



Friday, September 7, 2018

The Honorable Governor Edmund G. Brown
State Capitol, Suite 1173
Sacramento, CA 95814

Regarding Senate Bill 746

Dear Governor Brown,

I write you today on behalf of Firearms Policy Coalition, a fiercely non-partisan nonprofit organization that promotes individual liberty and sound public policy through litigation, research, education, grassroots outreach, and direct advocacy.

Senate Bill 746 would, in part, authorize a person who has an outstanding warrant for a felony or misdemeanor to transfer his or her firearms or ammunition to a licensed firearms dealer for the duration of the prohibition, make the procedure for a court or law enforcement agency to return a seized firearm applicable to ammunition, make these provisions applicable to ammunition feeding devices, as defined, and, in some cases, ammunition.

In June 2015, during the Senate's consideration of Assembly Bill 950 (Melendez), we brought to members' attention that "Justice [Elena] Kagan delivered a rare unanimous Supreme Court decision in *Henderson v. United States*¹ that calls into question California's laws on the dis-possession of non-contraband personal property under a restraining order (including, but not limited to, "Gun Violence Restraining Orders") or other prohibiting condition."

We further argued that "California's laws should immediately be amended to allow a prohibited person or the subject of a restraining order to sell or transfer their non-contraband personal property" to a number of persons and entities consistent with *Henderson*; to wit:

- To a non-prohibited person who expects to maintain custody of them, so long as the recipient will not allow the prohibited person or subject of a restraining order to exert any influence over their use;
- To a law-abiding person who wishes to buy them in accordance with federal and state laws;
- To a licensed firearms dealer for safe-keeping during the period of prohibition;

¹ See *Henderson v. United States*, 135 S. Ct. 1780 (2015), slip op. online at http://www.supremecourt.gov/opinions/14pdf/13-1487_l6gn.pdf, last visited January 4, 2018.


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- To a licensed firearms dealer for subsequent sale on the open market;
- To a secure trust;
- To a nonprofit organization or museum; and,
- To other law-abiding persons (as defined in Penal Code Preliminary Provision 7) for all other lawful purposes.

As was true then, amending California's laws as we suggest is not only good public policy (creating more pathways for prohibited persons to divest their possessory interest in firearms and ammunition), it will save California taxpayers the certain expense of litigation over the currently under-inclusive (and unconstitutional) statutes.

Senate Bill 746 helps to conform California's statutes to important Supreme Court precedent. We support the enactment of those provisions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brandon Combs', with a large, stylized flourish at the end.

Brandon Combs
President