



Susan Wengraf
Councilmember District 6

CONSENT CALENDAR
March 22, 2022

To: Honorable Mayor and Members of the City Council
From: Councilmember Wengraf (Author), Councilmember Taplin (Co-Sponsor),
Councilmember Bartlett (Co-Sponsor), Councilmember Hahn (Co-Sponsor)
Subject: Support for AB-1594 Firearms: Civil Suits

RECOMMENDATION

Adopt a Resolution in support of AB-1594 (Assembly Member Ting) which would allow gun manufacturers to be sued for creating a public nuisance if their failure to follow federal, state or local law caused injury or death or if the gun industry member engaged in unfair business practices.

Send the Resolution to Assembly Members Ting, Gipson, Ward and Wicks along with Senator Skinner and Governor Newsom.

FINANCIAL IMPLICATIONS

None

BACKGROUND

AB1594 authorizes private citizens harmed by illegal gun use to sue manufacturers, distributors and sellers of firearms. The bill is a direct response to the Texas scheme to insulate its abortion ban through a law authorizing private citizen suits against essentially anyone who helps a woman seek access to abortion.

Governor Newsom stated “if states can now shield their laws from review by the federal courts that compare assault weapons to Swiss Army knives, then California will use that authority to protect people’s lives, where Texas used it to put women in harm’s way.”

The bill is still in its very early stages, but as it stands in its current form, AB1594 proposes adding the following language to the California Civil Code: “A gun industry member shall have created or maintained a public nuisance, as defined in Section 3480, if their failure to follow federal, state, or local law caused injury or death or if the gun industry member engaged in unfair business practices.”

AB1594 will effectively permit lawsuits against members of the gun industry who failed to follow firearm laws, thereby creating and/or maintaining a public nuisance.

The Protection of Lawful Commerce in Arms Act (“the Act”), passed in 2005, generally protects members of the gun industry from being sued for damages a person experiences as a result of the misuse of firearms. However, the law does not protect against lawsuits brought as a result of a violation of state law.

As such, any member of the gun industry who breaks California laws will not be shielded by the Act and can be sued under AB1594 if their illegal act involving a firearm caused damages to an individual.

Gun violence is a public health crisis in the United States. A leading cause of premature death in the U.S.¹, Americans account for just 4% of the world’s population but 35% of global firearm suicides². On average, at least 200 Americans are non-fatally injured with a firearm each day. The majority of these injuries are gun assaults³. Gun homicides and assaults disproportionately impact historically underserved communities of color. Black Americans are 10 times more likely than white Americans to be murdered with a gun⁴.

The City of Berkeley has a history of promoting gun safety. In early 2004, the Berkeley Police Department provided 1,100 free firearm safety kits to local residents through a partnership with Project ChildSafe⁵. The City Council supported Governor Newsom’s “Safety for All” 2016 Ballot Initiative which included a series of gun reform measures⁶. Council adopted a Safe Storage of Firearms Ordinance, adding BMC Chapter 13.69⁷, in November 2018, and in October 2021, adopted a Ghost Gun Ordinance⁸ in order to eliminate non-serialized, untraceable firearms in the City of Berkeley.

AB-1594 aligns with Berkeley’s gun safety goals by encouraging gun manufacturers to follow federal, state or local laws and to engage in fair business practices. If they don’t, and someone is injured or killed by their gun, they can be sued for creating a public nuisance.

ENVIRONMENTAL SUSTAINABILITY

No direct impact on environmental sustainability.

¹ <https://www.apha.org/topics-and-issues/gun-violence>

² Mohsen Naghavi, et al., “Global Mortality from Firearms, 1990–2016,” *JAMA* 320, no. 8 (2018): 792–814.

³ Based on three most recent years of complete data (2013, 2014, and 2016). Agency for Healthcare Research and Quality, Healthcare Cost and Utilization Project, last accessed June 25, 2020, hcupnet.ahrq.gov.

⁴ Centers for Disease Control and Prevention, Web-based Injury Statistics Query and Reporting System (WISQARS), “Fatal Injury Reports,” last accessed June 24, 2020, <https://www.cdc.gov/injury/wisqars>. Calculations were based on five years of the most recently available data: 2014 to 2018.

⁵ <https://www.cityofberkeley.info/police/newsandpress/2004files/ChildSafe%20Gun%20Locks.html>

⁶ [Safety for all](#)

⁷ [Safe Storage Ordinance](#)

⁸ [Ghost Gun Ordinance](#)

CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

Attachments:

1: Resolution

2: [AB-1594](#)

RESOLUTION NO. ##,###-N.S.

THE CITY OF BERKELEY SUPPORTS AB-1594

WHEREAS, Gun violence is a public health crisis and a leading cause of premature death in the United States; and

WHEREAS, Americans account for just 4% of the world's population but 35% of global firearm suicides: and

WHEREAS, Gun homicides and assaults disproportionately impact historically underserved communities of color. Black Americans are 10 times more likely than white Americans to be murdered with a gun; and

WHEREAS, The City of Berkeley has a history of striving for gun safety legislation to protect its residents, including adopting a Safe Storage of Firearms Ordinance in 2018 and a Ghost Gun Ordinance in 2021; and

WHEREAS, AB-1594 would further gun safety by allowing gun manufacturers to be sued for creating a public nuisance if their failure to follow federal, state or local law caused injury or death or if the gun industry member engaged in unfair business practices.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it strongly supports AB-1594.

BE IT FURTHER RESOLVED that the Council appreciates the work of Assembly Members Ting, Gipson, Ward, Berman, Bloom, Levine and Quirk, and Senators Newman and Wiener for authoring AB-1594 and their efforts in reducing gun violence.

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 1594

**Introduced by Assembly Members Ting, Gipson, and Ward
(Coauthors: Assembly Members Berman, Bloom, Levine, and Quirk)
(Coauthors: Senators Newman and Wiener)**

January 03, 2022

An act to add Part 2.5 (commencing with Section 3450) to Division 4 of the Civil Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1594, as introduced, Ting. Firearms: civil suits.

Existing law defines a public nuisance and provides that a public nuisance may be remedied by an indictment or information, a civil action, or abatement. Existing law also regulates the manufacture, sale, and marketing of firearms.

This bill would specify that a gun industry member has created or maintained a public nuisance, as defined, if their failure to follow federal, state, or local law caused injury or death or if the gun industry member engaged in unfair business practices.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS
FOLLOWS:

SECTION 1. Part 2.5 (commencing with Section 3450) is added to Division 4 of the Civil Code, to read:

PART 2.5. Civil Suits Relating to Firearms

3450. A gun industry member shall have created or maintained a public nuisance, as defined in Section 3480, if their failure to follow federal, state, or local law caused injury or death or if the gun industry member engaged in unfair business practices.