



SINCE 1875

California Rifle and Pistol Association, Inc.

P.O. Box 13236 • Sacramento, California 95813
Phone/Fax (916) 663-C₂R₇P₇A₂

Donald H. Wood
President
Thomas Q. Thomas
Vice President
Walter L. Mansell
Secretary
Steven H. Dombor
Treasurer
James H. Erdman, Jr.
Executive Director
Gerald H. Upholt
Legislative Liaison

August 15, 2006

Mr. Jeff Amador
Field Representative
Department of Justice
Firearms Licensing and Permits Section
P.O. Box 820200
Sacramento, Ca. 94203-0200

RE: Proposed Amendments to Section 978.20
of Division 1, Title 11 of the California
Code of Regulations (CCR).

Dear Mr. Amador:

The California Rifle and Pistol Association (CRPA) submits the following comments relative to the above referenced proposed regulation:

The comparison of what is a "detachable magazine" to a firearm's "capacity to accept" such a detachable magazine is invalid. They are two distinctly different things, the former is a tangible object and the latter, as proposed to be defined, is an intangible concept.

A detachable magazine is a physical item which either can or cannot accept more than the specified number of 10 rounds of ammunition in its currently configured form. There is no room for subjectivity in making such a determination. Furthermore, the term "permanently altered" is specific to modification of a magazine that was originally manufactured in a configuration in which it could accept more than 10 rounds of ammunition to a configuration in which it cannot accept more than 10 rounds. This term cannot be applied to a detachable magazine that was originally manufactured to accept no more than 10 rounds as it would be irrelevant.

A firearm's "capacity to accept" a detachable magazine is also a matter of fact. Either it can or it cannot do so in the form in which it is currently possessed. However, the proposed definition is vague relative to its meaning and applicability. Does it apply solely to the configuration in which a firearm is currently possessed as under the existing statutes and regulations? Or does it also include a firearm that as manufactured cannot currently accept a detachable magazine but which could be modified later, either by disassembly and the addition of new parts that create detachability or by machining by a skilled person with the knowledge of how to make a fixed magazine receiver into a

detachable magazine receiver? Who would determine if such fetes are actually possible for a specific firearm and what criteria would be used in making such a determination?

CRPA interprets the above described lack of clarity in the proposed regulations to mean that DOJ may be intending to declare semiautomatic firearms with fixed magazines to be "capable of accommodating" a detachable magazine and therefore "assault weapons" even though they are currently possessed in a configuration that will not accept a detachable magazine.

Being "capable of accommodating" a detachable magazine is a much different attribute than whether a detachable magazine as it currently exists can or cannot accept more than 10 rounds of ammunition. The two are separate and distinct and are not comparable as the department seeks to do in its "Initial Statement of Reasons" document pertaining to the proposed regulation. The term "capable of accommodating", as used in the proposed regulation, is highly subjective and no doubt would result in non-uniform interpretation and application in the various jurisdictions throughout the state. Conversely, whether a detachable magazine can accept more than 10 rounds is not subjective. Either it can or it cannot. The departments assertion that it is appropriate to treat the former the same as the latter is simply not valid.

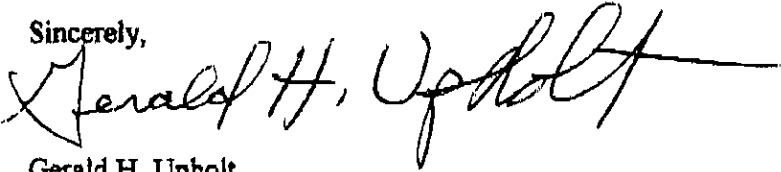
When Penal Code section 12276.1 was enacted, the term "capacity to accept a detachable magazine" was not presented to the legislature by its author as being anything other than the capacity of a rifle to accept a detachable magazine in its originally manufactured or presently altered after market configuration. It was not the stated or implied intent of the legislature or the bills (SB 23) author to apply this term to how a fixed magazine firearm might be altered at some unknown future date.

The proposed regulation appears to assume non-documented legislative intent and to thus go beyond what the legislature enacted when it passed SB 23. Or, perhaps the regulation is just poorly drafted relative to accomplishing its stated objective expressed in the Initial Statement of Reasons as follows: "The proposed definition will add clarity to the existing statutes but will not change or affect their current application and enforcement."

The California Rifle and Pistol Association believes that the proposed regulation would accomplish neither of the departments afore stated objectives and, in fact, would only add confusion and enforcement inconsistency to an already complex and often misunderstood body of "assault weapon" laws and regulations.

CRPA opposes adoption of the proposed amendment for the above stated reasons.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerald H. Upholt". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Gerald H. Upholt
Legislative Liason