



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO. R 0 8 - 0 4 5 1

DEC 0 1 2008

REPORT RE:

**DRAFT ORDINANCE ADDING SECTION 55.19 TO THE
LOS ANGELES MUNICIPAL CODE TO BAN THE SALE OF
AMMUNITION FOR LARGE CALIBER FIREARMS**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 08-1406

Honorable Members:

This office has prepared and now transmits for your action the enclosed draft ordinance, approved as to form and legality. This draft ordinance would add Section 55.19 to the Los Angeles Municipal Code to ban the sale or transfer of any firearm ammunition for large caliber firearms.

Los Angeles Municipal Code section 55.18, enacted in 2003, already bans the sale or transfer of large caliber firearms. This draft ordinance would prohibit the sale or transfer of ammunition for these illegal weapons in the City of Los Angeles.

We have considered the possibility that this proposed ordinance might be challenged on the ground that it is preempted by state law. While this possibility does exist, we have concluded that the proposed ordinance is legally defensible. The proposed ordinance does not duplicate or contradict state law. Also, though the state has excluded all other regulatory authority with respect to certain aspects of firearm regulation, there is no apparent legislative intent to fully occupy the field in the area of ammunition. The courts have held that state law does not preempt the entire field of firearm sales or regulation of firearm dealers.

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As a general rule, a local ordinance will be upheld against constitutional challenge if it is reasonably related to promoting the health, safety, and welfare of the public, and if the means adopted to that promotion are reasonably appropriate to the purpose. In our view, the proposed ordinance meets this standard and is consistent with the state legislature's apparent intent to permit local governments to tailor firearms legislation to the particular needs of their communities.

Pursuant to Council Rule 38, we sent a draft of this ordinance to the Los Angeles Police Department and the Department indicated that it has no objection.

If you have any questions, please contact Heather Aubry at 213.978.8393. She or another member of this office will be available when you consider this matter to answer any questions you may have.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By 
DAVID MICHAELSON
Chief Assistant City Attorney

DM:HA:lee
Transmittal

ORDINANCE NO. _____

An ordinance adding Section 55.19 to the Los Angeles Municipal Code to ban the sale of ammunition for large caliber firearms.

WHEREAS, as of May 24, 2008, citywide there have already been 670 gunshot victims this year, of which 429 have been gang-related and there have been a total of 163 homicides this year, of which 67 percent have involved the use of a firearm; and

WHEREAS, gun violence continues and there is room to improve upon the laws which already exist, and gun crimes persist and communities continue to be terrorized by gun crimes; and

WHEREAS, in 2003 Los Angeles became the first jurisdiction to ban the sale of .50 caliber firearms, although the law remains incomplete because individuals can still purchase the requisite ammunition and cartridges.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS**

Section 1. Section 55.19 is added to the Los Angeles Municipal Code to read:

(a) Definitions.

1. "Firearm Ammunition" means any self-contained unit consisting of the case, primer, propellant charge, and projectile for use in pistols, revolvers, rifles, shot guns, or any other device designed to be used as a weapon from which is expelled a projectile by the force of explosion or other form of combustion. "Firearm Ammunition" shall not include blank ammunition used solely in the course of motion picture, television, video, or theatrical productions.

2. "Large caliber firearm" means any firearm, as defined in Section 103.314 of this Code, capable of firing a center-fire cartridge of .50 caliber or larger either by designation or by actual measurement. The term "large caliber firearm" shall include any rifle or handgun.

(b) No person shall sell, give, transfer ownership of, transfer, offer for sale, or display for sale any firearm ammunition for any large caliber firearm.

(c) The provisions of this section shall not apply to any sale or transfer of firearm ammunition which is prohibited under state law, including but not limited to any destructive device as defined in Section 12301 of the California Penal Code or any fixed ammunition of a caliber greater than .60 caliber as defined in Section 12304 of the California Penal Code. The provisions of this section shall not apply to any offer for sale

or display in any periodical, solicitation by mail, or use of the internet by a seller or offeror located outside the City of Los Angeles.

(d) The provisions of Subsection (b) of this section shall not apply where the purchaser or transferee is any of the following:

(1) A law enforcement agency;

(2) An agency duly authorized to perform law enforcement duties;

(3) A state or local correctional facility;

(4) A person described in Section 12302 or 12322 of the California Penal Code, when acting within the course and scope of his or her law enforcement duties;

(5) A federal law enforcement officer, when acting in the course and scope of his or her law enforcement duties; and

(6) A person who is properly identified as a full-time paid peace officer, as defined in Section 830.1, 830.2, 830.4, or 830.5 of the California Penal Code, and who is authorized to, and does, carry a firearm during the course of his or her employment as a peace officer, and is acting within the course and scope of such employment.

(e) **Penalty.** Any violation of this section shall constitute a misdemeanor.

(f) **Severability.** If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions, which can be implemented without the invalid provisions, and to this end, the provisions of this ordinance are declared to be severable.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

KAREN E. KALFAYAN, City Clerk

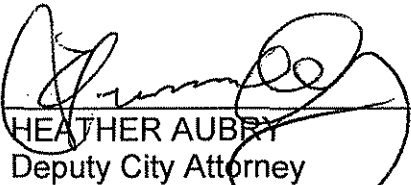
By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By  _____
HEATHER AUBRY
Deputy City Attorney

Date: 11-25-08

File No. _____ C.F. No. 08-1406