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November 10, 2005

Re: Clarification of California Law Regarding Large-Capacity Magazines

Dear

I am writing in response to your letter (undated) regarding large-capacity ammunition magazines. You had a number of questions:

Q1: *Can you import newly manufactured parts to repair a legally obtained hi-cap magazine?*

A1: Yes.

Q2: *Are there any restrictions on which parts can and cannot be imported?*

A2: No.

Q3: *Can you import all the parts of a single hi-cap magazine at once, provided they are unassembled?*

A3: Yes.


Q4: *Can a California resident travel to another state, purchase a hi-cap magazine in that state, disassemble it and ship the required replacement parts back to themselves in California?*

A4: Penal Code section 12020(a)(2) makes it illegal to import a large capacity magazine into the state of California. If you traveled to another state in order to import a large capacity magazine, you would be guilty of a felony, even if you disassembled the large capacity magazine before returning to California. If you disassembled the large capacity magazine with the intent to use it only as repair parts, you could lawfully bring the parts in to California. In either case, you would test the limits of the law, and be at risk of criminal prosecution.

- Q5: Can you replace the magazine body with one marked "For Law Enforcement Only?"
- A5: While theoretically you could use such a part to repair a lawfully owned large capacity magazine, most dealers would be unlikely to sell you such a magazine body, unless you were a law enforcement officer.
- Q6: *Is there any limitation to the number of parts you can replace in a legally obtained hi-cap magazine? (Scenario: if on successive days I replace each individual part of a legally obtained hi-cap magazine, am I guilty of assembling a new hi-cap magazine once the final part is replaced?)*
- A6: Whether the scenario you describe constitutes repairing or manufacturing a large capacity magazine depends upon the legal opinion of the prosecutor in the jurisdiction where the acts occur. There are 58 district attorneys in California's 58 counties. They could elect to prosecute you for a felony (Penal Code 12280(a)(2)), if they believed that you were manufacturing a large capacity magazine.
- Q7: *If the magazine body is replaced with one clearly manufactured after 2000 . . . is there any burden of proof upon a California resident that they did in fact replace a worn/obsolete part and did not illegally purchase/import a new hi-cap magazine.*
- A7: A California resident who repairs a large capacity magazine that was owned before January 1, 2000 does not have any "burden of proof" that the magazine was repaired, rather than replaced with a new magazine. However, it would be prudent in such a case to keep records documenting the purchase of the part necessary for the repair in order to demonstrate that the large capacity magazine was repaired, not replaced.
- Q8: *Can you use parts designed for a 10-round magazine to repair a legally obtained hi-cap magazine?*
- A8: If parts designed for a 10-round magazine are interchangeable with parts of a legally obtained large capacity magazine, there is no legal barrier to using them.
- Q9: *Can you have enough spare parts to assemble a new hi-cap magazine provided they are unassembled and intended for use as replacement parts?*
- A9: Whether the scenario you describe constitutes possession of magazine parts with the intent to manufacture or with the intent to repair a large capacity magazine depends upon the legal opinion of the prosecutor in the jurisdiction where the acts occur. You could be charged with a felony (Penal Code 12280(a)(2)), if a prosecutor believed that you were manufacturing a large capacity magazine.

I hope that this information was helpful. Please feel free to contact me again if you have any additional questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alison Merrilees".

ALISON MERRILEES  
Deputy Attorney General  
Firearms Division

For BILL LOCKYER  
Attorney General