle within the city of New York may possess ammunition for the rifle. Rifle or shotgun ammunition may not be possessed by any person unless they have a certificate of registration for the firearm, and only ammunition for the specific caliber of rifle or shotgun may be possessed.

Safe Storage for Owners: Owners of rifles or shotguns must keep them unloaded and locked in a secure location in the home, with the ammunition stored separately from the rifle or shotgun.

Omaha: Omaha prohibits any person from exhibiting or selling any ammunition in an assembled state at a firearms exhibition. Omaha also prohibits any person from exhibiting ammunition for sale or distribution in a display window or any other place which can be seen from a public thoroughfare.

Omaha prohibits the sale or delivery of any ammunition to persons under age 18, and prohibits the sale or delivery of ammunition for a concealable firearm to persons under age 21.

San Francisco: San Francisco prohibits engaging in the business of selling, leasing or otherwise transferring any ammunition or ammunition component without a city license. An ammunition component is defined as any cartridge or encasement, bullet or projectile, primer or propellant or explosive material used in the manufacture of ammunition.

Licensed ammunition dealers in San Francisco may not deliver any ammunition or ammunition component to a purchaser or other transferee unless that person presents clear evidence of his or her identity and age. A licensee may not display ammunition in any part of the business premises where it can be readily seen from outside, and may not display any sign advertising the sale of ammunition.

Licensed dealers are required to post conspicuously within the premises a notice stating that California law prohibits the sale of firearms and ammunition to any person under age 18.

Licensed dealers are required to record at the time of transfer of ammunition for any handgun, semiautomatic rifle or assault weapon: 1) the name of the vendor (including the name of the specific individual) transferring the ammunition; 2) the place of transfer; 3) the date and time of the transfer; 4) the name, address and date of birth of the transferee; 5) the transferee's driver's license number or other identification number and issuing

state; 6) the brand, type and amount of ammunition transferred; and 7) the transferee's signature. These records must be maintained on the vendor's premises for a minimum of two years from the date of the transfer, and are subject to inspection at any time during normal business hours.⁴⁸

San Francisco prohibits selling or offering for sale, transferring, or displaying for sale, 50 caliber cartridges.

Licensed dealers are prohibited from selling, leasing or otherwise transferring any ammunition that: 1) serves no sporting purpose; 2) is designed to expand upon impact and utilize the jacket, shot or materials embedded within the jacket or shot to project or disperse barbs or other objects that are intended to increase the damage to a human body or other target (including, but not limited to, Winchester Black Talon, Speer Gold Dot, Federal Hydra-Shok, Hornady XTP, Eldorado Starfire, Hollow Point Ammunition and Remington Golden Sabre ammunition); or 3) is designed to fragment upon impact (including, but not limited to, Black Rhino bullets and Glaser Safety Slugs).

FEATURES OF COMPREHENSIVE LAW REGULATING AMMUNITION

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.

- All ammunition sellers are required to be licensed firearms dealers (*Massachusetts, Chicago, New York City*)
- Ammunition dealers in residential and other sensitive neighborhoods are prohibited (*Chicago, Massachusetts (residential neighborhoods), New York City (other sensitive areas)*)⁴⁹
- Ammunition dealers are required to maintain records of all ammunition sales, and make such information available to law enforcement (*District of Columbia, Los Angeles, New York City, San Francisco*)
- Ammunition dealers are required to conduct a background check on all purchasers, to ensure that ammunition is not sold to prohibited persons

⁴⁸ In November 2005, San Francisco voters approved Proposition H, an ordinance to prohibit the possession of handguns by San Francisco residents and ban the manufacture, distribution, sale and transfer of firearms and ammunition in the city. The National Rifle Association and others immediately challenged the ordinance, and in a recent decision an appellate court struck down the ordinance, finding it preempted by state law. *Fiscal v. City & County of San Francisco*, No. A115018, 2008 Cal. App. LEXIS 21 (Cal. Ct. App. Jan. 9, 2008). The City has indicated that it will appeal the ruling. Additional information on state preemption of local firearm regulation is contained in the section of this report titled "The Legal Background."

⁴⁹ Additional information on features of comprehensive firearms dealer laws is contained in the section on Dealer Regulations.

- Ammunition dealers are required to take security precautions to reduce the risk of theft (*Minnesota, District of Columbia, New York City, Omaha, San Francisco*)
- Minimum age of 21 is imposed for purchase or possession of handgun ammunition; minimum age of 18 is imposed for purchase or possession of long gun ammunition (*Arizona, California, Delaware, District of Columbia, Idaho, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Minnesota, New York, Rhode Island, South Dakota, Vermont, Los Angeles, Omaha*)
- License is required for purchase and possession of ammunition (*District of Columbia, Illinois, Massachusetts, New York City*), and license is limited to possession of ammunition for the caliber of firearm the person is licensed to possess (*District of Columbia, New York City*)
- Ammunition may not be carried in sensitive areas (*California, Minnesota, Los Angeles*)
- Ammunition is required to be locked and stored separate from firearms in the home (*Hawaii, Washington, New York City (long guns)*)
- Manufacture, transfer, purchase and possession of specific types of unreasonably dangerous ammunition are prohibited (*31 states, District of Columbia, Chicago, Los Angeles, San Francisco*)