



OFFICE OF THE CITY ATTORNEY

ROCKARD J. DELGADILLO

CITY ATTORNEY

REPORT NO. R 0 7 - 0 1 8 9

REPORT RE:

MAY 30 2007

**DRAFT ORDINANCE AMENDING LOS ANGELES MUNICIPAL CODE
SECTION 103.314 TO REQUIRE FIREARMS DEALERS TO POST A
WARNING OF THE DANGERS OF FIREARMS IN THE HOME AND
TO INCLUDE THE SAME WARNING ON FIREARM BILLS OF SALE**

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. 07-0461

Honorable Members:

This office has prepared and now transmits for your action the attached draft ordinance, approved as to form and legality. This draft ordinance amends Los Angeles Municipal Code Section 103.314 to require firearms dealers to post a warning of the dangers of possessing firearms in the home and to include the warning on firearm bills of sale. The draft ordinance also adds a severability clause to Section 103.314.

State law requires that firearms dealers post several warnings related to firearms within their licensed business premises. However, these warnings, set forth in Penal Code section 12071(b)(7), do not include any which specifically address the dangers associated with possessing firearms in the home. This draft ordinance would require that firearms dealers post the specified warning, in addition to those mandated under state law.

In light of the state statute requiring the posting of other firearms-related warnings, 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

warning signage. The courts have held that state law does not preempt the entire field of firearm sales or regulation of firearm dealers.

As a general rule, a local ordinance will be upheld against constitutional challenge if it is reasonably related to promoting the health, safety, comfort and welfare of the public, and if the means adopted 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 
CLAUDIA CULLING
Special Counsel - Municipal

ORDINANCE NO. _____

An ordinance amending Section 103.314 of the Los Angeles Municipal Code to: (1) redesignate subsection (q) as (r); (2) require firearms dealers to post a warning of the dangers of firearms in the home and to include this warning on firearm bills of sale; and (3) add a severability clause.

WHEREAS, the American Academy of Pediatrics found that each year, thousands of children are injured or killed from unintentional gunshot wounds and a majority of parents store their firearms loaded or unlocked, substantially underestimating the risk of injury to their children; and

WHEREAS, according to the Brady Campaign, firearms kept in the home for self-protection are more often used against a family member or acquaintance than against an intruder in self-defense; and

WHEREAS, a Johns Hopkins University study found that in homes with guns, the homicide of a household member is almost three times more likely to occur than in homes without guns; and

WHEREAS, a University of Washington Department of Health Services study concluded that keeping a gun in the home locked, unloaded, storing ammunition locked, and in a separate location are each associated with a protective effect and suggest a feasible strategy to reduce gun-related injuries and fatalities in homes with children and teenagers where guns are stored.

NOW THEREFORE,

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

Section 1. The current Subsection (q) of Section 103.314 of the Los Angeles Municipal Code is redesignated as Subsection (r).

Sec. 2. A new Subsection (q) of Section 103.314 of the Los Angeles Municipal Code is added to read:

(q) **Warning Regarding Dangers of Firearms in the Home.** Within 30 days after the effective date of this subsection, the permittee shall do the following:

1. Post conspicuously within the premises the following warning in block letters not less than one inch in height:

WARNING: THE CITY OF LOS ANGELES HAS DETERMINED THAT GUNS IN THE HOME ARE MUCH MORE LIKELY TO BE USED TO KILL OR INJURE A HOUSEHOLD MEMBER THAN TO PROTECT AGAINST AN ATTACKER. IT

IS SAFEST NOT TO KEEP A GUN IN THE HOME. IF A GUN IS KEPT IN THE HOME, IT SHOULD BE KEPT UNLOADED AND SECURELY LOCKED AND AMMUNITION SHOULD BE LOCKED SEPARATELY.

2. Provide all firearm purchasers with a bill of sale for the purchase of the firearm(s), which includes the warning language required in Subdivision 1 of this subsection.

Sec. 3. A new Subsection (s) is added to Section 103.314 to read:

(s) 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. 4. 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 _____.

FRANK T. MARTINEZ, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By *Claudia Culling for*
HEATHER AUBRY
Deputy City Attorney

Date 5/30/07

File No. _____