

**To: Legislation and Governmental Organization Committee (L&GO)**

**Subject: SB 1366 (DeSaulnier) Firearms: Lost or Stolen  
(Current ABAG position is “support with proposed amendment”)  
Request to Reconsider Position**

At the May L&GO meeting, the committee recommended support of SB 1366 with amendment. Currently the bill language reads "must report the theft.....to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within 48 hours of the time he or she knew or reasonably should have known that the firearm had been stolen or lost." The Committee recommendation was to amend the bill and strike out the phrase "or reasonably should have known."

*In follow-up discussion with Pat Jones, ABAG Acting Executive Director, Juliet A. Leftwich, Legal Director, Legal Community Against Violence, requested that ABAG reconsider our position with a request for amendment, to unqualified support. The attached e-mail explanation outlines the reasons for full support and is presented for your consideration at our next L&GO meeting on July 19<sup>th</sup>:*

“As we discussed over the phone, there seems to be some confusion about the meaning of the bill language. The “knew or reasonably should have known” language is included in the bill to make it EASIER for the prosecution. If the standard was only whether a gun owner knew about a gun being lost or stolen, that person could always escape liability by simply claiming that he or she didn’t know about the loss or theft. In other words, proving a person’s subjective knowledge (i.e., what is in his or her head) is much more difficult than proving what a reasonable person should have objectively known under the circumstances.”

“The “knew or should have known” standard is included in many local ordinances requiring the reporting of lost or stolen guns in California, and in the model ordinance which ABAG circulated to its members a few years ago (I believe that was in 2008 or 2009). In 2010, Oakland amended its local ordinance, which originally required actual knowledge, to include the “knew or reasonably should have known language” to facilitate enforcement. The amended ordinance included the following findings:

*WHEREAS, IN 2003 the City Council approved Ordinance No. 12529 C.M.S. establishing penalties for failing to report the loss or theft of a firearm in Oakland; and*

*WHEREAS, the original language utilized a restrictive standard that might prevent prosecution in cases where a firearm owner did not report the loss or theft of a weapon; and*

*WHEREAS, a court should be allowed to reasonably infer from the evidence presented when a firearm owner knew or should have known a firearm has been stolen or lost.”*

“I hope that this additional information clarifies the meaning of the SB 1366 language so that ABAG can feel comfortable supporting the bill without reservation. I would greatly appreciate it

if you could forward my email to the appropriate individuals, and let them know that I would be happy to discuss this issue further with anyone who continues to have questions.”

“I attach the most recent list of support for SB 1336. As you can see, the bill is co-sponsored by the LA Sheriff Baca, and has the support of the California Police Chiefs Association, as well as numerous police chiefs statewide. None of those law enforcement officials/organizations objected to the “knew or reasonably should have known language.”

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