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21
22 IN THE UNITED STATES DISTRICT COURT

23 CENTRAL DISTRICT OF CALIFORNIA

24 JUNIOR SPORTS MAGAZINES
25 INC., RAYMOND BROWN,
26 CALIFORNIA YOUTH SHOOTING
27 SPORTS ASSOCIATION, INC.,
28 REDLANDS CALIFORNIA
YOUTH CLAY SHOOTING
SPORTS, INC., CALIFORNIA
RIFLE & PISTOL ASSOCIATION,
INCORPORATED, THE CRPA
FOUNDATION, AND GUN
OWNERS OF CALIFORNIA, INC.;
and SECOND AMENDMENT
FOUNDATION,

Plaintiffs,

v.

ROB BONTA, in his official capacity
as Attorney General of the State of
California; and DOES 1-10,

Defendant.

CASE NO:

**COMPLAINT FOR DECLARATORY &
INJUNCTIVE RELIEF**

**(1) VIOLATION OF 42 U.S.C. § 1983
[FREE SPEECH];**

**(2) VIOLATION OF 42 U.S.C. § 1983
[COMMERCIAL SPEECH];**

**(3) VIOLATION OF 42 U.S.C. § 1983
[RIGHT TO ASSOCIATION];**

**(4) VIOLATION OF 42 U.S.C. § 1983
[EQUAL PROTECTION]**

**FRCP 5.1(a) NOTICE OF
UNCONSTITUTIONALITY OF STATE
STATUTE**

1 Plaintiffs Junior Sports Magazines Inc., Raymond Brown, California Youth
 2 Shooting Sports Association, Inc., Redlands California Youth Clay Shooting
 3 Sports, Inc., California Rifle & Pistol Association, Incorporated, The CRPA
 4 Foundation, and Gun Owners of California, Inc., and the Second Amendment
 5 Foundation (collectively, “Plaintiffs”), by and through their respective attorneys,
 6 bring this Complaint for Declaratory and Injunctive Relief against the above-named
 7 Defendants, their employees, agents, and successors in office, and in support
 8 thereof allege the following:

9 JURISDICTION AND VENUE

10 1. The Court has original jurisdiction of this civil action under 28 U.S.C.
 11 § 1331 because the action arises under the Constitution and laws of the United
 12 States, thus raising federal questions. The Court also has jurisdiction under 28
 13 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983 since this action seeks to redress the
 14 deprivation, under color of the laws, statutes, ordinances, regulations, customs and
 15 usages of the State of California and political subdivisions thereof, of rights,
 16 privileges or immunities secured by the United States Constitution and by Acts of
 17 Congress

18 2. Plaintiffs’ claims for declaratory and injunctive relief are authorized by
 19 28 U.S.C. §§ 2201 and 2202, respectively, and their claim for attorneys’ fees is
 20 authorized by 42 U.S.C. § 1988.

21 3. Venue is proper in this Court under 28 U.S.C. § 1391(b)(2) because a
 22 substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred
 23 in this district.

24 INTRODUCTION

25 4. Plaintiffs bring this suit to challenge the constitutionality of California
 26 Business & Professions Code section 22949.80, which makes it unlawful for any
 27 “firearm industry member” to “advertise, market, or arrange for placement of an
 28 advertising or marketing communication concerning any firearm-related product in

1 a manner that is designed, intended, or reasonably appears to be attractive to
2 minors.” Cal. Bus. & Prof. Code § 22949.80(a)(1).

3 5. The First Amendment fully protects pure political, ideological, and
4 educational speech. Content- and viewpoint-based restrictions on such speech are
5 especially repugnant to the People’s right to free speech. Indeed, “above all else,
6 the First Amendment means that the government has no power to restrict
7 expression because of its message, its ideas, its subject matter, or its content.”
8 *Police Dep’t v. Mosley*, 408 U.S. 92, 95 (1972); *see also* The Constitution thus
9 “demands that content-based restrictions on speech be presumed invalid . . . and
10 that the Government bear the burden of showing their constitutionality.” *Ashcroft v.*
11 *Am. Civil Libs. Union*, 535 U.S. 564, 573 (2002).

12 6. The First Amendment also protects non-misleading commercial speech
13 promoting lawful products or services. That protection is at its highest when the
14 products or services are themselves independently protected by other fundamental
15 rights. And the sale of firearms, ammunition, and firearm parts and accessories is
16 not only legal, but also constitutionally protected by the Second Amendment.

17 7. Section 22949.80 imposes a content- and speaker-based restriction on
18 protected speech that is viewpoint discriminatory, that serves no legitimate
19 government interest (directly or indirectly), and that is both facially overbroad and
20 far more extensive than necessary to achieve any purported interest. It thus violates
21 Plaintiffs’ free speech and commercial speech rights.

22 8. The First Amendment also protects the right to peaceably assemble
23 and associate. The right to assemble often merges with the right to free expression.
24 For “[e]ffective advocacy of both public and private points of view, particularly
25 controversial ones, is undeniably enhanced by group association.” *NAACP v.*
26 *Alabama ex rel. Patterson*, 357 U.S. 449, 460 (1959). “Governmental action which
27 may have the effect of curtailing the freedom to associate is subject to the *closest*
28 scrutiny.” *Id.* at 461-62 (emphasis added).

1 involved in all shooting disciplines with readership throughout California. *Junior*
2 *Shooters* answers questions young and beginner shooters have about firearm safety,
3 guns and gear, protective gear, and more. The magazine also provides information
4 on how to get started in the shooting sports, shooting events, youth shooting
5 organizations and clubs, as well as scholarships available to youth shooters.

6 14. Plaintiff RAYMOND BROWN is a resident of Yucaipa, California.
7 Plaintiff Brown is a Level 3 Sporting Clays Instructor—one of only three such
8 instructors in California and the only one located in Southern California. He
9 regularly trains youth in the shooting sports and those participating in high school
10 shooting trap teams. His work includes promoting his courses to youth in the
11 shooting sports and speaking to the youth he trains about firearms and safety.

12 15. Plaintiff CALIFORNIA YOUTH SHOOTING SPORTS
13 ASSOCIATION, INC. (“CYSSA”) is a non-profit organization incorporated under
14 the laws of the state of California, with headquarters in Valley Springs, California.
15 Plaintiffs CYSSA is committed to promoting and preserving the clay shooting
16 sports among youth in California. To that end, Plaintiff CYSSA offers participation
17 in its youth clay shooting program, the CYSSA Clay Target Program, a team-based
18 youth development program for boys and girls, grades 12 and under, that provides
19 its participants with a positive, life-enhancing experience. It is an opportunity for
20 young people to participate in a supervised, shotgun-shooting sports program taught
21 by certified coaches that emphasizes firearm safety and skill development in clay
22 target shooting. Good sportsmanship, individual responsibility, self-discipline,
23 positive academic progress, and personal commitment are emphasized in the
24 CYSSA program. Plaintiff CYSSA, in partnership with other local clubs, sponsor
25 youth competitive events, like its “Series Shoots” and the State Trap
26 Championships.

27 16. Plaintiff REDLANDS CALIFORNIA YOUTH CLAY SHOOTING
28 SPORTS, INC. (“RCYCSS”) is a 501(c)(3) non-profit organization incorporated

1 under the laws of the state of California, with headquarters in Redlands, California.
2 Plaintiff RCYCSSL is committed to growing clay shooting sports among the youth
3 within the Southern California region. To that end, Plaintiff RCYCSSL offers
4 participation in its youth clay shooting program, the Redlands Clay Crushers Junior
5 Trap Team, which consists of youth shooters ranging from age 10-18. The group's
6 mission is to allow youth shooters the opportunity to safely and responsibly
7 participate in clay shooting sports, including American Trap, Skeet, International
8 Skeet, Olympic Bunker, and Sporting Clays. Plaintiff RCYCSSL and the Redlands
9 Clay Crushers Junior Trap Team consistently focus on firearm safety in a fun, yet
10 skill-based environment. One of its principal goals is to strengthen connections
11 within families and communities through lifelong recreational shooting sports
12 activities.

13 17. Plaintiff CALIFORNIA RIFLE & PISTOL ASSOCIATION,
14 INCORPORATED ("CRPA") is a non-profit membership organization
15 incorporated under the laws of the state of California, with headquarters in
16 Fullerton, California. Among its other activities, Plaintiff CRPA works to preserve
17 and protect the constitutional and statutory rights of gun ownership, including the
18 right to self-defense and the right to keep and bear arms. Plaintiff CRPA
19 accomplishes this through its educational offerings, publications (including
20 magazines, like "The Firing Line"), member-engagement events, and legislative
21 advocacy and initiatives. Through this lawsuit, Plaintiff CRPA represents not only
22 its own interests as a "firearm industry member" to disseminate information to like-
23 minded individuals, but also the interests of its members, including youth under the
24 age of 18 and their parents and firearms trainers, who support and promote the right
25 to keep and bear arms for lawful purposes.

26 18. Plaintiff THE CRPA FOUNDATION ("CRPAF") is a 501(c)(3) non-
27 profit organization incorporated under the laws of the state of California, with
28 headquarters in Fullerton, California. Since 2004, Plaintiff CRPAF has raised funds

1 to benefit eligible programs supportive of advancing its mission and ensuring the
2 continued fight to protect the Second Amendment rights of all law-abiding citizens
3 in California who to choose to own a gun for sport, hunting, and personal
4 protection. Grants from CRPAF benefit a variety of constituencies throughout
5 California, including youth, women, gun collectors, hunters, target shooters, law
6 enforcement, adaptive shooters, and those who choose to own a gun to defend
7 themselves and their families. Plaintiff CRPAF is dedicated to fostering youth
8 leadership skills through bolstering programs that engage kids, teenagers, and
9 young adults in wildlife conservation, hunting heritage and traditions, and
10 competitive and recreational shooting sports. Through its Youth Scholarship
11 Program, Plaintiff CRPAF supports collegiate bound students that believe in the
12 preservation of the Second Amendment and conservation of wildlife in California.

13 19. Plaintiff GUN OWNERS OF CALIFORNIA, INC. (“GOC”) is a non-
14 profit organization incorporated under the laws of the state of California, with
15 headquarters in El Dorado Hills, California. GOC is dedicated to the restoration of
16 the Second Amendment in California. To that end, GOC annually supports youth
17 shooting teams by raising contributing financial resources to their programs and has
18 sponsored individual talented young shooters through their careers as juniors
19 looking to earn scholarships at major universities.

20 20. Plaintiff SECOND AMENDMENT FOUNDATION (“SAF”) is a
21 501(c)(3) non-profit membership organization incorporated under the laws of the
22 state of Washington. Plaintiff SAF has over 650,000 members and supporters
23 nationwide, include thousands of members in California. Founded in 1974, Plaintiff
24 SAF is dedicated to promoting a better understanding of the country’s
25 constitutional heritage to privately own and possess firearms. To that end, Plaintiff
26 SAF carries on many educational and legal action programs designed to better
27 inform the public about the gun control debate. It has been a pioneer in innovative
28 defense of the right to keep and bear arms through its publications, public education

1 programs, legal action, and events like the annual Gun Rights Policy Conference. It
2 is critical to the success of SAF that its promotional material, publications, and
3 messages about the “right to keep and bear arms” be permitted to reach a broad
4 public audience, including minors and young adults. Restrictions on speech
5 “concerning firearm-related products” interfere with that effort. Through this
6 lawsuit, Plaintiff SAF represents not only its own interests as a “firearm industry
7 member” to disseminate information to like-minded individuals, but also the
8 interests of its members, including youth under the age of 18 and their parents and
9 firearms trainers, who support and promote the right to keep and bear arms for
10 lawful purposes.

11 **[Defendants]**

12 21. Defendant ROB BONTA is the Attorney General of the State of
13 California. He is the “chief law officer” of the state, and it his duty to “see that the
14 laws of the State are uniformly and adequately enforced.” Cal. Const. art. 5, § 1.
15 Defendant Bonta has “direct supervision over every district attorney” within the
16 State. *Id.* If, at any point a district attorney of the State fails to enforce adequately
17 “any law of the State,” he must “prosecute any violations of the law.” *Id.* Defendant
18 Bonta is also expressly responsible for enforcing section 22949. Cal. Bus. & Prof.
19 Code § 22949.80(e)(1) (any person who violates this section “is liable for a civil
20 penalty ... which shall be assessed and recovered in a civil action brought in the
21 name of the people of the State of California by the Attorney General or by any
22 district attorney, county counsel, or city attorney in any court of competent
23 jurisdiction.”) Defendant Bonta maintains an office for service in Los Angeles,
24 California, and is sued in his official capacity.

25 22. The true names and capacities of Defendants named as DOEs 1
26 through 10, inclusive, are individual, corporate, associate or otherwise, and are
27 unknown to Plaintiffs. They are, however, believed to be responsible in some way
28 for Plaintiffs’ injuries as alleged herein. Each Doe Defendant is, and at all times

mentioned here was, a partner, agent, principal, co-conspirator, or are otherwise vicariously or directly responsible for the acts or omissions of the other defendants or themselves. They are each sued individually and/or in their official capacity and are joined as party defendants. Plaintiffs thus sue each Doe Defendant under rules 15 and 21 of the Federal Rules of Civil Procedure. Plaintiffs are informed and believed that the Doe Defendants are all California residents. Plaintiffs will amend this complaint to show such true names and capacities of Doe Defendants when they have been ascertained.¹

FACTUAL ALLEGATIONS

[The First Amendment Rights to Free Speech, Association, & Assembly]

23. The First Amendment provides, in part, that “Congress shall make no law . . . abridging the freedom of speech,” U.S. Const. amend. I. It is incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution and by 42 U.S.C. § 1983.

24. Political and ideological speech—including speech concerning “politics, nationalism, religion, or other matters of opinion”—has long been considered the core of the First Amendment. *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943).

25. The First Amendment does not tolerate the suppression of speech based on what some may label an unpopular viewpoint of the speaker. *John J. Hurley and S. Boston Allied War Vets. Council v. Irish-Am. Gay, Lesbian & Bisexual Group of Boston*, 515 U.S. 557 (1995). Indeed, “above all else, the First Amendment means that the government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.” *Mosley*, 408 U.S. at 95

¹ Section 22949.80(e)(1) authorizes, not only the Attorney General, but also all District Attorneys, County Counsel, and City Attorneys to initiate a civil action alleging a violation of the challenged law. To Plaintiffs’ knowledge no such actor has yet filed such an action, but Plaintiffs will immediately amend or move to amend this complaint to show the true names and capacities of such actors should they do so.

(emphasis added); *see also Ashcroft*, 535 U.S. at 573.

26. A content-based restriction that implicates political or ideological speech must generally survive “strict scrutiny,” where the government must show that the law is narrowly tailored to achieve a compelling government interest. *See Reed v. Town of Gilbert*, 576 U.S. 155 (2015); *see also Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525 (2001) (holding that tobacco marketing restrictions – even those purposed to protecting minors -- must be the narrowest means of achieving an asserted state interest); *Brown v. Entm’t Merchs. Ass’n*, 564 U.S. 786 (2011) (overturing California law banning sale or rental of “violent video games” to minors); *see also Tracy Rifle & Pistol LLC v. Harris*, 339 F. Supp. 3d 1007, 1018 (E.D. Cal. 2018) (holding that a California law prohibiting the display of a handgun, an imitation handgun, or a placard advertising the sale of a handgun in a manner that is visible from the outside of a gun dealer’s premises is unconstitutional).

27. Even purely commercial speech—speech that “does no more than propose a commercial transaction” or relates solely to the economic interests of the speaker and audience—receives First Amendment protection if it is not misleading and concerns a lawful activity. *Cent. Hudson Gas & Elec. Corp. v. Public Serv. Comm’n*, 447 U.S. 557 (1980).

28. “An offer to sell firearms or ammunition” is constitutionally protected commercial speech. *Nordyke v. Santa Clara*, 110 F.3d 707, 710 (9th Cir. 2009).

29. Government restrictions on protected commercial speech are constitutional *only* if they directly advance a substantial government interest and are not broader than necessary to serve that interest. *Cent. Hudson*, 447 U.S. 557.²

² Though this is currently the controlling test for so-called “commercial speech,” modern case law is trending toward extending *full* First Amendment protection to all speech, including “commercial speech.” *See Sorrell v. IMS Health, Inc.*, 564 U.S. 552 (moving toward providing commercial speech the same level of heightened protection long accorded to political speech); *see also 44 Liquormart, Inc. v. Rhode Island*, 517 U.S. 484, 523 (1996) (Thomas, J., concurring in part and concurring in judgment) (“I do not see a philosophical or historical basis for

1 30. The First Amendment protects not only the right of free speech, but
 2 also “the right of the people peaceably to assemble.” U.S. Const., amend. I. The
 3 right to assemble often merges with the right to free expression. For “[e]ffective
 4 advocacy of both public and private points of view, particularly controversial ones,
 5 is undeniably enhanced by group association.” *NAACP v. Patterson*, 357 U.S. 449,
 6 462 (1958). “Governmental action which may have the effect of curtailing the
 7 freedom to associate is subject to the *closest* scrutiny.” *Id.* at 461-62.

8 **[The Fourteenth Amendment Right to Equal Protection Under the Law]**

9 31. The Fourteenth Amendment to the United States Constitution,
 10 enforceable under 42 U.S.C. § 1983, provides that no state shall deny to any person
 11 within its jurisdiction the equal protection of the laws.

12 32. Singling out speakers because of the content of their speech also
 13 violates their fundamental rights under the Equal Protection Clause. U.S. Const.
 14 amend. XIV.

15 33. If unequal treatment occurs in the context of exercising a fundamental
 16 right, or the government is motivated by animus toward a disfavored group, courts
 17 apply heightened scrutiny. *See Loving v. Virginia*, 388 U.S. 1, 11 (1967); *see also*
 18 *Cleburne v. Cleburne Living Center, Inc.*, 473 U.S. 432 (1985); *Romer v. Evans*,
 19 517 U.S. 620 (1996). Indeed, “[b]ecause the right to engage in political expression
 20 is fundamental to our constitutional system, statutory classifications impinging
 21 upon that right must be narrowly tailored to serve a compelling governmental
 22 interest.” *Austin v. Mich. Chamber of Commerce*, 494 U.S. 652, 666 (1990), *rev’d*
 23 *on other grounds*, *Citizens United v. Fed. Elec. Comm’n*, 558 U.S. 310, 130 S. Ct. 876
 24 (2010).

25
 26
 27
 28 asserting that ‘commercial’ speech is of ‘lower value’ than ‘noncommercial’
 speech. Indeed, some historical materials suggest to the contrary.”).

[California Laws Regarding Minors and Firearms]

34. California law restricts the possession, use, and acquisition of firearms by minors. *See* Cal. Penal Code §§ 29610-29750.

35. While California's restrictions on firearm possession by minors may appear broad, they are greatly tempered by a non-exhaustive list of statutory exceptions authorizing a variety of lawful uses, as well as the constitutional right to keep and bear arms for lawful purposes, including the core lawful purpose of self-defense.

36. Indeed, California Penal Code section 29750 makes clear that it was *not* the Legislature's intent "to expand or narrow the application of the then-existing statutory and judicial authority as to the rights of minors to be loaned or to possess live ammunition or a firearm for the purpose of self-defense or the defense of others." The law is quite clear that minors do indeed possess a right to possess and use firearms for self-defense and defense of others and that the laws are not meant to restrict or prohibit that right.

37. That said, current California law purports to otherwise prohibit minors from possessing handguns and semiautomatic centerfire rifles (and beginning July 1, 2023, any type of firearm). Cal. Penal Code § 29610. Minors also cannot possess live ammunition. *Id.* § 29650.

38. But the exceptions to these restrictions are numerous and non-exhaustive. Common to all of the exceptions is that the minor be engaged in, or be in direct transit to or from, "a lawful, recreational sport" which includes, "*but is not limited to*, competitive shooting, or agricultural, ranching, or hunting activity or hunting education, or a motion picture, television, or video production, or entertainment or theatrical event, the nature of which involves the use of a firearm." Cal. Penal Code § 29615 (exceptions for possession of firearms); *id.* § 29655 (exceptions for possession of live ammo).

1 39. Some of the exceptions to California’s restrictions on firearm
2 possession by minors do not even require the presence of a parent or legal guardian.
3 This can include situations where the minor only has the express written permission
4 of their parent or legal guardian to possess a firearm. *See, e.g.*, Cal. Penal Code §
5 29615(c)-(e).

6 40. California also prohibits any “person, corporation, or firm” from
7 selling, loaning, or transferring a firearm to a minor, or selling a handgun to an
8 individual under 21 years of age, *except in certain circumstances*. Cal. Penal Code
9 § 27505.

10 41. As applied to laws restricting the “loan” of a firearm to a minor, the
11 applicable exceptions first look to the relationship of the person to the minor (i.e.,
12 whether they are the parent/legal guardian or someone else) and the type of firearm
13 being loaned (e.g., whether it is a semiautomatic centerfire rifle, handgun, some
14 other type of firearm). *See* Cal. Penal Code § 27505(b)(2)-(5). Notably, here again,
15 the law makes clear the minor need not always be accompanied by a parent, legal
16 guardian, or responsible adult. And all of the exceptions use the same “lawful,
17 recreational sport” language as above.

18 **[California’s Assembly Bill 2571 (Bauer-Kahan)]**

19 42. Assembly member Rebecca Bauer-Kahan introduced AB 2571 on or
20 about February 18, 2022. Assem. Bill 2571, 2021-2022 Reg. Sess. (Cal. 2022)
21 (attached hereto as **Exhibit A**). The source of the bill was Governor Gavin
22 Newsom. Sen. Rules Comm., Bill Analysis Re: AB 2571 (Bauer-Kahan), 2021-
23 2022 Reg. Sess., at 1 (Cal. 2022).

24 43. AB 2571 passed both houses of the California Legislature and was
25 presented to Governor Gavin Newsom at or around 2:30 p.m. on June 30, 2022.

26 44. Governor Newsom approved AB 2571 the very same day.

27 45. Because AB 2571 was passed as an “urgency statute necessary for the
28 immediate preservation of the public peace, health, or safety,” AB 2571 took effect

1 immediately upon Governor Newsom's approval on June 30, 2022. Ex. A.

2 46. AB 2571, which added section 22949.80 to the California Business &
3 Professions Code,³ makes it unlawful for any "firearm industry member" to
4 "advertise, market, or arrange for placement of an advertising or marketing
5 communication concerning any firearm-related product in a manner that is
6 designed, intended, or reasonably appears to be attractive to minors." Cal. Bus. &
7 Prof. Code § 22949.80(a)(1).

8 47. AB 2571 defines "minor" as a "natural person under 18 years of age
9 who resides in" California. *Id.* § 22949.80(c)(7).

10 48. Though the phrase "reasonably appears to be attractive to minors" is
11 extraordinarily vague and open to broad interpretation based on one's subjective
12 opinion, AB 2571 provides some guidance for the courts "[i]n determining whether
13 marketing or advertising concerning a "firearm-related product" is attractive to
14 minors. *Id.* § 22949.80(a)(2).

15 49. Specifically, under AB 2571, "a court shall consider the totality of the
16 circumstances." This includes, *but is not limited to*, considering whether the
17 marketing or advertising:

- 18 (A) Uses caricatures that reasonably appear to be minors or
19 cartoon characters to promote firearm-related products.
- 20 (B) Offers brand name merchandise for minors, including, but
21 not limited to, hats, t-shirts, or other clothing, or toys,
games, or stuffed animals, that promotes a firearm
industry member or firearm-related product.
- 22 (C) Offers firearm-related products in sizes, colors, or designs
23 that are specifically designed to be used by, or appeal to,
minors.
- 24 (D) Is part of a marketing or advertising campaign designed
25 with the intent to appeal to minors.
- 26 (E) Uses images or depictions of minors in advertising and
27 marketing materials to depict the use of firearm-related
products.

28 ³ Throughout this complaint, Plaintiffs refer to the challenged law, California Business & Professions Code section 22949.80, as "AB 2571."

- 1 (F) Is placed in a publication created for the purpose of
 2 reaching an audience that is predominately composed of
 3 minors and not intended for a more general audience
 4 composed of adults.

5 *Id.* § 22949.80(a)(2).

6 50. AB 2571 defines “firearm industry members” in two ways:

- 7 (A) A person, firm, corporation, company, partnership,
 8 society, joint stock company, or any other entity or
 9 association engaged in the manufacture, distribution,
 10 importation, marketing, wholesale, or retail sale of
 11 firearm-related products.
- 12 (B) A person, firm, corporation, company, partnership,
 13 society, joint stock company, or any other entity or
 14 association formed for the express purpose of promoting,
 15 encouraging, or advocating for the purchase, use, or
 16 ownership of firearm-related products that does one of the
 17 following:
- 18 (i) Advertises firearm-related products.
 - 19 (ii) Advertises events where firearm-related products are
 20 sold or used.
 - 21 (iii) Endorses specific firearm-related products.
 - 22 (iv) Sponsors or otherwise promotes events at which
 23 firearm-related products are sold or used.

24 *Id.* § 22949.80(c)(4).

25 51. AB 2571 thus does not bar members of the (politically popular) book,
 26 movie, television, and video game industries from “advertising, marketing, or
 27 arranging for the placement of an advertising or marketing communication
 28 concerning any firearm-related product” even though the author of AB 2571
 expressly identifies the “slick advertising” of such products in children’s books,
 cartoons, and video games as sources of “shameless” advertising of “weapons” to
 children. Sen. Judiciary Comm., Bill Analysis Re: AB 2571 (Bauer-Kahan), 2021-
 2022 Reg. Sess., at 9 (Cal. 2022) (attached hereto as **Exhibit B**).

52. AB 2571 does, however, apply to (politically unpopular) organizations
 formed to promote and preserve the Second Amendment rights to keep and bear
 arms, organizations that offer competitive and recreational shooting programs,
 businesses that offer shooting skills courses and/or firearm-safety training, and gun

1 show promoters, as well as firearms manufacturers and retailers. Cal. Bus. & Prof.
2 Code § 22949.80(c)(4).

3 53. AB 2571 defines “firearm-related product” as any “firearm,
4 ammunition, reloaded ammunition, a firearm precursor part, a firearm component,
5 or a firearm accessory that meets any of the following conditions”:

6 (A) The item is sold, made, or distributed in California.

7 (B) The item is intended to be sold or distributed in
8 California.

9 (C) It is reasonably foreseeable that the item would be
10 sold or possessed in California.

11 (D) Marketing or advertising for the item is directed to
12 residents of California.

13 *Id.* § 22949.80(c)(5).

14 54. Under AB 2571, “marketing or advertising” means “in exchange for
15 monetary compensation, to make a communication to one or more individuals, or to
16 arrange for the dissemination to the public of a communication, about a *product or*
17 *service the primary purpose of which is to encourage recipients of the*
18 *communication to purchase or use the product or service.” Id.* § 22949.80(c)(6)
(emphasis added).

19 55. AB 2571 is thus not limited to advertising or marketing
20 communications that propose an economic transaction like the purchase or sale of
21 “firearm-related products,” including firearms, ammunition, reloaded ammunition,
22 firearm precursor parts, firearm components, or firearm accessories.

23 56. Rather, it applies to *any communication*, made in exchange for
24 monetary compensation, “*concerning* a firearm-related product” that is “designed,
25 intended or reasonably [appears] to be attractive to youth” if the communication is
26 made by a “firearm industry member” for the purpose of encouraging “recipients of
27 the communication to purchase or *use* the product or *service.” Id.* § 22949.80(a)(1),
28 (c)(6) (emphases added).

57. AB 2571 thus restricts honest and lawful commercial speech

1 promoting lawful activities and services, including, but not limited to, traditional
 2 advertisements for youth shooting competitions, youth recreational shooting and
 3 outdoors events, firearm- and hunter-safety courses, shooting skills courses, and
 4 youth organization shooting programs.

5 58. AB 2571 also bans a broad category of pure speech, including, *but not*
 6 *limited to*:

- 7 a. All (or nearly all) aspects of youth hunting and
 8 shooting magazines and the websites, social media,
 9 and other communications promoting those
 magazines;
- 10 b. Articles, cartoons (including political cartoons), and
 11 photographs promoting or depicting the use of
 “firearm-related products” by minors in magazines
 intended for a broader audience including adults;
- 12 c. Videos, cartoons, coloring books, posters, social
 13 media posts, and youth education campaigns by gun
 14 rights organizations and/or firearms trainers
 encouraging youth to take up lawful recreational or
 competitive shooting activities or teaching about
 firearm safety;
- 15 d. Branded merchandise, giveaways, or “swag”—
 16 including, but not limited to, t-shirts, hats, other
 17 clothing, stickers, pins, buttons, toys, games, and
 stuffed animals—by a “firearm industry member”
 18 that promotes a “firearm industry member,”
 including nonprofit Second Amendment
 19 organizations, or contains pro-gun slogans and
 political messages;
- 20 e. Any communication made by a “firearm industry
 21 member” “in exchange for monetary compensation”
 that encourages the recipient of the communication
 22 to exercise their Second Amendment rights to
 purchase or use firearms or other firearms-related
 23 products generally, like coaching or speaking with
 youth about taking firearms training or getting
 involved with a youth shooting team;
- 24 f. Youth firearm- and hunter-safety courses and youth
 25 shooting skills courses, as well as recommendations
 or endorsements by firearms trainers concerning the
 26 most appropriate firearms, ammunition, and
 accessories for young and beginner shooters; and
- 27 g. Signage, flyers, posters, discussions, branded
 28 merchandise and giveaways, and/or other
 communications generally depicting minors enjoying

or otherwise encouraging minors to enjoy their Second Amendment right to possess and use lawful firearms for lawful purposes at youth recreational and competitive shooting events, as well as communications promoting such events;

- h. Use of Daisy® BB guns, like the famous Daisy® Red Ryder, and the Daisy® inflatable BB Gun Range and similar products by gun-rights organizations at events to introduce youth to firearms—usually for the very first time—in a safe and controlled environment in order to encourage youth to take up the shooting sports and/or become youth members of the sponsoring organization; and
- i. Communications soliciting funds for scholarships and grants for youth shooters and youth shooting teams.

59. Any person who violates AB 2571 “shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.” *Id.* § 22949.80(e)(1).

60. AB 2571 mandates that courts “shall impose a civil penalty ... for each violation” of the law, instructing courts to consider any number of relevant circumstances when assessing the appropriate fine, including, but not limited to:

the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant’s misconduct, and the defendant’s assets, liabilities, and net worth.

Id. § 22949.80(e)(2).

61. AB 2571 also mandates that courts “shall also order injunctive relief, including a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the court deems necessary to prevent the harm described in this section. *Id.* § 22949.80(e)(4).

62. AB 2571 also authorizes any “person harmed by a violation of this section” to “commence a civil action to recover their actual damages.” *Id.* §

1 22949.80(e)(3).

2 63. AB 2571 also includes a fee-shifting provision, mandating that, upon a
3 motion, courts “shall award reasonable attorney’s fees and costs, including expert
4 witness fees and other litigation expenses, to a plaintiff who is a prevailing party in
5 an action brought pursuant to” AB 2571. *Id.* § 22949.80(e)(5).

6 64. AB 2571 does not, however, authorize an award of attorney’s fees and
7 costs, including expert witness fees and other litigation expenses, to a defendant
8 who is a prevailing party in an action brought pursuant to AB 2571—even if such
9 an action is frivolous or without merit. *Id.*

10 **[The Impact of AB 2571 on Plaintiffs’ Protected Conduct]**

11 65. Plaintiffs regularly “advertise, market, or arrange for placement of an
12 advertising or marketing communication concerning ... firearm-related product[s]
13 in a manner that is designed, intended, or [might] reasonably appear[] to be
14 attractive to minors.”

15 66. Specifically, all Plaintiffs engage in the planning, advertising,
16 marketing, promoting, sponsoring, hosting, and/or facilitating of lawful events,
17 competitions, trainings, educational programs, safety courses, and/or gun shows,
18 specifically for youth or where youth are extremely likely to be in attendance and
19 where youth lawfully use, handle, observe, and/or otherwise possess firearms,
20 ammunition, and/or firearm parts.

21 67. These programs regularly involve signage, flyers, discussions, branded
22 merchandise and giveaways, and/or other communications depicting minors
23 enjoying or otherwise encouraging minors to enjoy their Second Amendment right
24 to possess and use lawful firearms for lawful purposes, including hunting,
25 recreational and competitive shooting, and firearm safety programs.

26 68. Plaintiffs also widely distribute printed and electronic communications
27 promoting these events and programs. These communications regularly include
28 images and/or depictions of minors handling or “using firearm-related products.”

1 69. These programs also sometimes include vendors or exhibitors, like
2 Plaintiffs CRPA and SAF, who set up a booth or table to, among other things,
3 promote membership or financial support of their organization; sell or distribute
4 branded merchandise or merchandise with pro-gun slogans and other political
5 messages; disseminate books, pamphlets, coloring books, flyers, and other
6 communications promoting the use of firearms and related products generally, the
7 Second Amendment, firearm safety, and participating in recreational or competitive
8 shooting programs; or sell or advertise for sale firearms and related products and
9 services.

10 70. Plaintiff Junior Sports Magazines, the publisher of the online and print
11 magazine *Junior Shooters*, publishes and distributes “a publication created for the
12 purpose of reaching an audience that is predominately composed of minors and not
13 intended for a more general audience composed of adults.” *Junior Shooters*
14 regularly includes and, but for the enforcement of AB 2571, would continue to
15 include articles and images or depictions of the use of “firearm-related products” by
16 minors, as well as recommendations and endorsements of specific “firearm-related
17 products” appropriate for young and beginner recreational and competitive
18 shooters. AB 2571 prohibits this otherwise protected speech.

19 71. Plaintiff Junior Sports Magazine’s publications also include
20 communications and articles promoting its partners’ and advertisers’ youth
21 shooting competitions, youth recreational shooting and outdoors events, youth
22 shooting organizations and clubs, firearm-safety courses, and shooting skills
23 courses. AB 2571 prohibits this otherwise protected speech.

24 72. Plaintiff Junior Sports Magazine’s publications also include traditional
25 advertisements for “firearm-related products.” AB 2571 prohibits this otherwise
26 protected commercial speech.

27 73. To be clear, Plaintiff Junior Sports Magazine’s traditional advertising
28 of “firearm-related products” is not designed or intended to encourage minors to

1 unlawfully buy firearms themselves. Rather, Plaintiffs’ communications might
2 “reasonably appear[] to be attractive to minors” because they are attractive to
3 everyone—including adults—and/or they are intended for an audience of minors
4 who may want to ask their parents to lawfully purchase “firearm-related products”
5 for the minor’s lawful use.

6 74. Plaintiff Brown, as a firearms trainer, regularly engage in the planning,
7 advertising, marketing, and facilitation of shooting-skills courses and firearm-safety
8 courses specifically for youth or where youth are extremely likely to be in
9 attendance and where youth lawfully use, handle, observe, and/or otherwise possess
10 firearms, ammunition, and/or firearm parts.

11 75. Plaintiff Brown’s training programs regularly involve communications
12 depicting minors enjoying or otherwise encouraging minors to enjoy their Second
13 Amendment right to possess and use lawful firearms for lawful purposes, including
14 hunting, recreational and competitive shooting, and firearm safety programs. AB
15 2571 prohibits this otherwise protected speech.

16 76. Plaintiff Brown’s firearm training programs might also include
17 recommendations on which “firearm-related products” are most suitable for young
18 and/or beginner shooters in terms of ease of use, safety features, size, and/or type of
19 use. AB 2571 prohibits this otherwise protected speech.

20 77. Plaintiffs CYSSA, RCYCCS, CRPA, and CRPA Foundation regularly
21 engage in the planning, advertising, marketing, promoting, sponsoring, hosting,
22 and/or facilitating of youth recreational events and shooting competitions
23 specifically for youth or where youth are extremely likely to be in attendance and
24 where youth lawfully use, handle, observe, and/or otherwise possess firearms,
25 ammunition, and/or firearm parts.

26 78. Plaintiffs CYSSA, RCYCCS, CRPA, and CRPAF’s youth programs
27 regularly involve signage, flyers, discussions, branded merchandise and giveaways,
28 and/or other communications depicting minors enjoying or otherwise encouraging

1 minors to enjoy their Second Amendment right to possess and use lawful firearms
2 for lawful purposes, including hunting, recreational and competitive shooting, and
3 firearm safety programs. AB 2571 prohibits this otherwise protected speech.

4 79. These Plaintiffs also widely distribute printed and electronic
5 communications promoting these events and programs. These communications
6 regularly include images and/or depictions of minors handling or “using firearm-
7 related products.” AB 2571 prohibits this otherwise protected speech.

8 80. These programs also sometimes include vendors or exhibitors, like
9 Plaintiffs CRPA, who set up a booth or table to, among other things, promote
10 membership or financial support of their organization; sell or distribute branded
11 merchandise or merchandise with pro-gun slogans and other political messages;
12 disseminate books, pamphlets, coloring and activity books, flyers, and other
13 communications promoting the use of firearms and related products generally, the
14 Second Amendment, firearm safety, and participating in recreational or competitive
15 shooting programs; sell or advertise for sale firearms and related products and
16 services. AB 2571 prohibits this otherwise protected speech.

17 81. Plaintiff CYSSA, a non-profit organization “formed for the express
18 purpose of promoting, encouraging, or advocating for the purchase, use, or
19 ownership of firearm-related products,” offers participation in its youth clay
20 shooting program, the CYSSA Clay Target Program, a team-based youth
21 development program for boys and girls, grades 12 and under.

22 82. Through this program, Plaintiff CYSSA regularly engages with minors
23 through advertising, marketing, and other communications promoting youth
24 competitive shooting events and practices where “firearm-related products” are
25 used and providing recommendations on which “firearm-related products” are most
26 suitable its young shooters’ competitive and recreational shooting needs. AB 2571
27 prohibits this otherwise protected speech.

28 83. Plaintiff CYSSA also widely distributes printed and electronic

1 communications promoting its youth competitive events and practices. These
2 communications regularly include images and/or depictions of minors handling or
3 “using firearm-related products.” AB 2571 prohibits this otherwise protected
4 speech.

5 84. Plaintiff RCYCSSL, a non-profit organization “formed for the express
6 purpose of promoting, encouraging, or advocating for the purchase, use, or
7 ownership of firearm-related products,” fields its own youth shooting team, the
8 Redlands Clay Crushers Junior Trap Team, which consists of youth shooters
9 ranging from age 10-18.

10 85. Through this program, Plaintiff RCYCSSL regularly engages with
11 minors through advertising, marketing, and other communications promoting youth
12 competitive shooting events and practices events where “firearm-related products”
13 are used and providing recommendations on which “firearm-related products” are
14 most suitable its young shooters’ competitive and recreational shooting needs. AB
15 2571 prohibits this otherwise protected speech.

16 86. Plaintiff RCYCSSL also widely distributes printed and electronic
17 communications promoting its youth competitive events and practices. These
18 communications regularly include images and/or depictions of minors handling or
19 “using firearm-related products.” AB 2571 prohibits this otherwise protected
20 speech.

21 87. Plaintiff CRPA, a non-profit member organization “formed for the
22 express purpose of promoting, encouraging, or advocating for the purchase, use, or
23 ownership of firearm-related products,” not only promotes, sponsors, and hosts
24 firearms programs for youth like those described above, it is also rolling out paid
25 memberships for youth and uses CRPA-branded merchandise and giveaways (or
26 “swag”), including but not limited to hats, t-shirts, stuffed animals, coloring and
27 activity books, stickers, pins, and buttons, to promote the organization and solicit
28 memberships and/or financial support, as well as to spread pro-gun messages and

1 slogans. AB 2571 prohibits this otherwise protected speech.

2 88. AB 2571 *does not*, however, prohibit anti-gun organizations not
3 “formed for the express purpose of promoting, encouraging, or advocating for the
4 purchase, use, or ownership of firearm-related products,” like Moms Demand
5 Action for Gun Sense in America, Gun Free Kids, and Everytown for Gun Safety,
6 from offering and soliciting youth memberships or using branded merchandise, like
7 hats, t-shirts, stuffed animals, coloring and activity books, stickers, pins, and
8 buttons, bearing anti-gun messages and slogans—or even images of *unlawful*
9 firearms—to spread their political messages, promote their organizations, or solicit
10 memberships and/or financial support.

11 89. Plaintiff CRPA also publishes and distributes various publications,
12 including magazines, that have included and, but for the enforcement of AB 2571,
13 would continue to include cartoons (including political cartoons), as well as articles
14 and images or depictions of the use of “firearm-related products” by minors. AB
15 2571 prohibits this otherwise protected speech.

16 90. Plaintiff CRPA’s publications also include advertisements promoting
17 CRPA’s and CRPA partners’ youth shooting competitions, youth recreational
18 shooting and outdoors events, firearm- and hunter-safety courses, and shooting
19 skills courses. AB 2571 prohibits this otherwise protected speech.

20 91. Plaintiff CRPA’s publications also include traditional advertisements
21 for “firearm-related products.” AB 2571 prohibits this otherwise protected
22 commercial speech.

23 92. To be clear, Plaintiff CRPA’s traditional advertising of “firearm-
24 related products” is not designed or intended to encourage minors to unlawfully *buy*
25 firearms themselves. Rather, Plaintiffs’ communications might “reasonably
26 appear[] to be attractive to minors” because they are attractive to *everyone*—
27 including adults—and/or they are intended for an audience of minors who may
28 want to ask their parents to lawfully purchase “firearm-related products” for the

1 minor's lawful use.

2 93. Plaintiff CRPAF, a 501(c)(3) non-profit organization "formed for the
3 express purpose of promoting, encouraging, or advocating for the purchase, use, or
4 ownership of firearm-related products," not only promotes, sponsors, and hosts
5 firearms programs for youth like those described above, it also solicits funds for
6 and provides scholarships and grants for individual youth shooters and youth
7 shooting teams, publishes brochures and articles about youth shooting teams, and
8 (in response to countless requests from CRPA and CRPAF supporters for such
9 content) is launching an activity book about the shooting sports for children. AB
10 2571 prohibits this otherwise protected speech.

11 94. Plaintiff GOC, a non-profit member organization "formed for the
12 express purpose of promoting, encouraging, or advocating for the purchase, use, or
13 ownership of firearm-related products," regularly supports youth shooting teams
14 and individual talented young shooters through sponsorships and other support.
15 Through this work, Plaintiff GOC regularly engages with minors through
16 advertisements, sponsorships, and other communications promoting events where
17 "firearm-related products" are used. AB 2571 prohibits this otherwise protected
18 speech.

19 95. Plaintiff SAF, a non-profit member organization "formed for the
20 express purpose of promoting, encouraging, or advocating for the purchase, use, or
21 ownership of firearm-related products," sponsors and supports an initiative called
22 2AGaming, an outreach program with the goal of growing the Second Amendment
23 Community. 2AGaming functions by reaching out to people who play video games,
24 especially people who play games that focus on guns. This outreach necessarily
25 includes minors and young adults who play such games. Part of the purpose of
26 2AGaming is to persuade gamers, whose experience with firearms may—at first—
27 be limited to a digital experience, to seek out friends and shooting clubs to obtain
28 the necessary training and make that first trip to a range for a live fire experience.

1 Plaintiff SAF hopes to educate the younger generation on safety and where their
 2 gun rights come from; and also seek to shift the political culture in the United
 3 States from one that demonizes and fears guns, to an attitude of respect and
 4 protection for our nation's Second Amendment heritage.⁴

5 96. Plaintiff SAF also produces SAF-branded merchandise or “swag” that
 6 it distributes to promote itself, to increase paid memberships, encourage
 7 participation in shooting sports, and spread its Second Amendment message. The
 8 ban on merchandizing codified in AB 2571 would include a ban on SAF branded t-
 9 shirts, hats, other clothing, toys, games, pins, stickers, buttons, etc. that “promote” a
 10 “firearm industry member.”

11 97. As a result of the adoption and immediate enforcement of AB 2571,
 12 Plaintiffs have already begun to curtail these activities, as well as all manner of
 13 speech that could arguably fall under AB 2571's ban on speech—fearing the
 14 draconian penalties that attach to each incident of marketing barred by AB 2571,
 15 including fines up to \$25,000 *per copy or reproduction of the communication* and
 16 an award of actual damages and attorney's fees and costs to any prevailing plaintiff
 17 who brings an action alleging a violation of AB 2571.

18 98. AB 2571 thus has the practical effect of wiping out a vital outlet for
 19 the free exchange of ideas related to the lawful possession and use of lawful
 20 “firearm-related products” and for the promotion and preservation of the “gun
 21 culture” in California through the passing down of pro-gun attitudes and traditions
 22 to future generations.

23 99. Both on its face and as evidenced by the legislative history of AB
 24 2571, this appears to be the very purpose and intent of the law.

25 100. Indeed, the Senate Judiciary Committee's June 10, 2022, Bill Analysis
 26

27 ⁴ Information about 2AGaming can be found at <https://www.saf.org/gaming/>.
 28 The program has received favorable press coverage at <https://www.breitbart.com/politics/2020/01/30/2nd-amendment-gaming-spreading-gun-rights-message-via-video-games/>.

1 of AB 2571, quotes heavily from the Violence Policy Center's ("VPC") 2016
 2 report, *Start Them Young*, which disparagingly "outlines the *problem*" of the "gun
 3 industry's" attempts to "attract future legal gun owners" thusly:

4 The gun industry has long understood that it faces a slow-
 5 motion demographic collapse. With the industry's
 6 customer base growing older, household gun ownership in
 7 America has steadily declined. As its primary market of
 8 white males ages and dies off, the firearms industry has
 9 set its sights on America's children. Much like the
 10 tobacco industry's search for replacement smokers, the
 11 gun industry is seeking replacement shooters to purchase
 12 its deadly products. Firearms companies have teamed up
 13 with "corporate partners" like the National Rifle
 14 Association of America, the gun industry's trade
 15 association the National Shooting Sports Foundation
 (NSSF), and online publications such as Junior Shooters
 in an industry-wide effort to market firearms to kids. They
 do this by promoting websites and magazines targeted at
 children, designing "kid-friendly" guns to appeal to the
 youth market, and even working to create the equivalent
 of "'reality' video" games to encourage gun use from an
 early age.

**The industry's focus on recruiting children into the
 gun culture has been acknowledged since at least the
 1990s.**

16 Ex. B at 7-8 (quoting Josh Sugarman, Violence Policy Center, "*Start Them Young*"
 17 *How the Firearms Industry and Gun Lobby Are Targeting Your Children* (Feb.
 18 2016), available at <https://www.vpc.org/studies/starttheyoung.pdf> (attached
 19 hereto as **Exhibit C**)) (emphasis added).

20 101. The Senate Judiciary Committee's analysis continues, quoting a New
 21 York Times article lauding the VPC report:

22 The gun industry markets a variety of products explicitly
 23 to children, a new report shows, from armed stuffed
 24 animals to lighter versions of rifles. *And some see kids as
 a vital group of future gun buyers who need to be brought
 into the fold at a young age.*

25 The report, called "Start Them Young" and issued on
 26 Thursday by the Violence Policy Center, lists a variety of
 27 firearms meant at least partly for children. It mentions the
 28 Crickett rifle, a gun made for children by the company
 Keystone Sporting Arms. Keystone's website and some of
 its merchandise bear the image of "Davey Crickett," a
 gun-wielding cartoon insect. The company sells Davey

1 Crickett hats, dog tags and pins, as well as a Davey
2 Crickett Beanie Baby, listed as “not for children under
three years of age.”

3 Keystone’s website also sells books featuring “Little
4 Jake,” a boy who uses his gun to bring down a bear and
5 save an African village from a marauding elephant. The
6 publisher of the books says Little Jake is actually older
than he looks: “Little Jake is a fictional character in his
late teens. While small in stature so that young children
may relate to him, Little Jake is old enough to hunt and
fish safely on his own without adult supervision.”

7 Ex. B at 8-9 (quoting Anna North, *Marketing Guns to Children*, N.Y. Times (Feb.
8 19, 2022), available at [https://archive.nytimes.com/takingnote.blogs.nytimes.com/
9 2016/02/19/marketing-guns-to-children/](https://archive.nytimes.com/takingnote.blogs.nytimes.com/2016/02/19/marketing-guns-to-children/) (attached hereto as **Exhibit D**)) (emphasis
10 added).

11 102. The New York Times article explains that “the [VPC] report makes the
12 case that the gun industry and some gun-rights advocates see putting guns in the
13 hands of children as a crucial recruitment move.” It goes on to quote the editor-in-
14 chief of Plaintiff Junior Sports Magazines’ *Junior Shooters*, who wrote in 2012,
15 that:

16 Each person who is introduced to the shooting sports and
17 has a positive experience *is another vote in favor of*
18 *keeping our American heritage and freedom alive.* They
19 may not be old enough to vote now, but they will be in the
future. And think about how many lives they will come in
contact with that they can impact!

20 Ex. D (emphasis added). It is thus clear that the Legislature understood the
21 importance of engaging youth in the shooting sports for the preservation of the
22 “gun culture” and, in fact, intended AB 2571 to serve as a barrier to that
23 constitutionally protected conduct.

24 103. Further evidencing the intent of AB 2571 are the bill’s author’s own
25 words:

26 This epidemic of deadly violence is fueled by an industry
27 that *encourages children to hold a gun as soon as they*
28 *can walk.*

Gun manufacturers view children as their next generation of *advocates* and customers, and target them with slick advertising – even children’s books. The advertising for these weapons is shameless. Children in California are not allowed to buy or own a gun, yet they are advertised to across all forms of media with cartoons, video games, and social media.

....

Guns are not a toy. Guns are a tool of death. Taking away this *tool of violent indoctrination* from the gun industry is a vital step forward to protect California’s children.

Ex. B at 9 (emphases added).

104. Setting aside the obvious hyperbole and the animus evident from the author’s words, it is clear that the intent of AB 2571 was not simply to keep unlawful firearms out of the hands of minors and to prevent unlawful use of firearms, but to prevent “firearm industry members,” which by the very terms of AB 2571 include pro-Second Amendment organizations and youth shooting programs, from “indoctrinating” youth to become “advocates” for the Second Amendment and “gun culture” in America.

105. Then, on July 1, 2022, after signing AB 2571 into law, Governor Newsom recorded and posted to his official Twitter feed a message to “the members of the United States Supreme Court” and to “right-wing Republicans across this country,” rhetorically asking them:

Do you have no common decency, respect, or even common understanding that kids should not have one of these [referring to a semi-automatic rifle in his hands]? This is an AR-15. This is a weapon of war. A weapon of mass destruction. But you’re out there promoting and allowing marketing of these weapons of war to our kids. Supporting and celebrating gun manufacturers who put up advertisements like the ones you see behind me. These are cartoon skulls with pacifiers in them. His and her pacifiers. Cartoon skulls of children with pacifiers. That is what the right wing is marketing and promoting at behest of the gun industry in this country. The good news, if there’s any, is that this ends at least today in California. I just signed a bill, so the gun industry and those that are backing this industry can no longer market to our children. The idea that we even have to do this is ridiculous. This law, by the way, goes into effect

1 immediately. Because *decent human beings, people with*
 2 *common sense, know that we should not be allowing this*
kind of disgusting marketing to go on another day.

3 Rosalio Ahumada, *Gavin Newsom Signs New Gun Safety Laws Targeting Illegal*
 4 *Weapons, Marketing to Kids*, Sac. Bee (July 1, 2022), available at
 5 <https://www.sacbee.com/news/local/crime/article263108183.html> (the entire video
 6 of Governor Newsom’s remarks is available on the Sacramento Bee website, as
 7 well as the official Twitter page of the Office of the Governor of California).

8 106. In his recorded statement, Governor Newsom reproduced and
 9 displayed advertising from WEE1 Tactical of their JR-15, *id.*—the very advertising
 10 that seemingly sparked California’s concern over firearm marketing that has been
 11 prevalent in America for generations, *see* Ex. B at 8. But because Governor
 12 Newsom is not a “firearm industry member” whose primary purpose is to
 13 encourage his audience to “purchase or use the product,” but rather to disparage
 14 those whose viewpoints do not align with his and those who *would* use the product,
 15 Governor Newsom is free to reproduce and display the very same images WEE1
 16 Tactical is now barred from distributing.

17 **FIRST CAUSE OF ACTION**
 18 **Violation of Right to Free Speech Under U.S. Const., amend. I**
 19 **Political & Ideological Speech**
42 U.S.C. § 1983
 (By All Plaintiffs Against All Defendants)

20 107. Plaintiffs incorporate by reference paragraphs 1 through 106 of this
 21 complaint as though fully set forth herein in their entirety.

22 108. Defendants, acting under color of state law, are enforcing AB 2571,
 23 which deprives Plaintiffs of free speech rights secured by the First Amendment of
 24 the United States Constitution in violation of 42 U.S.C. § 1983.

25 109. On its face and as applied, AB 2571 is an unconstitutional abridgement
 26 of Plaintiffs’ right to free speech under the First Amendment because it casts such a
 27 wide net that it directly prohibits Plaintiffs’ pure speech related to the lawful
 28 possession and use of lawful firearms without any compelling governmental

1 interest.

2 110. On its face and as evidenced by the legislative history of AB 2571, it is
3 clear that the law's purpose and intention is to thwart the promotion and
4 preservation of the "gun culture" in California through the passing down of pro-gun
5 attitudes and traditions to future generations. AB 2571 is thus a "presumptively
6 unlawful" content-based and viewpoint-discriminatory restriction of speech.

7 111. On its face, AB 2571 does not apply to similar or opposing speech
8 made by businesses, organizations, or people who are not considered "firearm
9 industry members." AB 2571 is thus a "presumptively unlawful" content-,
10 viewpoint-, and speaker-based restriction on speech.

11 112. Defendants have no compelling (or even legitimate) governmental
12 interest in banning Plaintiffs' pure speech concerning "firearm-related products."
13 Indeed, the State's purported interests in "ensuring that minors do not possess these
14 dangerous weapons" and "protecting its citizens ... from gun violence" are betrayed
15 by the fact that California does not directly ban the possession of many "firearm-
16 related products" by minors for lawful purposes under a broad range of
17 circumstances.

18 113. Further, AB 2571 is neither narrowly tailored to nor the least
19 restrictive means of achieving the state's dubious interests. Indeed, it sweeps up *all*
20 communications "*concerning* firearm-related products" made by "firearm industry
21 members" "in exchange for monetary compensation" that are "designed, intended,
22 or reasonably appear[] to be attractive minors"—even communications concerning
23 lawful (and constitutionally protected) products and services and communications
24 that are equally attractive to adults who have a right to obtain information about
25 such products and services.

26 114. AB 2571 is unconstitutionally overbroad because, in an effort to
27 restrict commercial advertising promoting the sale of "firearm-related products" to
28 minors, the law seriously and deliberately burdens a vast amount of speech that

1 does not constitute such a communication and is fully protected by the First
2 Amendment.

3 115. Even if AB 2571 was not written with the intention of barring events,
4 competitions, firearm safety programs, or shooting skills courses for youth (and the
5 advertising, marketing, and other communications necessarily attendant to these
6 programs) or to prevent firearms-related organizations from soliciting members
7 through marketing to and providing memberships for minors, that is its effect.
8 Indeed, AB 2571 is so hopelessly vague and confusing that Plaintiffs have already
9 begun to curtail all manner of speech that could arguably fall under AB 2571's
10 overly broad ban. This "chilling" of speech also offends the First Amendment.

11 116. As a direct and proximate result of Defendants' conduct, Plaintiffs
12 have suffered irreparable harm, including the violation of their constitutional right
13 to free speech, entitling them to declaratory and injunctive relief. Absent
14 intervention by this Court, through declaratory and injunctive relief, Plaintiffs will
15 continue to suffer this irreparable harm.

16
17 **SECOND CAUSE OF ACTION**
18 **Violation of Right to Commercial Speech Under U.S. Const., amend. I**
19 **42 U.S.C. § 1983**
20 (By All Plaintiffs Against All Defendants)

21 117. Plaintiffs incorporate by reference paragraphs 1 through 116 of this
22 complaint as though fully set forth herein in their entirety.

23 118. Defendants, acting under color of state law, are enforcing AB 2571,
24 which deprives Plaintiffs of commercial speech rights secured by the First
25 Amendment of the United States Constitution in violation of 42 U.S.C. § 1983.

26 119. On its face and as applied, AB 2571 is an unconstitutional abridgement
27 of Plaintiffs' right to free speech under the First Amendment because it casts such a
28 wide net that it directly prohibits Plaintiffs' protected commercial speech without
any substantial governmental interest and is far more extensive than necessary to
serve any purported governmental interest.

1 120. AB 2571 ensnares *all* advertising, marketing, and placement of
2 advertising or marketing concerning “firearm-related products” by “firearm
3 industry members” that might be deemed “attractive” to minors—even those that
4 propose the sale of lawful firearms for lawful purposes. It does not merely target
5 commercial speech regarding unlawful activity or products.

6 121. Defendants have no substantial (or even legitimate) governmental
7 interest in banning non-misleading commercial speech concerning the lawful sale,
8 possession, and use of “firearm-related products.” Indeed, the State’s purported
9 interests in “ensuring that minors do not possess these dangerous weapons” and
10 “protecting its citizens ... from gun violence” are betrayed by the fact that
11 California does not ban the possession of many “firearm-related products” by
12 minors for lawful purposes under a broad range of circumstances.

13 122. Even if the state’s purported interests were substantial, neither interest
14 is directly served by the ban.

15 123. Even if the state’s purported interests were substantial, AB 2571 is far
16 more extensive than necessary to achieve the state’s interests. Indeed, it sweeps up
17 *all* communications concerning “firearm-related products” made by “firearm
18 industry members” “in exchange for monetary compensation” that are “designed,
19 intended, or reasonably appear[] to be attractive minors”—even communications
20 concerning lawful (and constitutionally protected) products and services and
21 communications that are equally attractive to adults who have a right to obtain
22 information about such products and services.

23 124. As a direct and proximate result of Defendants’ conduct, Plaintiffs
24 have suffered irreparable harm, including the violation of their constitutional right
25 to free speech, entitling them to declaratory and injunctive relief. Absent
26 intervention by this Court, through declaratory and injunctive relief, Plaintiffs will
27 continue to suffer this irreparable harm.
28

THIRD CAUSE OF ACTION
Violation of Rights to Association & Assembly Under U.S. Const., amend. I
42 U.S.C. § 1983
(By All Plaintiffs Against All Defendants)

125. Plaintiffs incorporate by reference paragraphs 1 through 124 of this complaint as though fully set forth herein in their entirety.

126. Defendants, acting under color of state law, are enforcing AB 2571, which deprives Plaintiffs of free association and assembly rights secured by the First Amendment of the United States Constitution in violation of 42 U.S.C. § 1983.

127. On its face and as applied, AB 2571 is an unconstitutional abridgement of Plaintiffs' rights to free association and assembly under the First Amendment because it casts such a wide net that it directly prohibits all Plaintiffs from advertising, marketing, or arranging for the placement of advertising or marketing concerning their various firearm-related programs, where Plaintiffs peacefully and lawfully assemble and associate with each other and members of the public, including youth.

128. On its face and as applied, AB 2571 is an unconstitutional abridgement of Plaintiff CRPA's rights to free association and assembly under the First Amendment because it casts such a wide net that it directly prohibits Plaintiff CRPA from advertising, marketing, or arranging for the placement of advertising or marketing concerning its youth memberships. It also bars Plaintiff CRPA from distributing CRPA-branded merchandise and giveaways to promote the membership in and financial support of the organization.

129. Defendants have no compelling (or even legitimate) interest in prohibiting "firearm industry members," like the Plaintiffs, from advertising, marketing, or arranging for the placement of any advertising or marketing communication concerning their firearm-related youth programming and services and the "firearm-related products" used, sold, endorsed, recommended, or advertised at such events—effectively putting an end to such events and, by

1 extension, the rights of Plaintiffs to associate and assemble at them.

2 130. Defendants have no compelling (or even legitimate) governmental
3 interest in prohibiting Plaintiff CRPA, a “firearm industry member,” from
4 advertising, marketing, or arranging for the placement of any advertising or
5 marketing communication concerning its youth memberships and from distributing
6 CRPA-branded merchandise to promote the membership in and financial support of
7 the organization.

8 131. Even if AB 2571 served some sufficient government purpose, it is
9 neither narrowly tailored nor the least restrictive means to serve that end.

10 132. As a direct and proximate result of Defendants’ conduct, all Plaintiffs
11 have suffered irreparable harm, including the violation of their constitutional right
12 to free association and assembly, entitling them to declaratory and injunctive relief.
13 Absent intervention by this Court, through declaratory and injunctive relief,
14 Plaintiffs will continue to suffer this irreparable harm.

15 **FOURTH CAUSE OF ACTION**
16 **Violation of the Right to Equal Protection Under U.S. Const., amend. XIV**
17 **42 U.S.C. § 1983**

18 (By All Plaintiffs Against All Defendants)

19 133. Plaintiffs incorporate by reference paragraphs 1 through 132 of this
20 complaint as if fully set forth herein in their entirety.

21 134. Defendants, acting under color of state law, are enforcing AB 2571,
22 which deprives Plaintiffs of right to equal protection under the law secured by the
23 Fourteenth Amendment of the United States Constitution in violation of 42 U.S.C.
24 § 1983.

25 135. On its face and as applied, AB 2571 is an unconstitutional abridgement
26 of Plaintiffs’ right to equal protection under the law guaranteed by the Fourteenth
27 Amendment because it is a viewpoint-discriminatory and/or animus-based
28 restriction on Plaintiffs’ protected political and ideological speech that serves no
compelling governmental interest.

1 136. On its face and as evidenced by the legislative history of AB 2571, it is
2 clear that the law’s purpose and intention is to thwart the promotion and
3 preservation of the “gun culture” in California through the passing down of pro-gun
4 attitudes and traditions to future generations.

5 137. On its face, AB 2571 does not apply to similar or opposing speech
6 made by businesses, organizations, or people who are not considered “firearm
7 industry members.”

8 138. Defendants have no compelling (or even legitimate) governmental
9 interest in banning Plaintiffs’ pure speech concerning “firearm-related products.”
10 Indeed, the State’s purported interests in “ensuring that minors do not possess these
11 dangerous weapons” and “protecting its citizens ... from gun violence” are betrayed
12 by the fact that California does not directly ban the possession of many “firearm-
13 related products” by minors for lawful purposes under a broad range of
14 circumstances.

15 139. Nor is there any legitimate interest in singling out politically
16 disfavored “firearm industry members” under AB 2571’s ban on protected
17 speech—while leaving members of other industries, like the popular entertainment
18 and video game industries, as well as anti-gun organizations free to engage in
19 similar or identical speech. Rather, AB 2571 is steeped in and motivated by animus
20 for “gun culture” and those who participate in it.

21 140. Further, AB 2571 is not narrowly tailored to achieving the state’s
22 dubious interests.

23 141. As a direct and proximate result of Defendants’ conduct, Plaintiffs
24 have suffered irreparable harm, including the violation of their constitutional right
25 to equal protection under the law, entitling them to declaratory and injunctive relief.
26 Absent intervention by this Court, through declaratory and injunctive relief,
27 Plaintiffs will continue to suffer this irreparable harm.
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for:

1. A declaration that AB 2571, codified at California Business & Professions Code section 22949.80, violates the Plaintiffs' free speech rights under the First Amendment to the United States Constitution, on its face and as applied to the Plaintiffs;

2. A declaration that AB 2571, codified at California Business & Professions Code section 22949.80, violates the Plaintiffs' commercial speech rights under the First Amendment to the United States Constitution, on its face and as applied the Plaintiffs;

3. A declaration that AB 2571, codified at California Business & Professions Code section 22949.80, violates the rights of assembly and association of the Plaintiffs under the First Amendment to the United States Constitution, on its face and as applied to the Plaintiffs;

4. A declaration that AB 893, codified at California Business & Professions Code section 22949.80, violates the rights of the Plaintiffs to equal protection under the law per the Fourteenth Amendment to the United States Constitution, on its face and as applied to the Plaintiffs;

5. A preliminary and permanent injunction prohibiting all Defendants, their employees, agents, successors in office, and all District Attorneys, County Counsel, and City Attorneys holding office in the state of California, as well as their successors in office, from enforcing AB 2571, codified at Business & Professions Code section 22949.80;

6. An award of costs and expenses, including attorney's fees, pursuant to 42 U.S.C. § 1988 or other applicable state or federal law; and

///

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1 7. Any such other relief the Court deems just and equitable.

2
3 Dated: July 8, 2022

MICHEL & ASSOCIATES, P.C.

4 *s/ Anna M. Barvir*

5 Anna M. Barvir
6 Counsel for Plaintiffs Attorneys for Plaintiffs
7 Junior Sports Magazines, Inc., Raymond
8 Brown, California Youth Shooting Sports
9 Association, Inc., Redlands California Youth
10 Clay Shooting Sports, Inc., California Rifle &
11 Pistol Association, Incorporated, The CRPA
12 Foundation, and Gun Owners of California,
13 Inc.

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Dated: July 8, 2022

LAW OFFICES OF DONALD KILMER, APC

s/ Donald Kilmer

Donald Kilmer
Counsel for Plaintiff Second Amendment
Foundation

EXHIBIT A

Assembly Bill No. 2571

CHAPTER 77

An act to add Chapter 39 (commencing with Section 22949.80) to Division 8 of the Business and Professions Code, relating to firearms, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 2022. Filed with Secretary of State June 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2571, Bauer-Kahan. Firearms: advertising to minors.

Existing law generally regulates manufacturers and dealers of firearms. Under existing law, commercial speech or advertising is generally protected under the First Amendment to the Constitution of the United States. Existing laws and regulations, however, restrict the content and placement of advertising and promotional marketing of alcohol, cannabis, and tobacco to protect minors.

This bill would prohibit a firearm industry member, as defined, from advertising or marketing any firearm-related product, as defined, in a manner that is designed, intended, or reasonably appears to be attractive to minors. The bill would also prohibit a firearm industry member from using, disclosing, or compiling a minor's personal information if it is intended to market or advertise a firearm to that minor, as specified. The bill would impose a civil penalty of up to \$25,000 for each violation of these provisions, and would authorize a person harmed by a violation to bring suit to recover any damages suffered, as specified. The bill would make each copy or republication of marketing or advertising prohibited by these provisions a separate violation. The bill would declare that its provisions are severable, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature hereby finds and declares that the proliferation of firearms to and among minors poses a threat to the health, safety, and security of all residents of, and visitors to, this state. These weapons are especially dangerous in the hands of minors because current research and scientific evidence shows that minors are more impulsive, more likely to engage in risky and reckless behavior, unduly influenced by peer pressure, motivated more by rewards than costs or negative consequences, less likely to consider the future consequences of their actions

and decisions, and less able to control themselves in emotionally arousing situations. In recognition of these facts, the Legislature has already prohibited minors from possessing firearms, except in certain limited circumstances. Nonetheless, firearms manufacturers and retailers continue to market firearms to minors, often identifying particular weapons as starter guns, especially good for children. As reflected in numerous laws regulating marketing of dangerous products to minors, children are especially susceptible to marketing appeals, as well as more prone to impulsive, risky, thrill-seeking, and violent behavior than other age groups. Firearms marketing contributes to the unlawful sale of firearms to minors, as well as the unlawful transfer of firearms to minors by adults who may possess those weapons lawfully. This state has a compelling interest in ensuring that minors do not possess these dangerous weapons and in protecting its citizens, especially minors, from gun violence and from intimidation by persons brandishing these weapons.

(b) It is the intent of the Legislature in enacting this act to further restrict the marketing and advertising of firearms to minors. Nothing in this chapter shall be construed to limit in any way the enforceability of existing law concerning firearms and marketing thereof.

SEC. 2. Chapter 39 (commencing with Section 22949.80) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 39. MARKETING FIREARMS TO MINORS

22949.80. (a) (1) A firearm industry member shall not advertise, market, or arrange for placement of an advertising or marketing communication concerning any firearm-related product in a manner that is designed, intended, or reasonably appears to be attractive to minors.

(2) In determining whether marketing or advertising of a firearm-related product is attractive to minors, as described in paragraph (1), a court shall consider the totality of the circumstances, including, but not limited to, whether the marketing or advertising:

(A) Uses caricatures that reasonably appear to be minors or cartoon characters to promote firearm-related products.

(B) Offers brand name merchandise for minors, including, but not limited to, hats, t-shirts, or other clothing, or toys, games, or stuffed animals, that promotes a firearm industry member or firearm-related product.

(C) Offers firearm-related products in sizes, colors, or designs that are specifically designed to be used by, or appeal to, minors.

(D) Is part of a marketing or advertising campaign designed with the intent to appeal to minors.

(E) Uses images or depictions of minors in advertising and marketing materials to depict the use of firearm-related products.

(F) Is placed in a publication created for the purpose of reaching an audience that is predominately composed of minors and not intended for a more general audience composed of adults.

(b) A firearm industry member publishing material directed to minors in this state or who has actual knowledge that a minor in this state is using or receiving its material, shall not knowingly use, disclose, compile, or allow a third party to use, disclose, or compile, the personal information of that minor with actual knowledge that the use, disclosure, or compilation is for the purpose of marketing or advertising to that minor any firearm-related product.

(c) As used in this chapter:

(1) “Ammunition” has the same meaning as provided in subdivision (b) of Section 16150 of the Penal Code.

(2) “Firearm” has the same meaning as provided in subdivisions (a) and (b) of Section 16520 of the Penal Code.

(3) “Firearm accessory” means an attachment or device designed or adapted to be inserted into, affixed onto, or used in conjunction with, a firearm which is designed, intended, or functions to alter or enhance the firing capabilities of a firearm, the lethality of the firearm, or a shooter’s ability to hold, carry, or use a firearm.

(4) “Firearm industry member” means any of the following:

(A) A person, firm, corporation, company, partnership, society, joint stock company, or any other entity or association engaged in the manufacture, distribution, importation, marketing, wholesale, or retail sale of firearm-related products.

(B) A person, firm, corporation, company, partnership, society, joint stock company, or any other entity or association formed for the express purpose of promoting, encouraging, or advocating for the purchase, use, or ownership of firearm-related products that does one of the following:

(i) Advertises firearm-related products.

(ii) Advertises events where firearm-related products are sold or used.

(iii) Endorses specific firearm-related products.

(iv) Sponsors or otherwise promotes events at which firearm-related products are sold or used.

(5) “Firearm-related product” means a firearm, ammunition, reloaded ammunition, a firearm precursor part, a firearm component, or a firearm accessory that meets any of the following conditions:

(A) The item is sold, made, or distributed in California.

(B) The item is intended to be sold or distributed in California.

(C) It is reasonably foreseeable that the item would be sold or possessed in California.

(D) Marketing or advertising for the item is directed to residents of California.

(6) “Marketing or advertising” means, in exchange for monetary compensation, to make a communication to one or more individuals, or to arrange for the dissemination to the public of a communication, about a product or service the primary purpose of which is to encourage recipients of the communication to purchase or use the product or service.

(7) “Minor” means a natural person under 18 years of age who resides in this state.

(d) This section shall not be construed to require or authorize a firearm industry member to collect or retain age information about users or subscribers of products or services offered.

(e) (1) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(2) The court shall impose a civil penalty under paragraph (1) for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(3) A person harmed by a violation of this section may commence a civil action to recover their actual damages.

(4) The court shall also order injunctive relief, including a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the court deems necessary to prevent the harm described in this section.

(5) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in an action brought pursuant to this section.

(6) Each copy or republication of marketing or advertising prohibited by this section shall be deemed a separate violation.

(f) The provisions of this section are severable. If any portion, subdivision, paragraph, clause, sentence, phrase, word, or application of this section is for any reason held to be invalid by any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this chapter. The Legislature hereby declares that it would have adopted this section and each and every portion, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any other portion of this section or application thereof would be subsequently declared invalid.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect public safety by prohibiting firearm advertising to minors as soon as possible, it is necessary that this act take effect immediately.

EXHIBIT B

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AB 2571 (Bauer-Kahan)
Version: April 27, 2022
Hearing Date: June 14, 2022
Fiscal: Yes
Urgency: No
CK

SUBJECT

Firearms: advertising to minors

DIGEST

This bill prohibits firearm industry members from advertising or marketing, as defined, firearm-related products to minors. The bill restricts the use of minors' personal information in connection with marketing or advertising firearm-related products to those minors.

EXECUTIVE SUMMARY

In the United States, children are more likely to die from gun violence than in any other high-income country. In 2020, gun violence overtook car accidents to become the number one cause of death for U.S. children and adolescents.¹ In California, children are generally restricted from purchasing and possessing firearms and ammunition, except under specified circumstances. However, concerns have arisen that children are still being marketed to by the gun industry.

This bill prohibits firearm industry members from advertising or marketing, as defined, firearm-related products in a manner that is designed, intended, or reasonably appears to be attractive to minors. The determination of whether it is "attractive to minors" is based on a consideration of the totality of the circumstances, including whether the marketing or advertising used cartoon characters or offered brand name stuffed animals promoting the entity or firearm-related product. The bill also prohibits knowingly leveraging the personal information of a minor for the purpose of marketing or advertising to that minor any firearm-related product, as specified.

¹ Laurel Wamsley, *The U.S. is uniquely terrible at protecting children from gun violence* (May 28, 2022) NPR, <https://www.npr.org/2022/05/28/1101307932/texas-shooting-ualde-gun-violence-children-teenagers>. All internet citations are current as of June 2, 2022.

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This bill is sponsored by Governor Gavin Newsom. It is supported by a variety of groups, including Everytown for Gun Safety and the County of San Diego. The bill is opposed by the National Rifle Association.

PROPOSED CHANGES TO THE LAW

Existing federal law:

- 1) Provides, pursuant to the Second Amendment to the United States Constitution, that a well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed. (U.S. Const. Amend. 2.)
- 2) Prohibits a qualified civil liability action from being brought in any Federal or State court. (15 U.S.C. § 7902.) A “qualified civil liability action” means a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines or penalties, or other relief resulting from the criminal or unlawful misuse of a qualified product by the person or a third party. (15 U.S.C. § 7903.)
- 3) Establishes the federal Children’s Online Privacy Protection Act (COPPA) to provide protections and regulations regarding the collection of personal information from children under the age of 13. (15 U.S.C. § 6501 et seq.)

Existing state law:

- 1) Requires a person be at least 18 years of age to be sold most firearms and at least 21 years of age to be sold a handgun, except as specified. (Pen. Code §§ 27505, 27510.)
- 2) Establishes the Privacy Rights for California Minors in the Digital World (PRCMDW), which prohibits an operator of an internet website, online service, online application, or mobile application (“operator”) from the following:
 - a) marketing or advertising specified products or services, such as firearms, cigarettes, and alcoholic beverages, on its internet website, online service, online application, or mobile application that is directed to minors;
 - b) marketing or advertising such products or services to minors who the operator has actual knowledge are using its site, service, or application online and is a minor, if the marketing or advertising is specifically directed to that minor based upon the personal information of the minor; and

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- c) knowingly using, disclosing, compiling, or allowing a third party to use, disclose, or compile, the personal information of a minor with actual knowledge that the use, disclosure, or compilation is for the purpose of marketing or advertising such products or services to that minor, where the website, service, or application is directed to minors or there is actual knowledge that a minor is using the website, service, or application. (Bus. & Prof. Code § 22580.)
- 3) Requires, pursuant to the PRCMDW, certain operators to permit a minor user to remove the minor's content or information and to further inform the minor of this right and the process for exercising it. (Bus. & Prof. Code § 22581.)
- 4) Requires, pursuant to the Parent's Accountability and Child Protection Act, a person or business that conducts business in California, and that seeks to sell any product or service in or into California that is illegal under state law to sell to a minor to, notwithstanding any general term or condition, take reasonable steps, as specified, to ensure that the purchaser is of legal age at the time of purchase or delivery, including, but not limited to, verifying the age of the purchaser. (Civ. Code § 1798.99.1(a)(1).)
- 5) Prohibits a business from selling or sharing the personal information of a consumer if the business has actual knowledge that the consumer is less than 16 years of age unless the consumer, in the case of consumers between 13 and 16 years of age, or the consumer's parent or guardian, in the case of consumers who are less than 13 years of age, has affirmatively authorized such sale or sharing. A business that willfully disregards the consumer's age shall be deemed to have had actual knowledge of the consumer's age. (Civ. Code § 1798.120.)
- 6) Defines "firearm" as a device designed to be used as a weapon from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion. (Pen. Code § 16520.) It defines "firearm precursor part" to mean a component of a firearm that is necessary to build or assemble a firearm and is either an unfinished receiver or an unfinished handgun frame. (Pen. Code § 16531.)
- 7) Defines "ammunition" to include any bullet, cartridge, magazine, clip, speed loader, autoloader, ammunition feeding device, or projectile capable of being fired from a firearm with a deadly consequence. (Pen. Code § 16150(b).)
- 8) Requires firearms dealers to obtain certain identifying information from firearms purchasers and forward that information, via electronic transfer, to the DOJ to perform a background check on the purchaser to determine whether they are prohibited from possessing a firearm. (Pen. Code §§ 28160-28220.)

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This bill:

- 1) Prohibits a firearm industry member from advertising, marketing, or arranging for placement of an advertising or marketing communication concerning any firearm-related product in a manner that is designed, intended, or reasonably appears to be attractive to minors.
- 2) Defines “firearm industry member” to include any of the following:
 - a) any person or entity engaged in the manufacture, distribution, importation, marketing, wholesale, or retail sale of firearm-related products; or
 - b) any person or entity formed for the express purpose of promoting, encouraging, or advocating for the purchase, use, or ownership of firearm-related products that endorses or advertises such products, or advertises, sponsors, or promotes events where they are sold or used.
- 3) Requires a court when determining whether marketing or advertising of a firearm-related product is attractive to minors to consider the totality of the circumstances, including, but not limited to, whether the marketing or advertising:
 - a) uses caricatures that reasonably appear to be minors or cartoon characters to promote firearm-related products;
 - b) offers brand name merchandise for minors, including, but not limited to, hats, t-shirts, or other clothing, or toys, games, or stuffed animals that promotes a firearm industry member or firearm-related product;
 - c) offers firearm-related products in sizes, colors, or designs that are specifically designed to be used by, or appeal to, minors;
 - d) is part of a marketing or advertising campaign designed with the intent to appeal to minors;
 - e) uses images or depictions of minors in advertising and marketing materials to depict the use of firearm-related products; or
 - f) is placed in a publication created for the purpose of reaching an audience that is predominately composed of minors and not intended for a more general audience composed of adults.
- 4) Prohibits a firearm industry member publishing material directed to minors in this state or who has actual knowledge that a minor in this state is using or receiving its material, from knowingly using, disclosing, compiling, or allowing a third party to use, disclose, or compile the personal information of that minor with actual knowledge that the use, disclosure, or compilation is for the purpose of marketing or advertising to that minor any firearm-related product.
- 5) Provides that any person in violation is liable for a civil penalty not to exceed \$25,000 for each violation, which shall be assessed and recovered in a civil action

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brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

- 6) Authorizes a person harmed by a violation to commence a civil action to recover their actual damages.
- 7) Authorizes the court to order injunctive relief, including a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct.
- 8) Entitles a prevailing plaintiff to reasonable attorney's fees and costs, including expert witness fees and other litigation expenses.
- 9) Deems each copy or republication of prohibited marketing or advertising a separate violation.
- 10) Defines "firearm-related product" as a firearm, ammunition, reloaded ammunition, a firearm precursor part, a firearm component, or a firearm accessory that has a specified connection to California.

COMMENTS

1. Children and the epidemic of gun violence in the United States

Gun violence in the United States has surged in recent years. While most shooting deaths involve handguns, there has been a dramatic rise in the use of assault weapons in gun massacres with six or more deaths, owing to their ability to inflict greater damage at a quicker rate.² Research shows that laws restricting assault weapons reduce deaths; estimates find mass-shooting fatalities were 70 percent less likely during the period when the federal ban was in effect.³ Another rising scourge is the prevalence of "ghost guns." In 2020, California accounted for 65 percent of all ghost guns seized by

² Emily Shapiro, *The type of gun used in most US homicides is not an AR-15* (October 26, 2021) ABC News, <https://abcnews.go.com/US/type-gun-us-homicides-ar-15/story?id=78689504>. All internet citations are current as of March 22, 2022.

³ Charles DiMaggio, et al., *Changes in US mass shooting deaths associated with the 1994-2004 federal assault weapons ban: Analysis of open-source data* (January 2019) The Journal of Trauma and Acute Care Surgery, <https://doi.org/10.1097/TA.0000000000002060>.

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the Bureau of Alcohol, Tobacco, Firearms and Explosives.⁴ The weapons have been linked to 24 killings and dozens of other crimes in 2020 in Los Angeles alone. The problem of gun violence in our society is not going away. In 2020, over 45,000 Americans died from gun-related injuries in the United States. This is the most on record by far, a 43 percent increase from a decade prior.

As stated, gun violence has now become a leading cause of death of children in this country. This is a problem that is increasingly involving children from an early age:

On May 24th an 18-year-old gunman, Salvador Ramos, walked into an elementary school in Uvalde, a town in south-west Texas, and shot dead at least 21 people, including 19 children. Mr Ramos was himself killed, reportedly by police. His motive remains unclear. It is the latest in a spate of mass shootings in America, and the toll is the biggest at a school since a gunman killed 26 people at Sandy Hook Elementary in Newtown, Connecticut, in 2012.

In the decade since Sandy Hook there have been over 900 shootings on school grounds in America. After more than 60 years in which motor-vehicle crashes were the leading cause of death for young people, since 2017 guns have killed more Americans between the ages of one and 24. In 2020 more than 10,000 young Americans were killed by firearms, up from just under 7,000 two decades earlier. Pupils at almost all schools take part in active-shooter drills, learning to hide beneath their desks. Some drills use pellet guns and fake blood to simulate an attack.⁵

Not only are children increasingly the victims, but also the perpetrators of school shootings:

In cases where the source of the gun could be determined, more than 85 percent of shooters brought them from their own homes or obtained them from friends or relatives, according to The Post's analysis.

The ranks of school shooters include a 6-year-old boy, who killed a classmate after saying he didn't like her, and a 15-year-old girl, who did the same to a friend for rejecting her romantic overtures.

⁴ Justin Ray, 'An instrument of death': The problem of ghost guns in California (November 15, 2021) Los Angeles Times, <https://www.latimes.com/california/newsletter/2021-11-15/ghost-guns-california-essential-california>.

⁵ *Guns are the things most likely to kill young people in America* (May 25, 2022) The Economist, <https://www.economist.com/graphic-detail/2022/05/25/guns-are-the-things-most-likely-to-kill-young-people-in-america>.

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Seven in 10 of them, however, were under the age of 18, which means that – often because of an adult’s negligence – dozens of children had access to deadly weapons.

The median age of school shooters is 16.⁶

This is borne out in other studies as well. According to an analysis of FBI data, in 29 of 62 active shooting incidents at educational facilities in the United States between 2000 and 2019, the offender was younger than 18, with an additional 10 shooters between 18 and 21 years old.⁷ Another federally-run center database shows “at least 59 percent of the 2,275 school shootings researchers recorded since 1970 were committed by someone under 21 years old. The offender’s age is unknown in another 18 percent of incidents.”⁸

2. Targeting children with firearm-related products

This bill is prompted by the incidence of marketing and advertising of firearm-related products to children, arguably seeking to attract future legal gun owners. A report from the Violence Policy Center (VPC) outlines the problem:

The gun industry has long understood that it faces a slow-motion demographic collapse. With the industry’s customer base growing older, household gun ownership in America has steadily declined. As its primary market of white males ages and dies off, the firearms industry has set its sights on America’s children. Much like the tobacco industry’s search for replacement smokers, the gun industry is seeking replacement shooters to purchase its deadly products. Firearms companies have teamed up with “corporate partners” like the National Rifle Association of America, the gun industry’s trade association the National Shooting Sports Foundation (NSSF), and online publications such as Junior Shooters in an industry-wide effort to market firearms to kids. They do this by promoting websites and magazines targeted at children, designing “kid-friendly” guns to appeal to the youth market, and even working to create the equivalent of “‘reality’ video” games to encourage gun use from an early age.

⁶ John Woodrow Cox, et al., *More than 311,000 students have experienced gun violence at school since Columbine* (May 27, 2022) Washington Post,

<https://www.washingtonpost.com/graphics/2018/local/school-shootings-database/>.

⁷ Mary Katherine Wildeman, *Data show most school shootings carried out by young adults, teens* (May 26, 2022) CT Insider, <https://www.ctinsider.com/news/article/Data-show-most-school-shootings-carried-out-by-17199231.php>.

⁸ *Ibid.*

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The industry's focus on recruiting children into the gun culture has been acknowledged since at least the 1990s.⁹

One particularly acute example is a product marketed by WEE1 Tactical:

A US gun manufacturer has unveiled a semi-automatic rifle for kids modeled on the AR-15, which has been used in a number of deadly mass shootings, sparking condemnation from gun safety groups.

The gun dubbed the JR-15 is being marketed by maker WEE1 Tactical as "the first in a line of shooting platforms that will safely help adults introduce children to the shooting sports."

The company's website says the rifle "also looks, feels, and operates just like Mom and Dad's gun."

The JR-15 is only 31 inches (80 centimeters) long, weighs less than 2.5 pounds (one kilogram) and comes with magazines of five or 10 rounds of 22 caliber bullets. It was released in mid-January with a price tag of \$389.

The adult model, the AR-15, is the civilian version of a military-style weapon and has been used in multiple mass killings in the United States, including in schools.¹⁰

The marketing generally includes more compact models that are lighter to handle or firearms in various colors. A New York Times blog synthesizes the VPC report:

The gun industry markets a variety of products explicitly to children, a new report shows, from armed stuffed animals to lighter versions of rifles. And some see kids as a vital group of future gun buyers who need to be brought into the fold at a young age.

The report, called "Start Them Young" and issued on Thursday by the Violence Policy Center, lists a variety of firearms meant at least partly for children. It mentions the Crickett rifle, a gun made for children by the company Keystone Sporting Arms. Keystone's website and some of its merchandise bear the image of "Davey Crickett," a gun-wielding cartoon insect. The company sells Davey Crickett hats, dog tags and pins, as well as a Davey Crickett Beanie Baby, listed as "not for children under three years of age."

⁹ Josh Sugarmann, "Start Them Young" *How the Firearms Industry and Gun Lobby Are Targeting Your Children* (February 2016) VPC, <https://www.vpc.org/studies/startthemyoung.pdf>.

¹⁰ Agence France Presse, *US Gunmaker Unveils Semi-automatic Rifle Marketed To Kids* (February 18, 2022) Barron's, <https://www.barrons.com/articles/top-gun-movie-business-51654023576>.

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Keystone's website also sells books featuring "Little Jake," a boy who uses his gun to bring down a bear and save an African village from a marauding elephant. The publisher of the books says Little Jake is actually older than he looks: "Little Jake is a fictional character in his late teens. While small in stature so that young children may relate to him, Little Jake is old enough to hunt and fish safely on his own without adult supervision."

"Start Them Young" also cites the rise of .22-caliber versions of higher-caliber rifles, often produced with lightweight materials. According to an article in the trade magazine Shooting Sports Retailer, "these guns bring the coolness and fun of the tactical rifle to kids and less serious shooters."¹¹

According to the author:

In 2021 there were approximately 259 unintentional shootings by children, resulting in 104 deaths and 168 injuries. Weapons used by children have put other children at risk. 91% of the victims in these shootings by children were also under 18, often siblings of the children shooting. In California, gun violence is the third-leading cause of death for children and teens. This epidemic of deadly violence is fueled by an industry that encourages children to hold a gun as soon as they can walk.

Gun manufacturers view children as their next generation of advocates and customers, and target them with slick advertising – even children's books. The advertising for these weapons is shameless. Children in California are not allowed to buy or own a gun, yet they are advertised to across all forms of media with cartoons, video games, and social media.

AB 2571 will prohibit a person or entity from publishing materials that advertise or market firearms or weapons to anyone under the age of 18. This bill would allow the Attorney General, a District or County Attorney, or a County Counsel to bring a civil action against each violation up to \$25,000.

Guns are not a toy. Guns are a tool of death. Taking away this tool of violent indoctrination from the gun industry is a vital step forward to protect California's children.

¹¹ Anna North, *Marketing Guns to Children* (February 19, 2022) The New York Times, <https://takingnote.blogs.nytimes.com/2016/02/19/marketing-guns-to-children>.

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3. Prohibiting the marketing or advertising of such products to children

This bill prohibits a firearm industry member from advertising or marketing any firearm-related product in a manner that is designed, intended, or reasonably appears to be attractive to minors. Furthermore, the bill places limitations on how these entities can utilize the personal information of minors in this context. If they are publishing material directed to minors in California or have actual knowledge that a minor is using or receiving its material, they are prohibited from knowingly using, disclosing, compiling, or allowing a third party to use, disclose, or compile, the personal information of that minor with actual knowledge that the use, disclosure, or compilation is for the purpose of marketing or advertising to that minor any firearm-related product.

Violations of these provisions are subject to civil penalties of up to \$25,000 for each violation in civil actions brought by the Attorney General or by any district attorney, county counsel, or city attorney. Each copy or republication of prohibited marketing or advertising is deemed a separate violation. Courts are provided specific factors to consider in setting the amount of the penalty including the nature, seriousness, and willfulness of the defendant's misconduct and the defendant's assets, liabilities, and net worth.

An individual harmed by a violation is also authorized to bring suit to recover their actual damages. This would require the individual to establish the causal connection between the violation and their damages.

In addition to the remedies above, the court can order injunctive relief, including a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct. A prevailing plaintiff is entitled to reasonable attorney's fees and costs, including expert witness fees and other litigation expenses.

The bill also provides some direction to courts in determining whether marketing or advertising of a firearm-related product is attractive to minors. They are to consider the totality of the circumstances, including whether the marketing or advertising:

- uses caricatures that reasonably appear to be minors or cartoon characters to promote firearm-related products;
- offers brand name merchandise for minors, including, but not limited to, hats, t-shirts, or other clothing, or toys, games, or stuffed animals that promotes a firearm industry member or firearm-related product;
- offers firearm-related products in sizes, colors, or designs that are specifically designed to be used by, or appeal to, minors;
- is part of a marketing or advertising campaign designed with the intent to appeal to minors;

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- uses images or depictions of minors in advertising and marketing materials to depict the use of firearm-related products; or
- is placed in a publication created for the purpose of reaching an audience that is predominately composed of minors and not intended for a more general audience composed of adults.

4. Concerns raised with the bill

Some concerns have been raised about the bill's constitutionality, namely whether it violates the First Amendment. The prohibitions in this bill restrict the commercial speech of the firearm industry members, but the mere fact that it restricts speech does not mean that such a restriction would violate the First Amendment of the United States Constitution or Article I of the California Constitution.

Generally speaking, the First Amendment and Article I of the California Constitution, act to protect the freedom of expression of the citizens of California. Commercial speech, which is done on behalf of a company or individual for purpose of making a profit, is protected under the state and federal guarantees of free speech, but to a lesser degree than noncommercial speech.¹² A blanket prohibition against truthful, nonmisleading speech about a lawful product, which serves an end unrelated to consumer protection, must be reviewed with skepticism. A "state legislature does not have the broad discretion to suppress truthful, nonmisleading information for paternalistic purposes[.]" (44 *Liquormart, Inc. v. Rhode Island* (1996) 517 U.S. 484, 510.) Ultimately, the First Amendment protects commercial speech against "unwarranted" governmental regulation.

In order to be upheld as a valid restriction on commercial speech, the proposed law must meet the following four-part test: (1) the speech must be about a lawful activity and cannot be false or misleading; (2) the government must have a substantial interest; (3) the law must directly advance the governmental interest asserted; and (4) the law must be no more extensive than necessary. (*Central Hudson Gas v. Public Service Commission* (1980) 447 U.S. 559.)

In this case, the proposed restriction is arguably about restricting the marketing of products to children that are not generally legally able to buy them. California law generally prohibits minors from possessing a handgun and most semi-automatic rifles, as well as ammunition. The possibility and even likelihood that marketing or advertising of firearm-related products that makes those products attractive to children who, in most cases, cannot lawfully possess them, greatly strengthens the argument that the bill's restrictions on the marketing and advertising of firearm-related products could withstand constitutional scrutiny. Even if the speech is lawful, the State of California arguably has a strong interest in taking steps to prevent firearms from being

¹² See *Gerawan Farming, Inc. v. Lyons* (2004) 33 Cal.4th 1, 22.

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sold to minors, and the proposed law advances that interest in a manner that does not cover products or advertisements directed to lawful purchasers. Based on the findings incorporated into the bill that firearms marketing and advertising contributes to the unlawful sale of firearms to minors, as well as the unlawful transfer of firearms to minors by adults who may possess those weapons lawfully, the bill is arguably substantially related to the achievement of its objective. Although a determination regarding the First Amendment is ultimately for the courts, arguably the proposed restriction on marketing and advertising could survive such a challenge.

Similar laws already exist that restrict the advertising of other products to children. For instance, coin banks, toys, balloons, magic tricks, miniature bottles or cans, confections, dolls, or other items that appeal to minors or underage drinkers may not be used in connection with the merchandising of beer. (Bus. & Prof. Code § 25600.) Similarly, edible cannabis products cannot be designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis. (Bus. & Prof. Code § 26130.)

Another particularly relevant example is the Privacy Rights for California Minors in the Digital World, which prohibits an operator of an internet website, online service, online application, or mobile application (“operator”) from the following:

- marketing or advertising specified products or services such as firearms, cigarettes, and alcoholic beverages on its internet website, online service, online application, or mobile application that is directed to minors;
- marketing or advertising such products or services to minors who the operator has actual knowledge are using its site, service, or application online and is a minor, if the marketing or advertising is specifically directed to that minor based upon the personal information of the minor; and
- knowingly using, disclosing, compiling, or allowing a third party to use, disclose, or compile, the personal information of a minor with actual knowledge that the use, disclosure, or compilation is for the purpose of marketing or advertising such products or services to that minor, where the website, service, or application is directed to minors or there is actual knowledge that a minor is using the website, service, or application. (Bus. & Prof. Code § 22580.)

As can be seen, the language of this bill borrows from these existing statutes.

Writing in opposition, the National Rifle Association argues the bill will not withstand constitutional challenge:

Even if one is to assume that AB 2571 meets the first three criteria of the test set forth in *Central Hudson*, the regulation fails the fourth part of the test. A minor may find a piece of advertising attractive for the same reasons as an adult. Adults and minors often use firearms for the same lawful purposes, prize the same characteristics in firearms, and therefore

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would be attracted to the same advertising materials. As AB 2571 would target advertising valued by both minors and adults it would necessarily “impinge on the speaker's ability to propose a commercial transaction and the adult listener's opportunity to obtain information about products.”

Moreover, the restriction in AB 2571 fails to appreciate that minors can and do possess and use firearms for a variety of lawful purposes. The state interest asserted in AB 2571 is to combat the “proliferation of firearms to and among minors.” The bill also notes, “[t]his state has a compelling interest in ensuring that minors do not possess these dangerous weapons.” The asserted interest is not necessarily to discourage illegal use of firearms by minors, but rather all use.

First, as minors are permitted by state law to use firearms for a variety of lawful purposes, it is dubious that the state’s asserted interest in AB 2571 of preventing firearm use by minors is “substantial,” as required by the second part of the *Central Hudson* test.

Second, if it is the drafters of AB 2571’s goal to curb the illegal use of firearms by minors, a less suspect state interest, surely banning all advertising that may be attractive to minors, even that contemplating the use of firearms for lawful purposes, would be overbroad under part four of the *Central Hudson* test.

The legislation’s drafters justify their proposed regulation by citing restrictions on “advertising and promotional marketing of alcohol, cannabis, and tobacco to protect minors.” As noted in the discussion of *Lorillard Tobacco Co. v. Reilly*, such measures must be the narrowest means of achieving an asserted state interest – which was not the case in *Lorillard* and is not the case with AB 2571.

However, lawmakers should also understand that the restrictions cited as analogous to that in AB 2571 are of a fundamentally different character. Unlike restrictions on advertising for alcohol, cannabis, and tobacco, the underlying products and conduct that AB 2571 seeks to curb the advertisement of are protected under the U.S. Constitution. As such, lawmakers should be prepared for the courts to level more scrutiny upon restrictions on advertisements concerning Second Amendment protected products and conduct than those leveled at products that don’t enjoy such protection.

One additional, potential legal barrier to the bill, is the federal Protection of Lawful Commerce in Arms Act (PLCAA). The PLCAA prohibits a qualified civil liability action from being brought in any federal or state court. (15 U.S.C. § 7902.) A “qualified civil

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liability action” means a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party. (15 U.S.C. § 7903.) These statutes stand to preempt state laws that impose liability on manufacturers, sellers, and trade associations for the misuse of firearms by third parties.

However, there are exceptions to the PLCAA’s preemptive effect. Specifically, the federal law explicitly does not preempt “an action in which a manufacturer or seller of a qualified product knowingly violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought.” (15 U.S.C. § 7903.) Given that liability attaches in this bill for the direct conduct of firearm industry members themselves, namely their advertising, marketing, or use of minors’ personal information, and is not triggered solely by the misconduct of another party, the bill should arguably not be found to be preempted.

5. Stakeholder support

Brady California and the Brady Campaign to Prevent Gun Violence write in support of this measure:

Current laws restrict the content and placement of advertising and promotional marketing of alcohol, cannabis, and tobacco to protect minors. This is done to prevent potentially harmful substances from getting in the hands of young people as well as preventing the glorification around them. While we certainly see the point of restricting ads around the previous products listed, unlike firearms none of these are a leading cause of death for children and teens.

Writing in support, the City of Mountain View argues the bill provides “another tool in the tool belt of municipalities to counter dangerous practices that jeopardize the health and wellness of our communities.”

The County of San Diego writes in support of this bill, and gun legislation in general:

The County of San Diego recognizes action must be taken to prevent unintentional shootings and reduce the risk of homicides and decrease access to guns used in crimes.

State legislation that addresses gun violence will help hold the gun industry accountable through private lawsuits and by prohibiting the advertisement of certain categories of weapons. The County of San Diego

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supports these and other efforts that would allow for new oversight and accountability measures for the gun industry.

SUPPORT

Governor Gavin Newsom (sponsor)
Brady California
Brady Campaign to Prevent Gun Violence
City of Mountain View
County of San Diego
Everytown for Gun Safety
March for Our Lives
Moms Demand Action for Gun Sense in America
Students Demand Action for Gun Sense in America

OPPOSITION

National Rifle Association

RELATED LEGISLATION

Pending Legislation:

SB 1327 (Hertzberg, 2022) establishes privately-enforced civil causes of action against any person who manufactures or causes to be manufactured, distributes, transports, or imports into the state, or causes to be distributed or transported or imported into the state, keeps for sale or offers or exposes for sale, or gives or lends any firearm lacking a required serial number, assault weapon, .50 BMG rifle, or firearm precursor part, as specified. This bill is currently in the Assembly Judiciary Committee.

AB 452 (Friedman, 2022) requires local educational agencies to inform parents, through a notice, of California's child access prevention laws and other firearm laws. This bill is currently in the Senate Appropriations Committee.

AB 1594 (Ting, 2022) establishes a firearm industry standard of conduct, which would require a firearm industry member, as defined, to, among other things, establish, implement, and enforce reasonable controls, as defined, and adhere to specified laws pertaining to unfair methods of competition, unfair or deceptive acts or practices, or false advertising. The bill also prohibits a firearm industry member from manufacturing, marketing, importing, offering for wholesale sale, or offering for retail sale a firearm-related product that is abnormally dangerous and likely to create an unreasonable risk of harm to public health and safety in California, as specified. This bill is currently in this Committee and will be heard on the same day as this bill.

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AB 1621 (Gipson, 2022), among other things, prohibits the sale, transfer, or possession of an unserialized firearm precursor part, except as specified, and explicitly prohibits the possession or transfer of a firearm without a serial number or mark of identification. This bill is currently in the Senate Public Safety Committee.

Prior Legislation: SB 568 (Steinberg, Ch. 336, Stats. 2013) established the Privacy Rights for California Minors in the Digital World.

PRIOR VOTES:

Assembly Floor (Ayes 48, Noes 16)

Assembly Appropriations Committee (Ayes 12, Noes 4)

Assembly Judiciary Committee (Ayes 7, Noes 2)

Assembly Privacy and Consumer Protection Committee (Ayes 7, Noes 1)

EXHIBIT C

FEBRUARY 2016



Violence Policy Center



“Start Them Young”

**How the Firearms Industry and Gun
Lobby Are Targeting Your Children**

WWW.VPC.ORG

ABOUT THE COVER

The Title

"Start Them Young" is a section head of the 2012 National Shooting Sports Foundation (NSSF) publication *Understanding Activities that Compete with Hunting and Target Shooting, 2011 Comprehensive Consumer Study, Executive Summary*. NSSF is the official trade association for the firearms industry.

The Photo

"A chilling photograph of a small boy, gnawing on a pistol clutched in his tiny hands, dressed in camouflage and with a grenade and ammunition belt in his lap, was recovered from the weapon-filled home of Sandy Hook school gunman Adam Lanza....A family friend said that Lanza and his older brother were taught to shoot almost as soon as they could hold a weapon by their mother Nancy, a gun fanatic. But a spokesman for Mrs. Lanza's ex-husband, Peter, last night denied that the child in the uncaptioned photograph was either son."

"Sandy Hook report reveals Lanza children's early exposure to guns," *The Telegraph*, December 28, 2013

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An online version of this study is available at <http://www.vpc.org/publications/start-them-young/>.

For a complete list of VPC publications with document links, please visit <http://www.vpc.org/publications>.

To learn more about the Violence Policy Center, or to make a tax-deductible contribution to help support our work, please visit www.vpc.org.

SELECT FIREARMS INDUSTRY AND GUN LOBBY QUOTES ON MARKETING GUNS TO CHILDREN FROM THE STUDY

"If we don't improve at cultivating new hunters and shooters, the sport we love and industry we work in will eventually die away. That's a strong diagnosis, but a realistic one. Like many enthusiast sports in this busy, competitive world, people are leaving faster than new ones are coming in — and this is a recipe for industry-wide trouble down the road."

"Shooting for a New Audience: Reaching New Demographics is Critical to Our Industry," Shooting Sports Retailer, May/June 2007 (page 5)

"If you're a kid looking for your first rifle, this is the gun you need to tell your parents about."

"Marlin's New Kid-Friendly Rifles," NRA Family InSights, January 2, 2014 (page 11)

"I can't remember how old he was, exactly, when he shot his first firearm — I think he was probably 8 years old — but I know he was around 10 when he shot his first machine gun."

"Children and Guns — An Iowa Fail," Jews for the Preservation of Firearms Ownership, April 21, 2014 (page 13)

"Lenin was famously quoted as saying 'Give me just one generation of youth, and I'll transform the whole world.' With this in mind, developing the next generation in the shooting sports isn't just a business decision: The survival of the firearms world depends on the political will of those who come after us, which is a direct result of their involvement in the shooting sports."

"The Best Guns for Smaller Shooters," Shooting Sports Retailer, April 30, 2015 (page 17)

"And of course, the problem with failing to recruit and grow is that numbers equate to political power. In an era when the private ownership and use of firearms, the right to 'keep and bear arms,' has come under increasing pressure, numbers and a young, vital membership are critical."

"Is the Shooting Industry Getting it All Wrong?," Shooting Sports Retailer, July 31, 2015 (page 21)

“What market isn’t tied to juniors? I really can’t think of any. Military and law enforcement firearms have civilian versions which are applicable. The Concealed Carry Weapon (CCW) market has firearms which hold 10-rounds which is the limit for IDPA [International Defensive Pistol Association] competition. When the junior turns 21 they can get a CCW permit. What do they buy? It is usually a gun from a manufacturer they are familiar with.”

“A Word from Your Editor,” Junior Shooters, Spring 2012 (page 23)

“[W]e’re talking about a tiny gun intended for the very youngest shooters — the ultimate first gun. ‘We’re targeting the six- to 12-year-old range....’ With the number of hunters declining, it’s crucial to get kids introduced to the sport as early as possible. The HotShot [youth rifle] means that even the youngest shooters now have a gun sized just for them.”

“Test Fire: Thompson/Center HotShot,” NRA Family, January 2, 2014 (page 31)

“To help hunting and target shooting get a head start over other activities, stakeholders such as managers and manufacturers should target programs toward youth 12 years old and younger. This is the time that youth are being targeted with competing activities.”

“It is important to consider more hunting and target shooting recruitment programs aimed at middle school level, or earlier.”

Understanding Activities that Compete with Hunting and Target Shooting, 2011 Comprehensive Consumer Study, Executive Summary, National Shooting Sports Foundation, 2012 (page 34)

“[Y]outh ambassadors and others should focus on getting newcomers to take a first step into target shooting through any means, whether a BB or pellet gun, paintball gun, or archery bow. The point should be to get newcomers started shooting *something*, with the natural next step being a move toward actual firearms. Initial interest, however, should be embraced in whatever form it presents itself. ”

Understanding the Impact of Peer Influence on Youth Participation in Hunting and Target Shooting, Executive Summary, Hunting Heritage Trust and National Shooting Sports Foundation, 2012 (page 35)

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INTRODUCTION

“He was just a good kid. He was everybody’s friend.”

On October 24, 2014, 14-year-old Jaylen Fryberg entered the cafeteria at Marysville-Pilchuck High School in Marysville, Washington, and shot five classmates, killing four, before turning the gun on himself. Unlike many school shooters before him, Fryberg had given little or no warning of his intentions. He was described as a popular “happy-go-lucky” kid who played sports and was recently elected as the freshman class’ prince in the school’s homecoming court.

But like many American children, he also had easy access to guns. He grew up with guns around the house, frequently went hunting with his father, and recently obtained a hunting rifle as a gift, which he called “probably the best [birthday] present ever, I just love my parents!!!” The semiautomatic 40-caliber Beretta handgun, which he used to commit the crime, was his father’s. Friends said that the teen had recently been involved in a breakup with his girlfriend and had sent disturbing messages via social media the week before the shooting.¹

* * *

“It was insane how much he knew....He would say all the types of guns and could name anything.”

On June 10, 2014, Jared Padgett, a 15-year-old freshman at Reynolds High School in Troutdale, Oregon, opened fire with a Daniel Defense M4 AR-15-style semiautomatic assault rifle in the school’s boys’ locker room, killing a classmate. He then wounded a physical education teacher before eventually turning the gun on himself. In addition to the AR-15, Padgett carried nine ammunition magazines, including 30-round magazines, a .25 Colt pistol, and a knife. All the weapons came from his family’s home.

Subsequent investigation found that Padgett showed an intense interest in guns. One classmate said that he had “showed off about the guns he had,” saying that he had “bullets at home, bullets and guns.” On Facebook, he “Liked” an M4 assault rifles page (the type of gun he used in the shooting), and a page called “We WILL NOT Be Disarmed.” Friends and classmates recalled that he talked frequently about guns. Another peer added that “it was insane how much he knew” about firearms and that he “would say all the types of guns and could name anything.” After the shooting, a close friend of Padgett’s said he was not surprised to learn that Padgett was the shooter, saying that he knew “it was him all along.”²

* * *

He had plans to kill his family, set off bombs, and “kill as many students as he could.”

John David LaDue, a 17-year-old from Waseca, Minnesota, was arrested by police after he was seen entering a storage unit in a suspicious manner on April 29, 2014, and the witness became concerned and called police. It was soon alleged that LaDue had plans to kill his family, set off bombs, and kill “as many students as he could” at Waseca Junior/Senior High School, where he was an 11th-grade honor roll student. LaDue had bombs that he had completed, bomb-making materials, as well as gunpowder in the storage unit. Inside his home, police found three improvised explosives, 400 rounds of ammunition, and seven guns. LaDue had illegally purchased a 45 caliber Llama handgun and had also stolen firearms from his father.

LaDue had a longstanding fascination with guns and famous mass shootings. Speaking to police following his arrest, LaDue admitted that he idolized previous mass shooters, such as those responsible for the 1999 Columbine High School attack, and added that he had hoped to kill more people than the 26 children and educators murdered at Sandy Hook Elementary School in 2012. He “Liked” the pages for several assault weapon models on Facebook.

LaDue’s parents seemed to approve of their son’s obsession with guns. His father confessed that “I tried to indulge him in every way that I thought was harmless,” allowing his son to keep guns in his room for deer hunting and for protecting the family when he was away on business. LaDue’s father even wore a shirt with a National Rifle Association logo to his son’s court hearing.³

This disturbing list continues on: youth who, immersed in the language, culture, and weaponry of today’s militarized gun culture, lash out, using such easily accessed firepower to right their perceived wrongs in the most violent way possible. Incidents like the ones cited above occur with what seems like almost rapid-fire regularity in America today: Children, teens, and young adults with easy access to guns pick up their weapons and use them for a homicidal purpose. Even more often, depressed teenagers use the guns to commit suicide. Young children and teens also unintentionally fire the weapons, injuring themselves or others.

The tragic frequency of shootings involving children and teenagers is well documented and unfortunately now a regular part of our daily existence. Yet few realize that the firearms industry and the organizations that represent their interests, including the National Rifle Association,⁴ have made it one of their top marketing priorities to promote the use of guns among America’s children, as young as grade-school age. In doing so, the gun industry is following a trail once blazed by the tobacco industry in its efforts to entice children to smoke cigarettes.

FOLLOWING THE TOBACCO INDUSTRY'S PATH: THE SEARCH FOR REPLACEMENT SHOOTERS

The gun industry has long understood that it faces a slow-motion demographic collapse. With the industry's customer base growing older, household gun ownership in America has steadily declined. As its primary market of white males ages and dies off, the firearms industry has set its sights on America's children. Much like the tobacco industry's search for replacement smokers, the gun industry is seeking replacement shooters to purchase its deadly products.

Firearms companies have teamed up with "corporate partners" like the National Rifle Association of America, the gun industry's trade association the National Shooting Sports Foundation (NSSF), and online publications such as *Junior Shooters* in an industry-wide effort to market firearms to kids. They do this by promoting websites and magazines targeted at children, designing "kid-friendly" guns to appeal to the youth market, and even working to create the equivalent of "'reality' video" games to encourage gun use from an early age.

The industry's focus on recruiting children into the gun culture has been acknowledged since at least the 1990s:

- A 1993 issue of NSSF's *SHOT Business* raises the question, "Kids can't buy guns, you say? Well, yes and no. It's true that most students from kindergarten through high school can't purchase firearms on their own. But it's also true that in many parts of the country, youngsters (from preteens on up) are shooting and hunting. Pop picks up the tab."⁵
- In answer to the question, "How old is old enough?" the NSSF pamphlet *When Your Youngster Wants a Gun...* (distributed by the organization up until 1994) responds: "Age is not the major yardstick. Some youngsters are ready to start at 10, others at 14. The only real measures are those of maturity and individual responsibility. Does your youngster follow directions well? Is he conscientious and reliable? Would you leave him alone in the house for two or three hours? Would you send him to the grocery store with a list and a \$20 bill? If the answer to these questions or similar ones are 'yes,' then the answer can also be 'yes' when your child asks for his first gun."



Junior Shooters, Winter 2009

When your youngster wants a gun...

far less likely to have an accident than youngsters who have had no such instruction. Unless you are personally competent to handle the instruction, an approved safety course should be prerequisite to your youngster's owning a gun.

Why do youngsters want to shoot?

Quite simply, most youngsters are interested in shooting for the same reasons they want to play football, baseball or basketball. Shooting is a challenging, enjoyable sport with deep roots in American tradition.

Competitive shooting or informal target practice are exciting and rewarding sports which can be enjoyed 12 months a year, indoors or out, individually or as part of an organized team. Shooting helps develop a youngster's self-confidence, coordination, and personal discipline.

For many youngsters, the shooting sports are particularly appealing because they do not require superior physical prowess as do so many sports. A boy or girl lacking the physical requirements to make the varsity basketball team, for example, may find himself competing shoulder to shoulder in state or national shooting championships—perhaps even the Olympics.

How old is old enough?

Age is not the major yardstick. Some youngsters are ready to start at 10, others at 14. The only real measures are those of maturity and individual responsibility. Does your youngster follow directions well? Is he conscientious and reliable? Would you leave him alone in the house for two or three hours? Would you send him to the grocery store with a list and a \$20 bill? If the answer to these questions or similar ones are "yes," then the answer can also be "yes" when your child asks for his first gun.

NSSF pamphlet *When your youngster wants a gun...*

- At the NRA's 1996 Annual Meeting in Dallas, Texas, then-President Marion Hammer introduced her 10-year-old grandson Michael, stating, "I know that when NRA reaches out and takes the hand of a child, we are touching America's future." Hammer also outlined the NRA's agenda to "invest" in America's youth, win their "hearts and minds," and ensure the organization's longevity: "I pledge to you to dedicate my term in office to

two demanding missions. One is building an NRA bridge to America's youth. The other is being fiscally far-sighted to provide for bold new programs that will teach America's children values to last a lifetime. It will be an old-fashioned wrestling match for the hearts and minds of our children, and we'd better engage our adversaries with no holds barred....If we do not successfully reach out to the next generation, then the freedom and liberty that we've lived for — and that many of our ancestors have died for — will not live beyond us."

- A New England Firearms advertisement that appeared on the cover of the September/October 1998 issue of the gun industry publication *Shooting Sports Retailer* warned, "It's not 'who your customers will be in five years.' It's 'will there be any customers left.'" The cover shows a family shooting, with the parents slowly fading away as a child aims a long gun. Inside the magazine, a full-page ad from the company warns, "Building the next generation of customers takes work and commitment. But it must be done. The greatest threat to the firearms business may not be the anti-gunners. It is a future which lacks gun owners and users due to lack of interest. In effect, [the] greatest threat we face is the lack of a future customer base for the products which we all sell. Coming to grips with this challenge is not easy but it must be done."⁶

The warnings made in the 1990s are being echoed in the new millennium. In a 2007 "Retailing Intelligence Report" column titled "Shooting for a New Audience" (subtitled "Reaching New Demographics is Critical to Our Industry") in the gun industry trade publication *Shooting Sports Retailer*, industry marketing consultant Bruce Bear warned:

"If we don't improve at cultivating new hunters and shooters, the sport we love and industry we work in will eventually die away. That's a strong diagnosis, but a realistic one. Like many enthusiast sports in this busy, competitive world, people are leaving faster than new ones are coming in — and this is a recipe for industry-wide trouble down the road."

Urging that the gun industry "Reach Out to Young Guns," Bear warns, "It's absolutely critical for us to pass a love of shooting and hunting on to the next generation," and quotes a Dallas-area gun store owner: "Many baby boomers are getting older and getting out of hunting and shooting, and we need new people to replace them." Adds Bear, "Working with kids and their parents is not only good business, it is helping families discover the fun of sharing shooting sports together."⁷

The industry's concern is easily understood looking at the demographics regarding not only hunting, but household gun ownership overall. According to the General Social Survey (GSS)⁸ conducted by the National Opinion Research Center (NORC) at the University of Chicago:

- From 1977 to 2014, the percentage of American households that reported having any guns in the home dropped by 40 percent.
- During this period household gun ownership hit its peak in 1977, when more than half (53.7 percent) of American households reported having any guns. By 2014, 32.4 percent of American households reported having any guns in the home, a drop of more than 20 percentage points.
- In 2014, less than a third of American households reported having a gun in the home.

TABLE ONE: HOUSEHOLD GUN OWNERSHIP IN THE UNITED STATES, 1973 TO 2014

Year	Percent of Adults in Households with Guns	Year	Percent of Adults in Households with Guns	Year	Percent of Adults in Households with Guns	Year	Percent of Adults in Households with Guns
1973	48.7	1985	47.9	1994	43.8	2008	35.9
1974	47.6	1987	48.5	1996	43.3	2010	32.1
1976	49.5	1988	43.1	1998	36.5	2012	34.4
1977	53.7	1989	48.7	2000	34.2	2014	32.4
1980	50.3	1990	45.4	2002	36.4		
1982	48.6	1991	43.4	2004	37.0		
1984	48.1	1993	45.4	2006	34.4		

One of the “main reasons” cited by NORC for the decline in household firearms ownership is “the decrease in the popularity of hunting.” In 1977, 31.6 percent of adults lived in a household where they, a spouse, or both were hunters (see Table Two). By 2014 this number had dropped by more than half, to 15.4 percent.⁹

TABLE TWO: THE DECLINE IN HUNTING, 1977 TO 2014

Year	Percent Households With Adult Hunters	Year	Percent Households With Adult Hunters	Year	Percent Households With Adult Hunters	Year	Percent Households With Adult Hunters
1977	31.6	1988	22.2	1996	23.1	2008	17.6
1980	28.3	1989	23.4	1998	19.3	2010	18.2
1982	26.8	1990	24.3	2000	18.7	2012	19.7
1984	26.7	1991	23.0	2002	20.2	2014	15.4
1985	26.2	1993	21.0	2004	19.4		
1987	25.5	1994	22.1	2006	17.2		

According to a survey from a 2015 National Shooting Sports Foundation marketing study, 72 percent of gun owners began hunting between the ages of six to 15 years old. After age 15, the percentages drop precipitously: 12 percent began hunting from age 16 to 20; three percent began hunting from age 21 to 25; and only six percent began hunting over the age of 25 (seven percent began hunting at age five or less). Recognizing that hunting is the primary means by which youth are introduced to guns, the focus on children is no surprise.¹⁰

The gun industry's recognition that it relies on winning the "hearts and minds" of America's children has not changed since NRA President Marion Hammer's day. What has changed is the openness with which the industry and its lobbying partners carry out this mission, the lethality of the types of firearms they are promoting, and the sophistication of their marketing efforts to children. Bolt-action rifles are being supplanted by military-style assault rifles. Six-shot revolvers have given way to semiautomatic pistols. And just as before, a constant, underlying goal of this outreach effort is to ensure not just the financial well-being of the industry, but the political viability of the pro-gun movement.

While under federal law an individual must be 18 years old to purchase a rifle and 21 years old to purchase a handgun from a Federal Firearms License (FFL, the basic federal license required to deal in firearms) holder, federal law as regards possession is far more lax. Federal law is mute on long gun possession by those under the age of 18, and while federal law ostensibly prohibits handgun possession under the age of 18, there are numerous exceptions. State law on gun possession varies by jurisdiction.



Savage 2015 catalog

DAVEY CRICKETT, LITTLE JAKE, AND THE MARLIN MAN

Many Americans would be surprised at the age at which some parents introduce their children to firearms. This was made clear in April 2013 when a two-year-old Kentucky girl was unintentionally shot and killed by her five-year-old brother with a 22 caliber rifle he had received as a birthday gift. The gun, a Crickett rifle manufactured by Keystone Sporting Arms, the self-proclaimed "leading rifle supplier in the youth market,"¹¹ is specially designed for children. On its webpage, a friendly cartoon character stepping into the Joe Camel role for the company, "Davey Crickett," holds a rifle and stands atop the company's slogan: "My First Rifle."¹² "Crickett Logo Wear" in the company's catalog includes an armed Davey Crickett Beanie Baby ("not for children under three years of age"¹³), a Davey Crickett "trading pin," and a "My First Rifle" dog tag. The company also has a promotional YouTube video for its child-sized weapons.¹⁴

CRICKETT LOGO WEAR



Davey Crickett Hat
KSACAPS

Davey Crickett Dog Tag
KSADT

Davey Crickett Beanie Baby
Not for children under three years of age.
KSABB

Davey Crickett Trading Pin
KSAPINS

Davey Crickett Zipper Pull
KSAZP

KEYSTONE
SPORTING ARMS

Keystone Sporting Arms • 155 Sodom Road • Milton, PA • Phone: 800.742.0455 or 570.742.2777 • Fax: 570.742.1455 • www.crickett.com

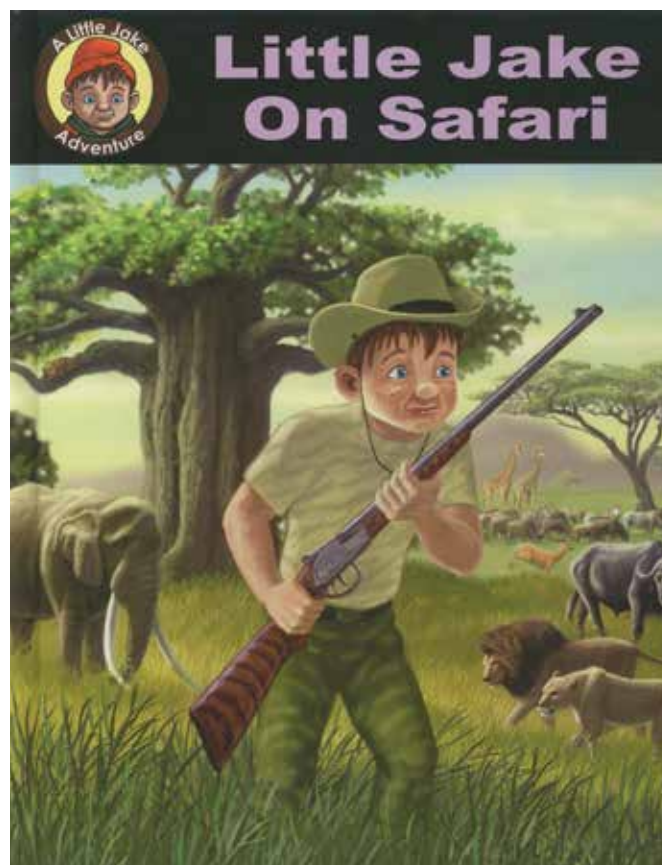
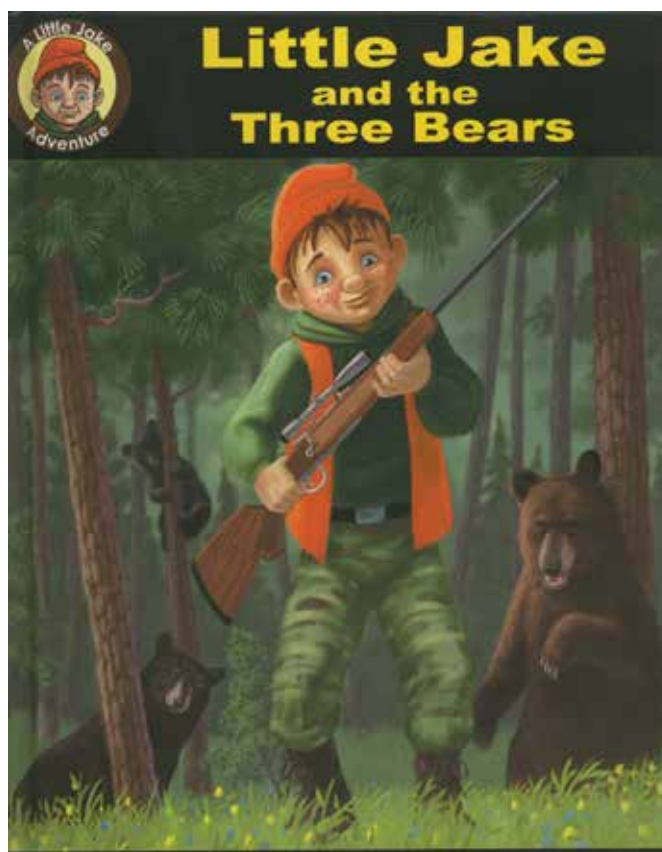
Various "Crickett Logo Wear" for children from Keystone Sporting Arms

On the company's website, cartoon "story books" from Little Sportsman Inc. include *My First Rifle* as well as a series featuring a freckled-faced protagonist named "Little Jake" which includes the titles *Little Jake and the Three Bears* and *Little Jake On Safari*.

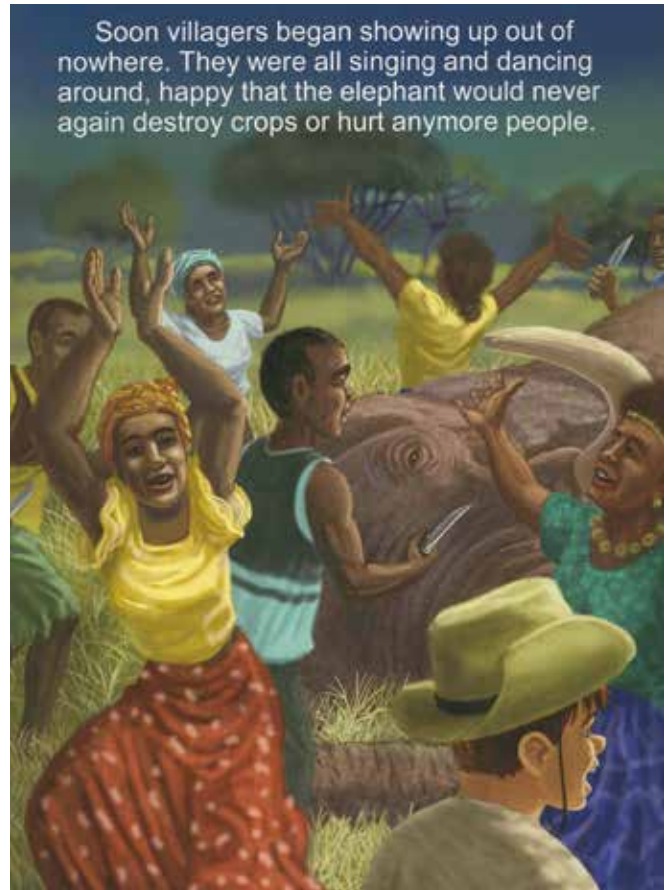
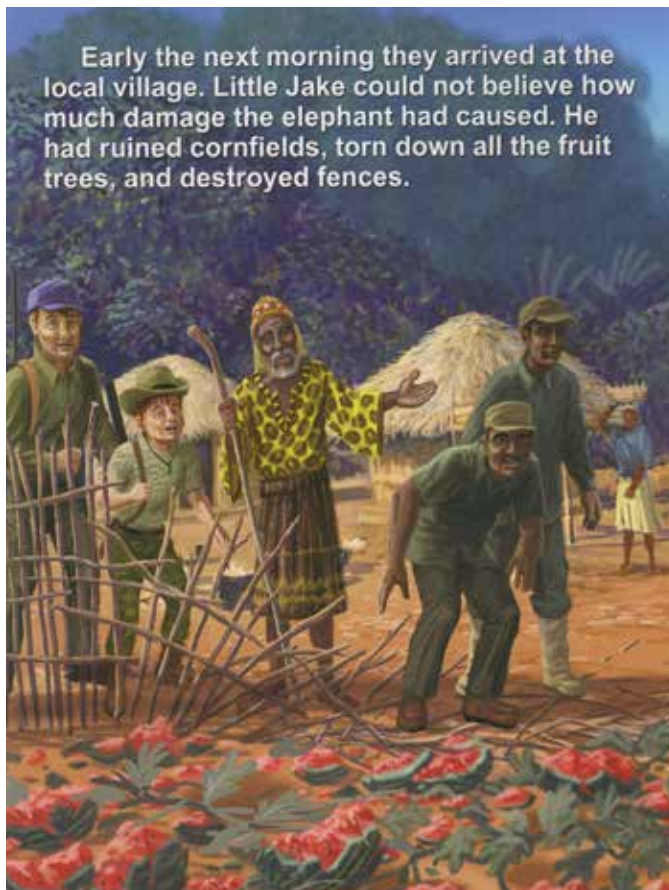
In *Little Jake and the Three Bears*, Little Jake decides he needs a bear rug for his bed to keep warm during the "long cold winter." He then gets on his ATV, visits his friend the game warden to get his "bear-hunting license," and then visits his "favorite sporting goods store" where his friend Jerry sells him the necessary "hunting supplies." Little Jake then waits for bear hunting season to begin, "getting very excited" and noting, "It was almost like waiting for Christmas." After coming across bears that were either "too small" or "too big" to keep him warm, he finds one that is "just right," and shoots it, noting that the bear "never felt a thing." The story ends with Little Jake in bed, covered by his bear rug, eating "tasty bear sausages."

In *Little Jake On Safari*, Little Jake, his dad, and their hunting party interrupt their hunt for buffalo in Africa to aid a local village where there "has been a big bull elephant destroying their crops...." Little Jake and the hunting party go to the village, where they look over a scene of bent corn and smashed watermelons. After it's explained to Little Jake that "These are not the cute, loveable animals you see in cartoons and at the circus" but "one of the smartest and most dangerous animals on earth," the hunting party eventually comes across the elephant, who charges. Little Jake aims "for the brain" and brings the elephant down with two shots from his elephant gun with a "Bang!" and a "Bam!" The local villagers come, and before they start "harvesting the huge animal," begin "singing and dancing around, happy that the elephant would never again destroy crops or hurt anymore [sic] people." In the end, the tribe's chief gives Little Jake the elephant's tusks as a gift "so that you will always remember the time you saved my village."

In a bizarre and brazenly transparent disclaimer, the publisher of the Little Jake series explains that even though Little Jake looks, talks, and acts "like a child":



"Little Jake is a fictional character in his late teens. While small in stature so that young children may relate to him, Little Jake is old enough to hunt and fish safely on his own without adult supervision. As this series evolves with new titles, readers will learn more about Little Jake, his background and family. Soon we will be introduced to Little Jane (Little Jake's younger sister) through her own book series."¹⁵



Pages from *Little Jake On Safari*

Despite the presumed acceptability, and even desirability, of the combination of children and guns presented on the Keystone website, across the country, sorrow at the tragedy of the Kentucky shooting was followed by shock and surprise that not only could a five-year-old legally possess his own gun, but that there was a significant faction of the gun industry geared toward this market.

A 2014 article from *NRA Family InSights* on guns for children under eight years of age offers a snapshot of just one gunmaker's efforts, Marlin, to target children, right down to the creation of a real-life "Marlin Man" by the company:

"There's been a lot of talk about getting kids interested in shooting. Now, we're finally seeing firearms manufacturers getting serious about it. Several companies are offering firearms sized just for kids. Marlin has taken a very bold step in that direction. They've done things right with their new XT line of .22 rifles. These rifles are not just sized for kids; they're completely designed for kids."


"Marlin took a different approach than many companies, which just put a shorter barrel on a rifle and cut the stock off a bit. Marlin engaged in a lengthy research program using real kids as test subjects. They looked at every aspect of a rifle in an effort to determine what they could do to make it more kid-friendly."

"Their efforts paid off and in a big way. I got to see this first-hand at an event held at the Glade Springs Resort in West Virginia. Like many companies that launch a new firearm, Marlin invited several firearms journalists to come and see these new rifles. But this time, Marlin went a step further: They asked the writers to bring their kids."

"This made perfect sense, because what better way to evaluate rifles sized specifically for kids than to let kids shoot them? Before the event got underway, the kids spent the morning riding horses. And then, when they arrived at the range, they got to meet the Marlin Man and his horse in person. The Marlin Man is the mounted cowboy Marlin has used as a logo for many years. He was brought to life for the kids at this event and he stirred the cowboy in everyone present."

"The kids were turned loose on the range, which was staffed with Marlin employees and members of the West Virginia Division of Natural Resources. After two days of shooting thousands of rounds of .22 LR ammunition, the verdict was in: Marlin's XT 22 Youth rifles are winners. If you're a kid looking for your first rifle, this is the gun you need to tell your parents about."¹⁶



Marlin 

RIMFIRE:
XT-22 / XT-17 / MODEL 795 / MODEL 70 PSS



MARLIN IS PROUD TO SUPPORT PROJECT APPLESEED

Project Appleseed and The Revolutionary War Veterans Association's mission is to teach every American our shared heritage and history, as well as traditional rifle marksmanship skills using our Model 795LTR.

Visit www.appleseedinfo.org to learn more

Marlin 2016 catalog



Photos of very young children with high-powered firearms can be found on websites and social media such as Facebook

"TACTICAL" RIFLES FOR KIDS

From gun magazines, to websites, to social media, two things become clear. For some gun owners there is almost a race to the bottom to see how young a child can be to handle, and eventually possess, a gun. At the same time, there's not infrequently an inverse trend to see how powerful a gun the child can handle.

Writing for Jews for the Preservation of Firearms Ownership (JPFO) in 2014, JPFO writer contributor Nicki Kenyon explains:

"When my son was 4 years old, we decided it was time to introduce him to gun safety. He couldn't quite tie his shoes yet, but we knew we had guns in the house, and we knew we needed to instill good habits early, because it was literally a matter of life and death. His father was a police officer, and I was active in gun rights, and made it a point to be armed as much as possible. I still do. It's a matter of life and death...."

"I can't remember how old he was, exactly, when he shot his first firearm — I think he was probably 8 years old — but I know he was around 10 when he shot his first machine gun. I remember when he was about 6 years old, I sent him to my bedroom to get some paperwork that was on his father's night stand. He called down to me and said, 'Mommy! Daddy's pistol is sitting on top of the paperwork. Do I have your permission to move it?' That's when I knew we taught him well...."

"My son was lucky. He was legally allowed to handle firearms in Virginia. We took him to the range. He shot a variety of firearms — rifles, pistols, machine guns and shot guns. He has had his own eye and hearing protection since he was in elementary school, and he received his first Mossberg Plinkster when he was approximately 9."¹⁷

And while Kenyon describes her child's climb up the ladder of firepower with equal doses of pride and rationalization, four months later the risks of putting a full-auto machine gun into the hands of a child was illustrated to the nation with horrific clarity. On August 25, 2014, 39-year-old firearms instructor Charles Vacca, a father of four, was shot and killed at the Last Stop gun range when he was teaching a nine-year-old on vacation with her family in Las Vegas how to shoot an UZI submachine gun. The girl lost control of the weapon as the result of the full-auto weapon's recoil. The gun climbed up out of her control and she unintentionally shot Vacca in the head. The girl then dropped the weapon and ran to her family, who huddled around her as she held her shoulder.¹⁸

In the comments section of an online article from the NRA's *American Hunter* magazine titled "Choosing Your Child's First Gun," readers detailed the ages at which they felt their own sons and daughters were ready for their first gun: five, six, seven, and older. One of the points raised in the article was the fact that the recoil from many guns can hurt child shooters. As a Virginia Beach gunsmith told the author, "The first thing you want to avoid is to not overgun your kid...You try to give an 8-year-old kid a .308 or some blowaway magnum and it's going to be too much. It will just make the child recoil shy and that's the worst thing you can do to a kid." The author added, "Not only will it hamper their ability to become accurate, but it may chase them away from the sport before they've even really had the chance to get into it, according to many experts. Every time they shoot, they'll be thinking, 'this gun is going to kick the heck out of me,' and if that thought is on their mind, they'll never be able to shoot accurately."¹⁹

One reader did take issue with the author's reticence on recommending an AR-15 assault rifle as a first gun for an eight- or 10-year-old child, writing, "If you teach your child proper firearms basics an AR is the perfect way to go. I built my six year old son one and he loves it."²⁰



Photo from NRA's 2014 Great American Outdoor Show (Sue Roman)

For those who don't want to wait to put an assault rifle in their children's hands, but do have concerns about recoil and the weight of the weapon, a growing industry-wide trend toward 22 caliber assault rifles, often utilizing plastic resulting in lighter weight, has taken hold and is expanding. An additional frequently cited benefit is the relatively low cost of .22 ammunition, particularly for those who wish to train with the weapon.²¹ As one author noted in *Shooting Sports Retailer* in discussing 22 caliber AR-style assault rifles: "these guns bring the coolness and fun of the tactical rifle to kids and less serious shooters..."²² Throughout the industry, 22 caliber versions of higher-caliber assault rifles are increasingly common and frequently cited in the context of marketing guns to children:

- The product description for a .22 Bushmaster AR-15 model at the Gander Mountain Sports website states: "Designed for the indoor range and the youth shooter, this Carbon15 .22 LR Rimfire lightweight is sure to add new dimensions to your Bushmaster shooting pleasure. Operational controls are functionally and ergonomically identical to AR-15 type rifles..."²³

- "INTRODUCING THE NEW SIG522 Rifle" says a Sig Sauer ad for a new 22 caliber assault rifle that appeared in the Summer



Junior Shooters, Summer 2011

2011 edition of *Junior Shooters*. [See later section *Junior Shooters: "For Kids By Kids"*] Under the headline "DOUBLE TAKE," the text reads, "It looks like the legendary SIG556, but look again. It's the SIG522 Rifle firing affordable .22LR. The new SIG522 has the look, feel, and action of the classic military-style SIG556 rifle...yet it costs much less, and fires affordable .22LR rounds. The full-size semi-auto SIG522 features a button rifled barrel with flash suppressor, light weight aluminum receiver with integral Picatinny rail, Swiss-style folding stock, and a 25-round magazine. To find out more about how to get the look, feel, action, and dependability of the SIG556, combined with .22LR caliber affordability, check out the new SIG522 at www.sigsauer.com — **on the double!**" [Emphasis in original]²⁴

- An article in *Junior Shooters* exclaims, "One of the best dedicated AR-type .22 rifles to come out in the last couple of years is Smith & Wesson's M&P15-22. The M&P15-22 is built with high-strength polymer upper and lower receivers. This creates a reduced-weight rifle that retains the looks and operating features of the standard M&P rifle. Let me tell you, this rifle rocks!"²⁵
- A December 2013 review published on the website of Bill's Gun Shop & Range promises that the "Beretta ARX 160 in .22 LR is the company's fun version of their current military carbine that was designed in 2008. The military versions come chambered in 5.56x45mm NATO, 5.45x39mm Soviet, 6.8mm Remington SPC and 7.62x39mm Soviet. Along with the Italian Army it is also being fielded by Albania, Egypt, Kazakhstan, the Mexican Federal Police and Turkmenistan. The U.S. was in the process of evaluating it as a replacement for the M4 before the replacement process of [sic] cancelled." At the end of the glowing review, the shop concludes, "December is the perfect month for Bill's to offer this carbine as their Gun of the Month as plenty of kids (both young and old) will have a military replica .22 on their

www.billsgs.com Pinterest.com BillsGS Facebook.com BillsGS Twitter.com/BillsGS

Bill's Gun Shop & Range

www.billsgs.com

Beretta ARX160
\$539.00

Includes 100 **FREE** rounds of ammo.
\$45 Free Range Pass with every gun purchase.

December Gun of the Month

4080 W. Broadway Ave. **Robbinsdale** 763.533.9597 • 3621 88th Ave. **Circle Pines** 763.792.4867 • 1920 Crestview Drive **Hudson** 715.690.1198

December "Gun of the Month" from the website of Bill's Gun Shop and Range

Christmas list. The Beretta ARX 160 is a great choice and the holiday gives you the perfect excuse to buy one and act like it is a gift for your son or daughter. Just be sure to bring them to the range and let them shoot it every once in a while.”²⁶ Surrounded by candy canes, a bow, and ribbon, the assault weapon is the gun dealer’s “December Gun of the Month.”

The appeal of the Beretta assault rifle to youth was made clear at the 2014 NRA-sponsored Great American Outdoor Show in Harrisburg, Pennsylvania. At the Beretta display at the show, a constant stream of young children, some alone, others accompanied by their parents, were drawn to the models of the gun, as well as other Beretta assault weapons, as these photographs of the Beretta display at the show illustrate.



Photos from the Beretta display at the NRA's 2014 Great American Outdoor Show (Sue Roman)



Photo from NRA's 2014 Great American Outdoor Show (Sue Roman, VPC)

GUNS IN A RAINBOW OF COLORS

According to *Shooting Sports Retailer*, "More companies are offering pistols, rifles and shotguns built for smaller-framed shooters these days, with a dizzying array of models, colors and calibers to choose from. Making sure your customers get the best fit could help bring the next generation into the shooting sports."²⁷ The article, "The Best Guns for Smaller Shooters," warns:

"Lenin was famously quoted as saying 'Give me just one generation of youth, and I'll transform the whole world.' With this in mind, developing the next generation in the shooting sports isn't just a business decision: The survival of the firearms world depends on the political will of those who come after us, which is a direct result of their involvement in the shooting sports."

"So for reasons both fiscal and political, it's critical to provide products well-suited to young shooters. Although these guns have traditionally been called 'youth models,' when we started looking at the current offerings, we saw many called 'compact' versions instead. This implicitly points out that while we're using age as our primary qualifier, the features that make a gun well matched for young people also help the gun fit other shooters who are small of stature, such as females."²⁸

Most common are pink guns for women and girls. At the online Sportsman's Outdoor Superstore, potential buyers can browse "Guns with Color," which includes pistols, revolvers, rifles (including numerous assault rifles),



Photo from NRA's 2014 Great American Outdoor Show (VPC)

and shotguns. Under pink pistols are weapons from Beretta, Browning, Cobra, Kel-Tec, SCCY, Ruger, Sig Sauer, Taurus, and Walther. Pink guns for females are a key marketing tool for girls:

- “When 8-year-old Sara saw the gun, she knew she wanted to shoot it. Even though she’d never shot a gun before in her life and had never shown an interest in shooting, once she took a look at the ‘Muddy Girl’ from Henry Repeating Arms, she wanted to take her first shot.”

“New in 2014, this Henry mini-bolt rifle, called the Muddy Girl, sports its namesake’s camo pattern — a zany hot-pink-purple-and-black combination that belongs on more guns than just this little wonder. It makes a lifestyle statement for females that says, ‘This gun is mine. Get your own...’”

“Sara, a ‘girly-girl’ who likes to cheerlead, left her pompoms behind, yet still coordinated her pink-and-black matching apparel for the photo shoot. Out on the range, her Aunt Marti — a pro-staffer for Mossy Oak and Moultrie Products...showed her how to shoulder the gun and how to weld her cheek to the curvy, synthetic stock...”

“‘I like the color and the size of this gun,’ said Sara. ‘And I also like that it didn’t kick me and it was easy to use...’”

“Its one-piece synthetic stock has been designed with just the right angle for little hands to grasp the gun firmly and still pull the trigger with confidence.”²⁹

- Writing in *Junior Shooters* magazine, 12-year-old Casey Lutz is featured with a pink CZ bolt-action youth rifle. Says Lutz: “When my dad brought home the gun, a CZ 452 Scout, chambered in 22 long rifle, I was



Savage Arms youth rifles are featured at the NRA's 2014 Great American Outdoor Show (Sue Roman) and in *NRA Family InSights*

excited to see that the gun was pink! My first thought was, 'Finally, a cool gun for a girl!' It's nice to see that companies like CZ make guns specifically for young women shooters. The second thing I noticed was the gun was small and compact and was designed to fit kids."³⁰

A crayon-box of colors is offered for guns specifically targeted at youth, including the 22 caliber weapons through which they are most likely to be introduced to shooting.

- Smith & Wesson offers a 22 caliber version of its M&P15 (M&P stands for Military & Police) AR-15 assault rifle in bright colors that include Pink Platinum, Purple Platinum, and Harvest Moon Orange.³¹
- Savage Arms' youth rifle, the Rascal, presents the gun in child-friendly colors: red, yellow, orange, pink, and blue. In an ad for the youth rifle, the company promises that the firearms deliver "ONE SHOT, ONE THRILL!"
- On its website, featuring assault rifles "built by Americans, for Americans," Black Forge Weapons offers "Youth Model" AR-15 assault rifles that come in orange, violet, green, blue, and red.³²



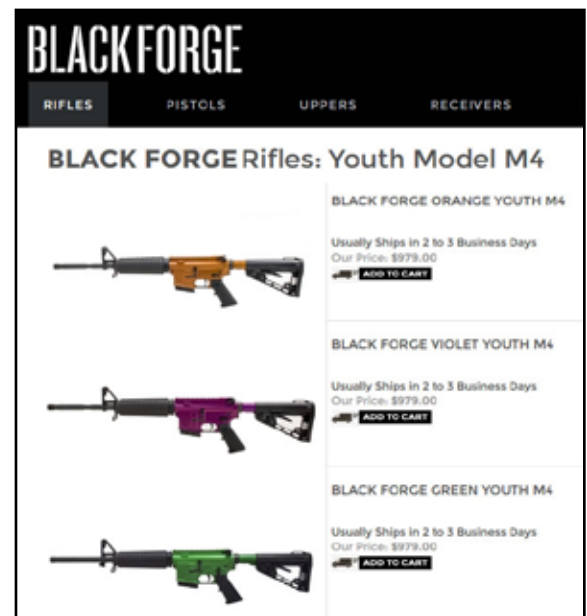
Twelve-year-old Casey, *Junior Shooters*, Summer 2011



Eight-year-old Sara, *NRA Family InSights*



Bright-colored .22 assault rifles featured on the Smith & Wesson website



"Youth Model" Black Forge AR-15-style assault rifles

THE "FISCAL AND POLITICAL" BENEFITS OF MARKETING GUNS TO CHILDREN

As noted by *Shooting Sports Retailer*, the impetus for marketing to children is both "fiscal and political."³³ In addition to the hoped-for financial benefits of marketing guns to youth, a corollary goal is to ensure that such an effort will help maintain a pro-gun base for political action.

Writing in the NRA's *America's 1st Freedom* magazine, Editor Mark Chesnut warns that "the future of our freedom — and our shooting and hunting heritage — lies in our children and grandchildren. Let's not get too busy or too focused on ourselves and our own activities to pass along to our kids the important things they need to know in order to be informed citizens and voters in the future."³⁴

In a Spring 2012 editorial, *Junior Shooters* Editor-In-Chief Andy Fink chided those gun industry members who, when urged to target youth, respond, "Oh, that isn't my market?"³⁵ Noting that it's not just an issue of jobs, but of "gun rights," he warns:

"It is thrilling to see so many people supporting juniors around the country. People are volunteering their time.

Companies and organizations also provide time, energy, products, and money to ensure the shooting sports continue. However, we are not doing enough. All the companies involved in the shooting industry



Junior Shooters, March 2011

need to realize our youth are the future of the shooting industry and thus each job within the industry is dependent upon juniors growing up with an appreciation for the sport we love. Each adult needs to help in some way by volunteering, or promoting youth shooting. This effort will also have a huge impact on retaining our gun rights, our hunting heritage, and wildlife conservation. We all need to do our part.”³⁶

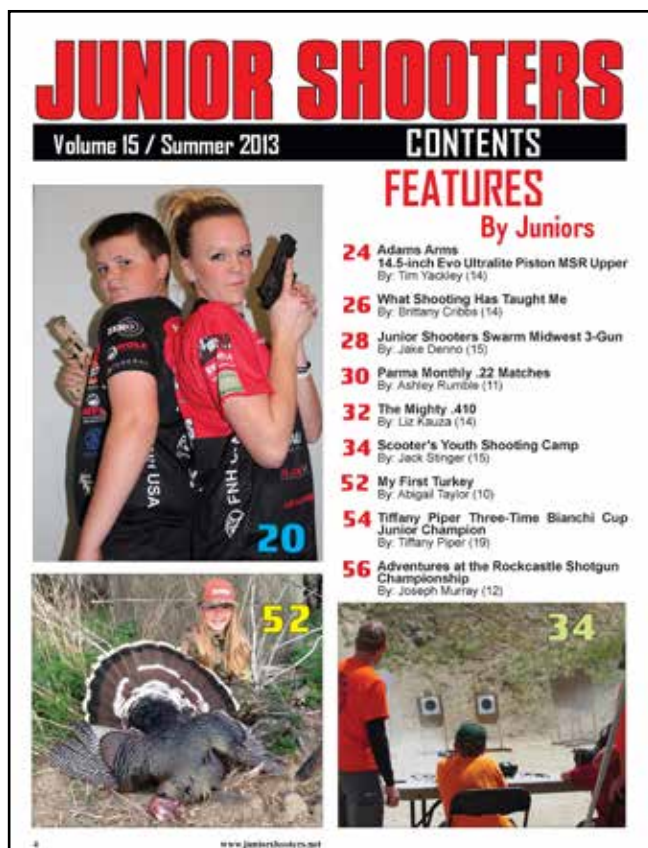
Later that year, Fink revisited the issue:

“Each person who is introduced to the shooting sports and has a positive experience is another vote in favor of keeping our American heritage and freedom alive. They may not be old enough to vote now, but they will be in the future. And think about how many lives they will come in contact with that they can impact! Each of us affects others, and it is up to us how we make an impact on the future.”³⁷

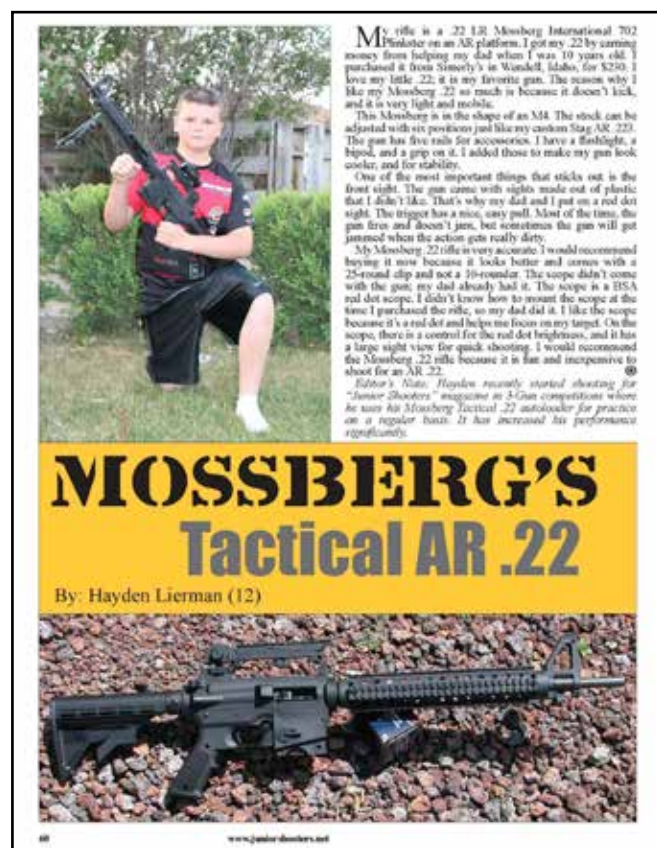
Or, as a *Junior Shooters* promotional ad for itself in the magazine cheerfully explained under the headline “Junior Shooters: Making a Mark” — “This is not your everyday magazine. This is a magazine for kids and parents interested in preserving our 2nd Amendment rights. But not in a stuffy shirt, political way. We want to have fun. Join us.”³⁸

And in an article on the National Shooting Sports Foundation’s 2015 gun industry summit, *Shooting Sports Retailer* stated:

“And of course, the problem with failing to recruit and grow is that numbers equate to political power. In an era when the private ownership and use of firearms, the right to ‘keep and bear arms,’ has come under increasing pressure, numbers and a young, vital membership are critical.”³⁹



Junior Shooters, Summer 2013



Junior Shooters, Summer 2012

JUNIOR SHOOTERS: "FOR KIDS BY KIDS"

Perhaps the most honest and unvarnished look into the ongoing effort to create a youth gun culture can be found in *Junior Shooters*, available online and in print format.

Based in Boise, Idaho, the magazine "strives to be the first of its kind to promote juniors involved in all shooting disciplines..." and is "dedicated to juniors of all ages and their parents." The publication adds, "We care about kids and their parents and want you to have a place to go to find what is needed to get started in many different shooting venues."⁴⁰

A magazine dedicated to junior shooters of all shooting disciplines
Junior Shooters
 MAKING A MARK
JUNIOR SHOOTERS

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 Posted By admin on November 11, 2015

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IMR 4955 Added to Enduron® Series of Technology Advanced Smokeless Powders

Shawnee, KS, November 11, 2015 – IMR® Legendary Powders is pleased to announce

IMR 4955, the latest introduction to the Enduron® series of smokeless powders.

IMR 4955 lands between IMR 4451 and IMR 7977 on the burn rate chart and is an ideal choice for many popular calibers such as 270 Winchester, 25-06 Remington and the 300 Winchester Magnum. Enduron® Technology allows accuracy to be maintained over longer shooting sessions, thanks to a special additive which helps remove copper fouling as the rifle is fired.

This environmentally friendly formulation delivers ideal loading densities in medium and big game hunting calibers.

Ballistic variations based on climate conditions are a thing of the past with IMR 4955, thanks to its temperature insensitivity. From extreme heat to extreme cold, shooters will see uniform velocities. IMR 4955 has a small grain size, making it extremely

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PRACTICAL SHOOTING

The home page for *Junior Shooters* features ads for assault rifle manufacturers Rock River Arms and Stag Arms

Visitors to the website are greeted by ads for AR-15 assault rifles. Clicking on the Rock River Arms ad for its LAR Coyote Carbine, the viewer is taken to a full description of the weapon on the company's website, and the ability to explore the full site. An ad for Stag Arms shows an AR-15 assault rifle and in a series of panels asks the questions "LEFT HANDED?" "RIGHT HANDED?" "WE'VE GOT YOU COVERED!" Clicking on the ad brings you to the company's website.⁴¹

Additional gun manufacturers listed as sponsors on the website are: companies that manufacture only assault weapons, such as Bushmaster (manufacturer of the AR-15 assault rifle used in the 2012 Sandy Hook Elementary School shooting in Newtown, Connecticut that left 20 students and six educators dead) as well as the aforementioned Rock River Arms and Stag Arms; companies that manufacture assault weapons and high-capacity pistols, such as FNHUSA, Remington, Sig Sauer, Smith & Wesson, and Sturm, Ruger & Company; and, companies that manufacture solely pistols, such as Glock.⁴² Each issue of *Junior Shooters* contains an Advertiser's Index at the back of the magazine. Among the associations listed as sponsors of the publication is the gun industry trade association the National Shooting Sports Foundation (NSSF) and National Rifle Association Youth Programs.

Little known outside of pro-gun circles, the magazine frequently presents a blunt view of the financial and political benefits that recruitment of children offers the pro-gun movement.

In discussing the benefits of "junior shooters" to the gun industry and gun lobby, Editor-In-Chief Andy Fink explains, "Juniors start shooting, and become interested, in related sports at a young age, as young as six, seven, or eight" and can continue as a "junior" shooter until the age of 18 or 21, adding, "They may also have the build of a young youth or an adult."⁴³

Fink makes the case that literally every firearms product can be marketed to "juniors," including concealed carry pistols (with the goal of the youth eventually obtaining a concealed carry permit when old enough) and assault rifles, writing:

"What market isn't tied to juniors? I really can't think of any. Military and law enforcement firearms have civilian versions which are applicable. The Concealed Carry Weapon (CCW) market has firearms which hold 10-rounds which is the limit for IDPA [International Defensive Pistol Association] competition.⁴⁴ When the junior turns 21 they can get a CCW permit. What do they buy? It is usually a gun from a manufacturer they are familiar with."⁴⁵

Promising content "For Kids By Kids," articles in the magazine, with headlines such as "Why I Love Bushmaster AR-15s...You Should, Too"⁴⁶ commonly promote high-capacity semiautomatic pistols and assault rifles, often referred to by the industry-promoted euphemism "Modern Sporting Rifles" (MSR). At the same time, advertisements for assault weapons, high-capacity pistols, and firearm accessories are ubiquitous. Examples of the types of weapons and accessories promoted for children and youth in editorial content and advertisements are offered below.

- A 2014 press release from gun manufacturer Mossberg included with online articles on the *Junior Shooters* website boasts that the company has "45 Firearms Developed Specifically for Smaller-Statured or Younger Shooters." The self-proclaimed "leader in the development and design of firearms for younger and small-statured shooters," the company touts its "recently-launched Mossberg 2014 Youth Catalog" and lists among its "industry-partners" the National Shooting Sports Foundation and the National Rifle Association.⁴⁷

- A profile of an AR-15 assault rifle upper receiver states that the “Adams Arms 14.5” Evo Ultralite Piston AR-15 upper is a great upper for a junior shooter; it’s light, it’s short, and it’s accurate.”⁴⁸

“One advantage to having such a short, light upper is maneuverability and ease of use by younger, smaller shooters. At one local 3-Gun match [see the later section, *The Industry Finds Its “Reality” Video Game* in *3-Gun Competition*], there was a long hallway with four doorways that you had to shoot through. The targets were set up so you had to move into the doorway. The short barrel really helped me move in and out of the doorways quickly. It was a real advantage.”⁴⁹

- In a 2009 article that comes across more as a promotional piece, “The Mosquito: A Cool .22 With A Sting,” Editor-in-Chief Andy Fink writes, “The .22 Mosquito is a real stinger.” Spread across the top of the page is manufacturer Sig Sauer’s logo. At the bottom is a picture of the pistol in pink, with the caption “The pink Mosquito — For the ladies!” Promising that the pistol’s “slide is easy to operate even for youngsters,” in the article Fink tests the gun, as do children ages 11, 12, 14, and 16. Fink reports, “Each of them liked the feel of the gun and operation. They had to get used to the first shot cocking the hammer being double-action with a heavy trigger pull of 12.1 pounds.”⁵⁰

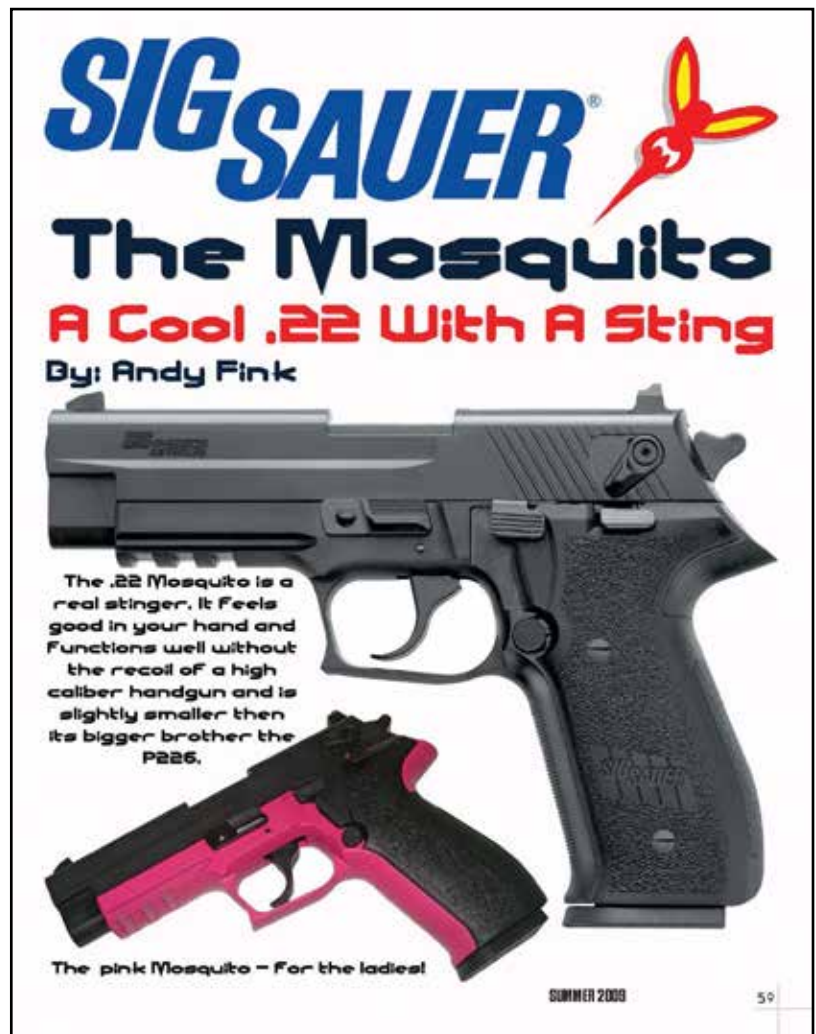
Four years later, Fink revisited the gun, this time with three co-authors, two age 13 and one 18 years old:

“This pistol is sweet! It looks cool. It fits in your hand well, even the small hands of juniors and smaller women. It’s a double/single-action semi-auto and is great for plinking and practice...”⁵¹ Sig Sauer’s Mosquito has an ergonomic design to provide an enjoyable shooting experience. It is based on the design of the Sig Sauer P226 but is 10% smaller in size and chambered for the .22 long rifle cartridge.”⁵²

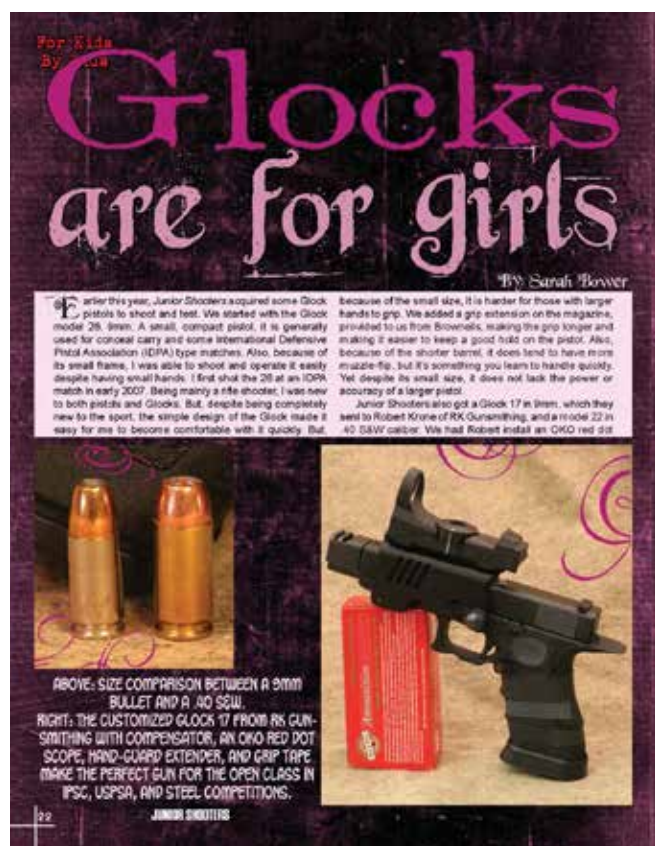
In the article, endorsements for the pistol are offered by two 13-year-old boys:

“Hayden Lierman (13): My .22 Mosquito pistol is the Desert Digital Camo model manufactured by Sig Sauer...The pistol looks cool and feels like a Beretta, which I think is awesome. It’s a desert camouflage color.”⁵³

“Wyatt Irish (13): At first I thought that it was way too small to be



Junior Shooters, Summer 2009



Junior Shooters, Summer 2009



Junior Shooters, Summer 2010

reliable...However, one thing was for sure: I loved how the grip felt in my hand. For a person with small, bony-fingered, 13-year-old hands, the grip almost felt custom fit."⁵⁴

- In "Glocks are for Girls," the magazine reviews "a small, compact pistol" that is "generally used for conceal carry." The reviewer notes that "because of its small frame, I was able to shoot and operate it easily despite having small hands."⁵⁵
- Under "Kids' Gear" the magazine promotes online shooting sports accessories marketer Brownells (headed by NRA Board Member Pete Brownell) and features an assault rifle with a 100-round ammunition magazine:

"WOW! Do you need shooting accessories to go with your firearm? What about optics, mounting equipment, slings, magazines, cleaning materials, and parts? Brownells carries just about anything you can imagine... Junior Shooters has been working with Brownells since it started publication. We have found them to [sic] very supportive of promoting juniors and the shooting sports, and their customer service is excellent! We seriously recommend you check them out at www.brownells.com."⁵⁶
- "FIREFIELD SALUTES YOU, JUNIOR SHOOTERS!" is the headline atop a full-page ad from parts and accessories manufacturer Firefield. Below two males dressed in camo, one holding a shotgun and the other brandishing a pistol, the text reads:

FIREFIELD SALUTES YOU, JUNIOR SHOOTERS!



We know that you are tomorrow's leaders of the industry, the ones who continue to value and support the outdoors through shooting. The one's who will continue to uphold the values of our country. The one's who will introduce the value of the great outdoors to the next generation and instill in them the love and respect that comes with being a shooter. Firefield isn't all about winning. We know the real victory lies in getting out there, smelling the fresh air and holding freedom in your hands. Let's keep that victory for the next junior shooters.

Firefield-Victory Justifies Everything!



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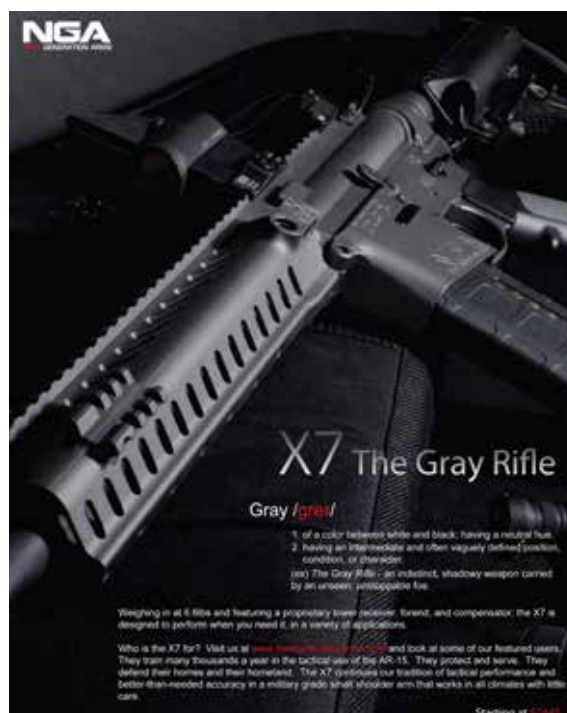
Junior Shooters, Winter 2011

"We know that you are tomorrow's leaders of the industry, the ones who continue to value and support the outdoors through shooting. The one's [sic] who will continue to uphold the values of our country. The one's [sic] who will introduce the value of the great outdoors to the next generation and instill in them the love and respect that comes with being a shooter. Firefield isn't all about winning. We know the real victory lies in getting out there, smelling the fresh air and holding freedom in your hands. Let's keep that victory for the next junior shooters."

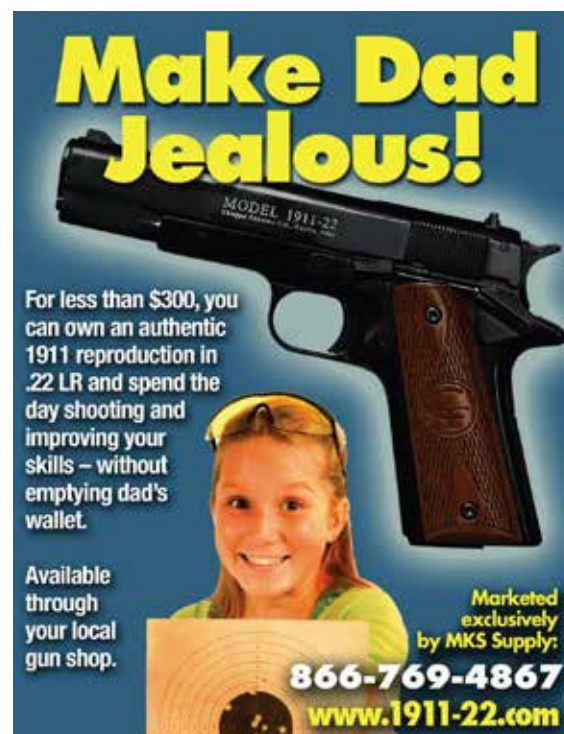
The ad ends with "Firefield — Victory Justifies Everything!"⁵⁷

In addition to the implicit advertising benefits *Junior Shooters'* articles "For Kids By Kids" offer the gun industry, the magazine regularly features full-page ads from gun companies, many featuring assault rifles and high-capacity pistols:

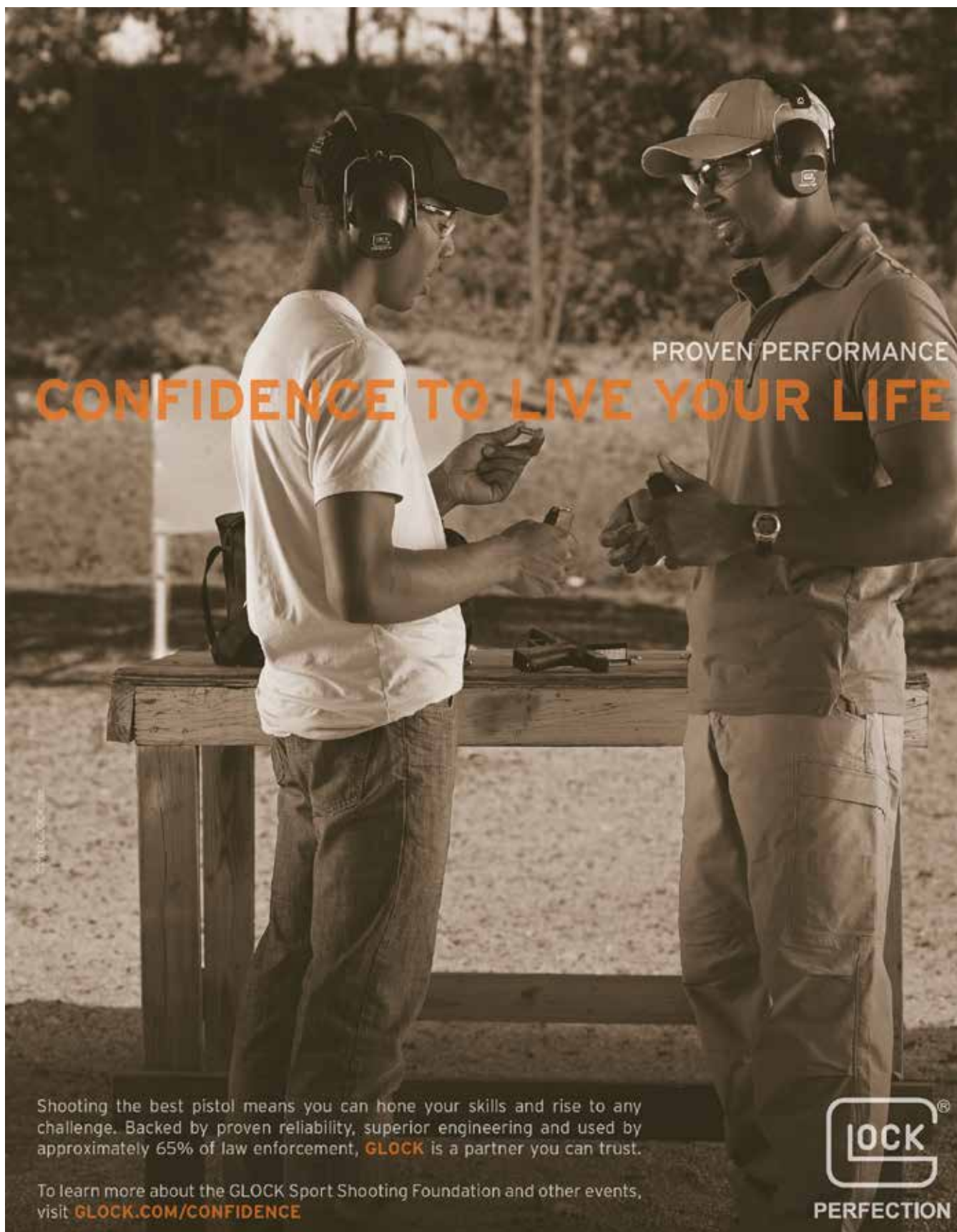
- A full-page ad from Next Generation Arms for its X7 AR-15-style assault rifle states: "*The Gray Rifle* — an indistinct, shadowy weapon carried by an unseen, unstoppable foe." The ad continues: "Who is the X7 for? Visit us at www.nextgenerationarms.com and look at some of our featured users. They train many thousands a year in the tactical use of the AR-15. They protect and serve. They defend their homes and their homeland. The X7 continues our tradition of tactical performance and better-than-needed accuracy in a military grade small shoulder arm that works in all climates with little care."⁵⁸
- An ad for a 22 caliber 1911 pistol has the headline "Make Dad Jealous" with a smiling young girl holding a target as the centerpiece. The text reads, "For less than \$300, you can own an authentic 1911 reproduction in .22 LR and spend the day shooting and improving your skills — without emptying dad's wallet. Available through your local gun shop."⁵⁹



Junior Shooters, March 2011



Junior Shooters, Winter 2011



PROVEN PERFORMANCE

CONFIDENCE TO LIVE YOUR LIFE

Shooting the best pistol means you can hone your skills and rise to any challenge. Backed by proven reliability, superior engineering and used by approximately 65% of law enforcement, **GLOCK** is a partner you can trust.

To learn more about the GLOCK Sport Shooting Foundation and other events, visit **[GLOCK.COM/CONFIDENCE](https://www.glock.com/confidence)**

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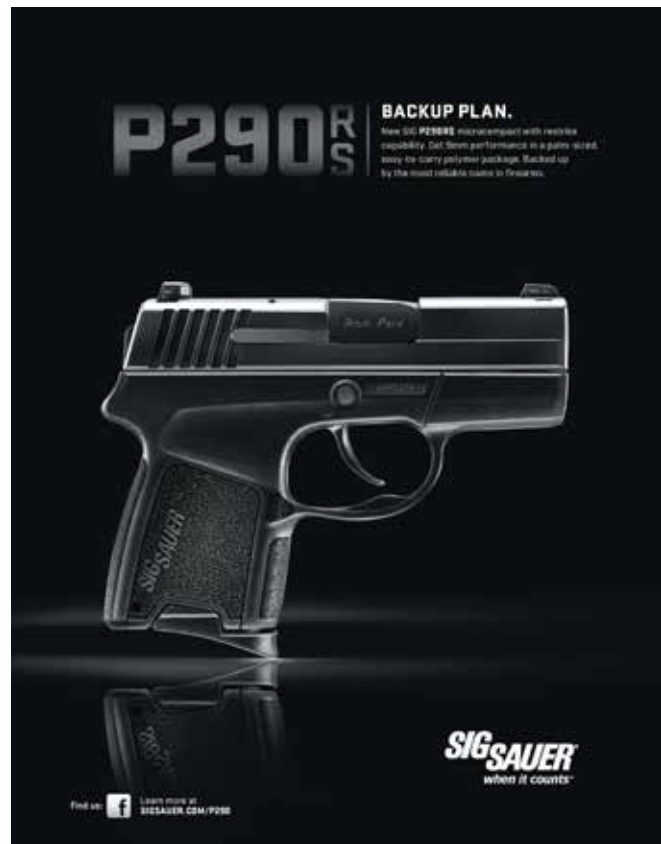
PERFECTION

Junior Shooters, Spring 2013

- A full-page ad for Glock pistols shows two black males, a youth and an adult, at an outdoor range, with the headline “Confidence to Live Your Life.” The ad, in which the youth is holding an ammunition magazine in one hand and a round in the other, states, “Shooting the best pistol means you can hone your skills and rise to any challenge. Backed by proven reliability, superior engineering and used by approximately 65% of law enforcement, GLOCK is a partner you can trust.”⁶⁰
- A full-page ad from Stag Arms features an AR-15-style assault rifle with a high-capacity ammunition magazine and promises that the gun is “Adaptable To Any Application.”⁶¹
- An ad for Rock River Arms’ LAR Series of assault rifles (which come in Varmint and Predator models) states, “From varmints to vermin, predators to prey, RRA LAR-8 Series Rifles.”⁶²



Junior Shooters, Spring 2012



Junior Shooters, Spring 2013

- A full-page ad for Sig Sauer’s SP2022 pistol features the handgun, notes that it comes in 9mm, .357, and 40 caliber and adds, “No wonder it’s becoming the standard choice among elite military and LE [law enforcement] forces worldwide.”⁶³ A second full-page ad from the company for its “microcompact” P290RS concealed carry pistol states, “Get 9mm performance in a palm-sized, easy-to-carry polymer package.” The tag line for the ad states, “Sig Sauer, when it counts.”⁶⁴

NRA "JUNIOR MEMBERS"

Since 1981, and until recently, the National Rifle Association has published in print or online *NRA InSights* magazine for its Junior Members⁶⁵ under the age of 15 (although the online content is available to anyone).⁶⁶

The industry's focus on youth as its financial savior is made clear in an ad for Marlin's XT rimfire rifle that appeared in the online version of the magazine. The headline of the ad reads, "FOR THE FUTURE OF OUR SPORT, IT'S THE MOST POWERFUL FIREARM ON EARTH." With a picture of a father and son together, the ad promises that the gun can "light a fire for the shooting sports or rekindle your own." Clicking on the ad leads the reader to the company's website and its full product line. Another online ad, for the Kel-Tec PMR-30 pistol, links to the company's website, where the first three images that greet the reader are adult shooters holding assault rifles.⁶⁷

In January 2014, the NRA changed the title of *NRA InSights* to *NRA Family InSights* and switched to an online-only format for the magazine with accompanying website. In an editorial announcing the switch, the magazine promised, "In addition to the fun and informative content designed just for Junior members, we'll be including articles, photos, reviews and news for everyone in your family — parents, grandparents, and other family members."

In its "Industry Spotlight," the site features a profile of NRA Board Member Ronnie Barrett, inventor of the 50 caliber sniper rifle. Fifty caliber sniper rifles, used by U.S. troops around the world, can bring down commercial aircraft on takeoff and landing, pierce armor plating, and are accurate to more than a mile. They are banned in the state of California and the District of Columbia, but elsewhere they are as easy to purchase as a hunting



NRA InSights online edition



NRA InSights online edition

rifle under federal law. The promotional profile finishes with, “To read more about Ronnie Barrett and Barrett Firearms, go to www.barrett.net.” By clicking on the link, the reader is taken to Barrett’s website which features solely assault rifles and 50 caliber sniper rifles.⁶⁸

Under “Kids,” visitors are presented with two subsections: “Under 8” and “8 and Up.” Both include a section titled “Guns.”⁶⁹

A review of the Thompson/Center HotShot rifle in the “Under 8” section states:

“It’s important to make a distinction here. With the HotShot, we’re not talking about a slightly reduced-size rifle for teens who are not quite ready for a full-size gun. No, we’re talking about a tiny gun intended for the very youngest shooters — the ultimate first gun. ‘We’re targeting the six- to 12-year-old range and feel that with the inclusion of the one-inch spacer in the box, there will be a longer period that the child can use the rifle, potentially out to 15 years old,’ explains...[Craig Cushman, director of marketing for Thompson/Center].”

“That’s important. With the number of hunters declining, it’s crucial to get kids introduced to the sport as early as possible.”

“The HotShot means that even the youngest shooters now have a gun sized just for them.”⁷⁰

Also included in the website’s “Under 8” section are “Awesome Apps,” which include for \$2.99 the *NRA Gun Guide* app. Text promoting the app asks:

“Do you like the idea of being able to call up the specs of multiple firearms on a whim? Looking to win the next debate about calibers and models at the range? If so the ‘NRA Gun Guide’ app is exactly what you’ve been waiting for.”

“The ‘NRA Gun Guide’ is searchable by gun type, action type, manufacturer, price range and caliber/gauge, making it easy to find out vital info about the rifle in your local gun store or that pistol your buddy is trying to get you to buy at an inflated price.”

“With an easy-to-follow design, the ‘NRA Gun Guide’ is suitable for all levels of interest in firearms or experience with mobile apps. And, as new content is regularly added, it can only get better.”⁷¹

When opened, the app promises “Hundreds of Guns Inside!” The “Semi-Auto Handguns” category of the app contains a wide range of pistols from major manufacturers (Beretta, Colt’s Manufacturing, Glock, Heckler & Koch, Kel-Tec, Sig Sauer, Smith & Wesson, Sturm, Ruger & Company, and others) including numerous high-capacity firearms as well as guns recommended for concealed carry. The “Semi-Auto Rifles” category of the app is dominated by military-style assault rifles — AR-15s and others, including 50 caliber sniper rifles. Assault rifle manufacturers included in the category include Barrett, Beretta, Bushmaster, Colt’s Manufacturing Co., DPMS, FNH-USA, Heckler & Koch, Rock River Arms, and others.



NRA Gun Guide App

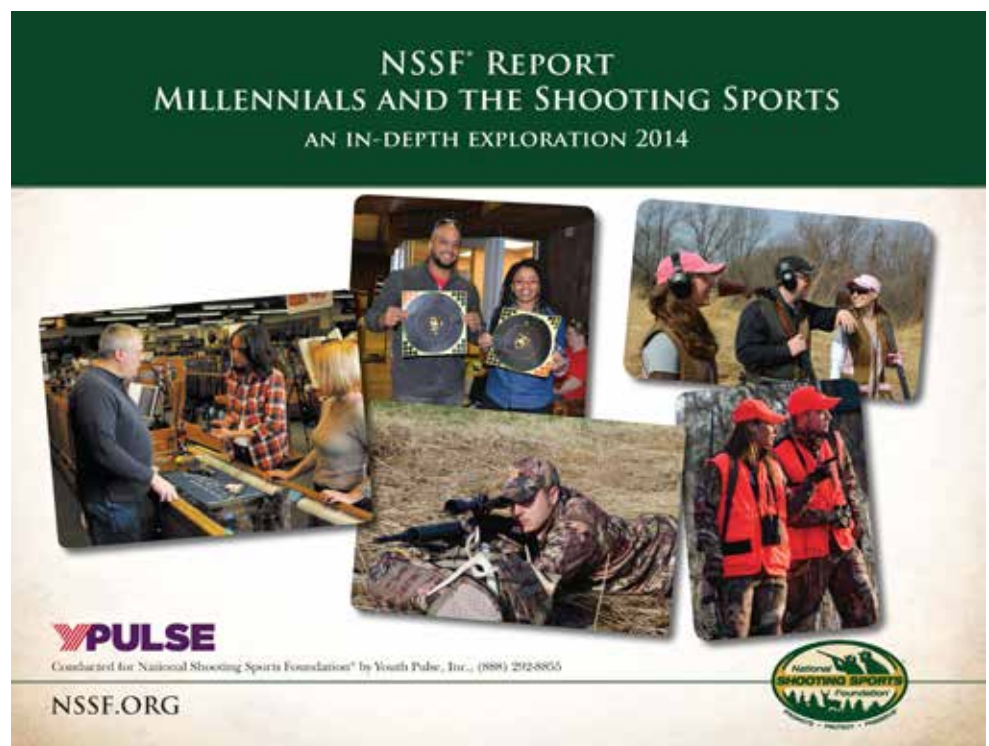
An article titled “My First .22 Pistol” offers reassurance to those wanting to introduce children to guns: “Fortunately for you, there are many people — neighbors, coaches, competitors, sales staff — who want to encourage youth shooters and turn them into lifelong firearms enthusiasts and Second Amendment advocates.” The article notes that a young person’s first pistol may come from brothers or sisters, or a “hand-me-down from someone you meet at the shooting range.”^{72 73}

The NRA has a wide range of additional programs focused on youth, some of which are named for their gun industry funders, such as the Brownells/NRA National Youth Shooting Sports Ambassador Program, Brownells/NRA Day, and the Winchester/NRA Marksmanship Qualification Program. (In addition, the NRA has launched a concerted online effort with gun industry support to reach out to Millennials.)

NATIONAL SHOOTING SPORTS FOUNDATION: THE GUN INDUSTRY’S TOBACCO INSTITUTE

While the National Rifle Association functions as the *unofficial* trade association for the firearms industry, the National Shooting Sports Foundation (NSSF) is its official trade association. In a grim irony, NSSF’s headquarters is located in Newtown, Connecticut. The role played by the NSSF within the gun industry is not unlike that which was played by The Tobacco Institute for the tobacco industry. The NSSF offers a wide range of publications for its industry patrons, focusing primarily on marketing. At the same time, just as The Tobacco Institute denied a causal link between cigarettes and cancer, the NSSF continually works to minimize the hazards associated with exposure to firearms, especially by children.

For example, in December 2011, NSSF issued a press release that made the claim that hunting, as measured by injuries per number of participants, was actually safer than bowling, claiming a “percentage of injury per 100 participants” of only .05 percent compared to .06 percent for bowlers. Using NSSF’s math, hunting was behind only camping and billiards in its low rate of injury. Other activities NSSF claimed hunting was safer than included golf and tennis. Left out of NSSF’s equations were the



NSSF's *Millennials and The Shooting Sports: An In-Depth Exploration*

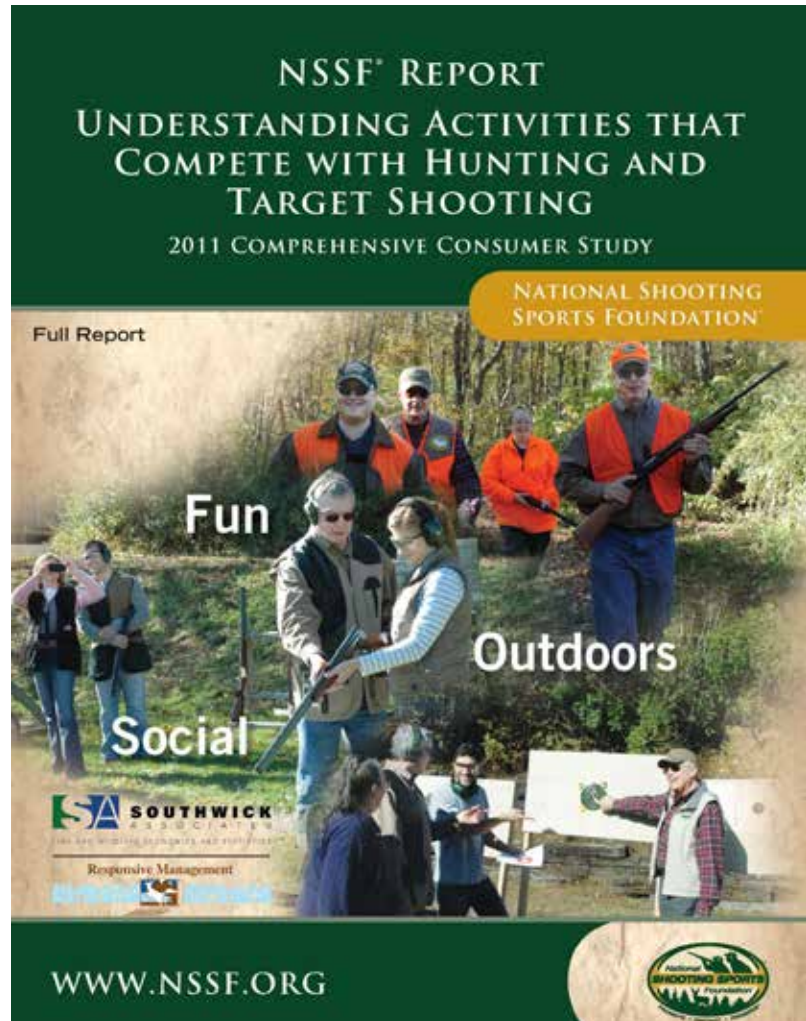
severity of injuries for each category, that is, those injuries, if counted, that resulted in crippling disability or death (a distinction that might have benefited golf and tennis as compared to hunting, which included not only those injured by gunfire, but also from falling out of treestands).⁷⁴ Soon after, in a focus group of 12- to 16-year-olds conducted for NSSF and another organization, a similar argument was made and countered:

“A substantial number of individuals said that hunting and target shooting were rather dangerous activities due to the involvement of firearms. However, others insisted that hunting and shooting were no more dangerous than many mainstream sports; one person suggested that although the *rate* of injuries in hunting and target shooting is generally lower, any accidents that do occur are more likely to be fatal.”⁷⁵

In all of NSSF’s publications the lethal risk from guns is rarely acknowledged, except as a marketing hurdle. When it is, gun death is consistently presented as being synonymous solely with unintentional shootings. Rarely are gun homicides — with youth as either perpetrators or victims — or suicides ever mentioned. Moreover, the risk of death from guns is, at best, only hinted at as illustrated by this “Message to Kids About Firearms Responsibility” from NSSF’s *A Parent’s Guide to Recreational Shooting for Youngsters*:

“Not long ago, in another town, some kids found a firearm. Maybe they were looking for it because of something they saw on television. Maybe one of them dared the other to find it. Maybe they just found a firearm that was left out by mistake. It doesn’t matter why they found it. What matters is the firearm was loaded, and they played with it. Now they are very sorry they did. Don’t let this happen to you.”⁷⁶

The passage is striking, but not unique, in its ability to place blame, whether it be on television, negligent parents, or the kids themselves, on virtually anyone except the industry.



NSSF’s *Understanding Activities that Compete with Hunting and Target Shooting*

NSSF issues a constant stream of publications, both to support, and defend, the firearms industry in the marketing of its products. Recent NSSF marketing publications (some publicly available, others limited to NSSF industry members) include titles such as: *Millennials and The Shooting Sports: An In-Depth Exploration* (2014); *Understanding Diversity in Hunting and Shooting Sports* (2013); *Understanding the Impact of Peer Influence on Youth*

Participation in Hunting and Target Shooting (2012); and, *Understanding Activities that Compete with Hunting and Target Shooting* (2012).

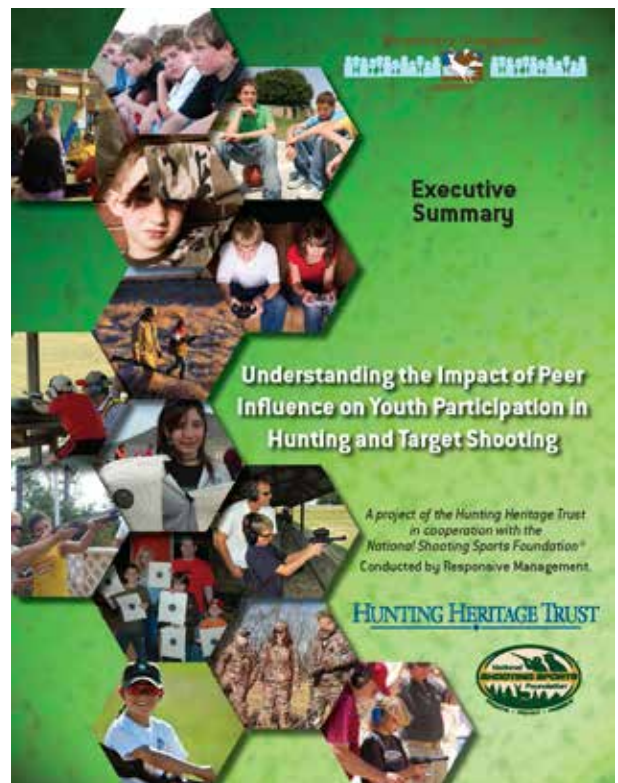
Among the “11 main points to consider” in the executive summary of the NSSF report *Understanding Activities that Compete with Hunting and Target Shooting* are “Electronic and indoor recreation are a threat to recruiting new hunters and target shooters,” “Losing hunters and target shooters to competing activities is a subtle process,” and, “Start them young.”⁷⁷

Discussing the “threat” posed by electronic and indoor recreation, the report presents findings “worth noting” from a 2010 study by the Kaiser Family Foundation: “It is estimated that today’s youth 8 to 18 years old spend an average of 53 hours a week on electronic media entertainment,” and, “Nearly three-quarters (71%) of youth have a television in their bedroom.” NSSF suggests, “Rather than trying to stop youth from using electronic media, the hunting and target shooting industry should use those media to its advantage.” “Tactical strategies” toward this end as cited in the report include:

- “The industry should use social media and web sites to raise interest and help youth find ways to hunt and target shoot.”
- “The industry should team with current online media firms to take advantage of their reach and their abilities to communicate with youth.”
- “Because youth are online to be entertained, messages that emphasize fun should be used in this setting.”⁷⁸

Under a section titled “Start Them Young,” the report states, “There is a clear link between avidity and age of initiation in hunting....”⁷⁹ “Tactical strategies regarding initiation” detailed in the study include:

- “To help hunting and target shooting get a head start over other activities, stakeholders such as managers and manufacturers should target programs toward youth 12 years old and younger. This is the time that youth are being targeted with competing activities.”
- “It is important to consider more hunting and target shooting recruitment programs aimed at middle school level, or earlier.”
- “Programs that have helped in hunting and target shooting recruitment should be implemented; for instance, it is important to implement more youth programs like *Families Afield*⁸⁰ and apprentice licenses.”⁸¹



NSSF's *Understanding the Impact of Peer Influence on Youth Participation in Hunting and Target Shooting*, Executive Summary

Recognizing that “not all youth can be born into the ideal environment for creating a lifelong hunter or shooter (i.e., as a male within a hunting or shooting family in a rural environment),”⁸² the 2012 report *Understanding the Impact of Peer Influence on Youth Participation in Hunting and Target Shooting* urges that a “‘Youth Hunter and Shooter Ambassador Program’ be initiated to capitalize on the current population of youth hunters and shooters who can positively influence their fellow peers’ attitudes toward the sports.”⁸³ The report, sponsored by both NSSF and the Hunting Heritage Trust, explains how such “youth ambassadors” would be “performing a major service for the hunting and shooting sport communities”—

“The more familiar youth are with individuals their own age who participate in hunting and shooting, the more likely they will be to support and actively participate in these activities. In this sense, youth hunters and shooters are the key to their fellow friends’ and students’ acceptance of these activities. Given this direct relationship, it is imperative that youth hunters and shooters recognize the weight and importance of their words and actions with regard to their peers’ perceptions of hunting and target shooting...”

“If non-hunting and non-shooting students talk with, befriend, and interact with youth who are actively involved in hunting and shooting, the positive aspects of these activities will increasingly be thought of as acceptable, appealing, and inviting recreational activities.”⁸⁴

The report also urged the use of social media, noting:

“[T]alk and communication about hunting and shooting should be encouraged and promoted in as many ways as possible, especially through social media. One individual from the [youth] focus groups mentioned photos a hunting classmate had posted on Facebook — as with this individual, such photos tend to encourage questions, invite curiosity, increase interest, and place hunting and shooting activities in the foreground of the social atmosphere. Youth, in particular, are uniquely positioned to take advantage of the most prominent and effective means of social media and other communication tools — hunting and shooting sponsoring agencies and organizations should encourage this tendency wherever possible. In promoting the use of images, remember that pictures are often worth a thousand words: images promoting hunting and shooting should reinforce a positive atmosphere that emphasizes the environment, nature, the outdoors, nice weather, exercise, natural resources, wildlife, a social atmosphere among friends and peer groups, etc.”⁸⁵

The report also urged that “youth ambassadors and others should focus on getting newcomers to take a first step into target shooting through any means, whether a BB or pellet gun, paintball gun, or archery bow. The point should be to get newcomers started shooting *something*, with the natural next step being a move toward actual firearms. Initial interest, however, should be embraced in whatever form it presents itself.”⁸⁶

THE INDUSTRY FINDS ITS “‘REALITY’ VIDEO GAME” IN 3-GUN COMPETITION

In the competition for the recreation time of youth, video games are seen by the gun industry as both a threat to, and an opportunity for, marketing firearms to youth.

Bud Pidgeon, president of the U.S. Sportsmen’s Alliance warns, “By the time kids are in fifth grade, or even before, they’re already being pulled away by the allure of video games, organized sports or other activities.”⁸⁷ And an article detailing NSSF’s 2015 Shooting Sports Summit warned, “What those young people appear to be most interested in, at least superficially, is playing computer games, tapping on tiny keyboards and communicating with their friends through social media like Facebook, Twitter, Instagram and other websites.”⁸⁸



Photo from the website of the Tri County Gun Club in Polo, Illinois, illustrating firearms and accessories needed for 3-Gun competition

Yet while video games are seen as a competitor for the leisure time of children, the argument is frequently made, both inside and outside the industry, that first-person shooter games, and their use of easily identified real-world weapons, offer marketing opportunities.

According to Ralph Vaughn, who negotiates licensing deals with video game manufacturers on behalf of Barrett Firearms, manufacturer of 50 caliber anti-armor sniper rifles as well as assault rifles, “It is hard to qualify to what extent rifle sales have increased as a result of being in games...But video games expose our brand to a young audience who are considered possible future owners.”⁸⁹

In a column on the website *Gun Nuts Media*, author Caleb Giddings discusses the guns used in the latest edition of the video game series *Battlefield*. After discussing the video, he concludes:

“There is a real point to all this digital nonsense though, and something that I saved for last. This game and games like it are absolutely how the next generation of gun owners are getting introduced to firearms. The incredible amounts of realism present in the depiction of firearms in game is a good thing. I guarantee that people will come into gun ranges and say ‘I shot something just like that in *Battlefield*!’ The immediate response of any employee of any range in the nation should be ‘that’s awesome! Want to try the real deal?’”⁹⁰

Among the concurring statements in the comments section of the article⁹¹ were:

- “I agree 100% that games like this can increase the number of ‘gun people.’ In the range I work in, it’s very common to have younger people ask to see then rental guns, and can name many of them off (Beretta 92, AR, Glock, 1911, etc.) based on game experience. Then they get to try one for real and most of them are hooked! I don’t know if it’s what the game designers intended, but it works.”

- “Though gaming may be more realistic when it comes to firearms and operating, like you said, many people are being introduced to firearms through mediums like this. It is always great that video game devs would put a lot of attention to detail when it comes to subjects like this and seeing them play out IRL [In Real Life]...”
- “The last generation of games have a big influence on the purchasing decisions of prospective gun owners of a certain age. I dare say that half of the PS90s sold are probably because of *Counter-Strike*, and I think it’s responsible for some of the demand for Beretta Elites, as well.”

As accessory manufacturer Firefield sums it up: “A majority of Firefield users grew up watching action-packed movies, TV shows and playing interactive video games that encompass tactical gear and military-style weapons platforms. Our optics and shooting accessories allow shooters to turn what they’ve seen on the screen into a reality.”⁹²

In 2007, Chris Dolnack, National Shooting Sports Foundation senior vice president, used the term “a ‘reality’ video game” to describe the organization’s Scholastic Rifle Program (SRP) begun in 2003, telling *Junior Shooters* magazine, “We developed an action-packed reactive target format — a ‘reality’ video game — that is sure to be a hit with today’s young shooter.”⁹³ While the Scholastic Rifle Program apparently failed to fill that niche, another industry-promoted shooting event has: 3-Gun competition.



Video from *The Truth About Guns* shows a 3-Gun participant ready to start the competition

Writing at the website *The Truth About Guns*, Nick

Leghorn promises, “3-gun is as close to a real-life first person shooter video game as you’ll get without joining the military.”⁹⁴ As described by Leghorn:

“3-gun gets its name from the fact that you use three different types of firearms over the course of the competition: a shotgun, a rifle, and a pistol. You score points by hitting designated targets, which include clay pigeons, cardboard silhouettes, steel targets of varying sizes, and anything else the Range Officer designates as a target....Competitors lose points for hitting ‘no shoot’ targets (hostages, friendlies, etc) or skipping targets/obstacles. Their score is augmented by the time it takes to complete the course of fire. The person with the combination of fastest time and best accuracy wins.”⁹⁵

In a video accompanying the article showing a shooter preparing for a 3-Gun match, a participant is asked, “How are you going to game this stage knowing nothing about it?” He replies, “I think it’s kinda like [the video game] *Doom*, run through, keep upgrading weapons as you kill bad guys, right?”⁹⁶

Such competitions frequently revolve around fantasy scenarios in which firepower is essential for the hero-shooter to emerge victorious. In its description of its 3-Gun Tactical Match, one gun club explains:

“This type of match has the shooter shooting centerfire rifle, centerfire pistol, and shotgun (.410 or larger) at paper ‘bad guy,’ steel plates, and similar targets. In any given scenario, the shooter moves through

an imaginary situation in which his life is placed in danger by the 'bad guys.' The scenario will vary from month to month, and will have a theme that practices real-life shooting and defensive skills. Examples of scenarios: exodus from a shopping mall overrun with terrorists, self defense at an ATM machine, Hollywood bank robbery, L.A. riots, home intruder, etc."⁹⁷

In the video cited above, the "scenario" is spelled out for the 3-Gun participant as he's led hooded, his wrists tied together, into a faux prison cell and seated (see photo on previous page):

"Okay all you troopers are such badasses you decided you were going to go hunt pirates in Somalia... Something went wrong and you are now the prisoner of a Somali warlord who wants to do very bad things to you because you're an American...No one's coming to rescue you so you have to rescue yourself... During your last interrogation you noticed that the chair was rough on the sides. That might assist you in breaking your bonds should you be given the opportunity...At that point you should find yourself a gun. Cause we're Americans and we all like guns. Find one and start killing all the bad guys who are trying to do very bad things to you and your fellow Americans."⁹⁸

In the pages of *Junior Shooters*, 3-Gun competitions are a mainstay, with child participants not only promoting the activity in its pages, but also lauding the gun companies that donate guns, ammunition, and other products: both for use in the activity and as prizes for the winners. As one article written by a 12- and 16-year-old states:

"Everything about 3-Gun is exactly the opposite of precision rifle. Precision to me is boring. All you do is stand there and shoot. With 3-Gun you get to 'get into it.' You get to run around (as long as you're safe), shoot 'big boy guns,' and go through obstacles shooting at the targets. Can it get any better? I think not. I felt like an FBI or a SWAT agent going in for a big bust. It was an awesome feeling."⁹⁹

Writing in *Junior Shooters*, Corey Shaw, age 17, exulted:

"This summer I had the opportunity to shoot Fabrique Nationale Herstal (FNH) USA's SCAR. SCAR is an acronym for Special Combat Assault Rifle. And, oh, boy, is it SPECIAL!"

"Due to the fact that the SCAR is so light, you can fling it around from target to target; sometimes it feels more like you're shooting a .22 rather than a full-on combat rifle."^{100 101}

In a *Junior Shooters* article titled, "Why I Love 3-Gun!," 12-year-old Jake Denno writes:

"Besides the three guns that have to be practiced with and brought to the match, many of the 3-Gun events will have special or stage weapons, as well...I have already been fortunate enough to be able to shoot a fully automatic UZI, an M-249 SAW and an M-203 grenade launcher. Some of the other special weapons in 3-Gun matches include MG-42 and M-60 machine guns, suppressed ARs and SCARs, but the one I really want to shoot is the Dillon Mini-Gun at the Larue Tactical match. Some events will also have manufacturers there who will have their pistols and shotguns as stage weapons. The only thing I do not like about stage and special weapons is that the score depends on how one shoots with an unfamiliar weapon. The triggers and sights are usually really different from what I shoot, and the guns don't always run well. At the Ironman [competition], the UZI just would not function properly, and it really threw me off my plan for that stage."¹⁰²

Four New Shooters Challenge the Ironman

JUNIOR SHOOTERS

Volume 12 / Summer 2012

Scholastic Clay Target Program

Ruger's New .22 Revolvers

Building a Modern Sporting Rifle

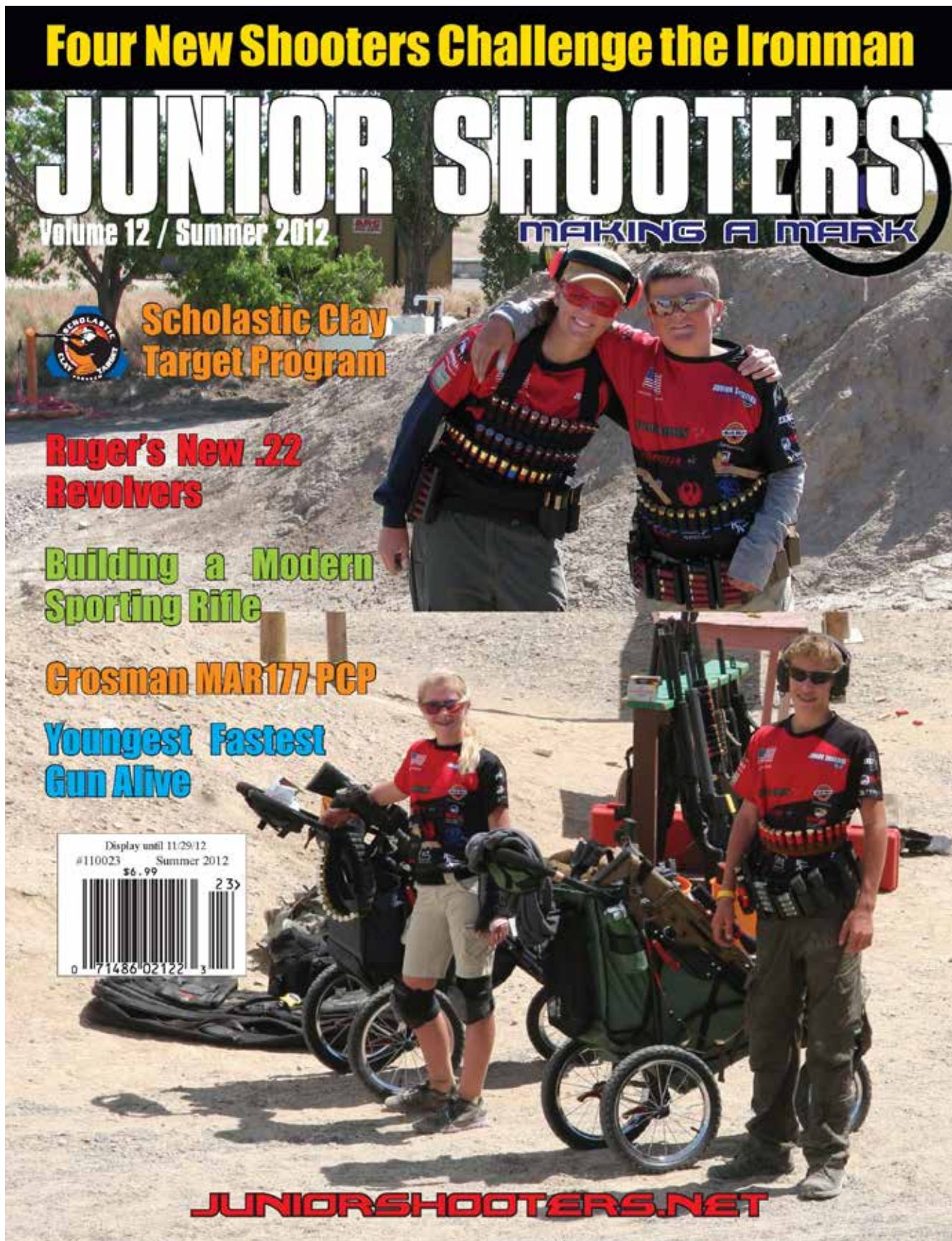
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Summer 2012 *Junior Shooters* features 3-Gun competitors

Like the gun industry and gun lobby's ongoing campaign to attempt to rebrand assault rifles as "Modern Sporting Rifles," by labeling 3-Gun competitions a "sport," their hope is to not only engage young shooters, but also that the activity offers the necessary cover to maintain the sale and possession of weapons that were originally designed for military or law enforcement use, including assault weapons that should be banned for import under the "sporting purposes" test of the Gun Control Act of 1968.¹⁰³ As Michael Tenny, CEO of Cheaper Than Dirt!, an online vendor of guns, ammunition, and accessories that describes itself as "America's Ultimate Shooting Sports Discounter," told *Junior Shooters*, "We're always happy to be able to support the shooting sports in any way possible, and we're even more excited to help encourage new shooters by sponsoring the 3 Gun Nation Junior division...Faced with political pressure to ban the importation of the competition shotguns that have made 3-Gun into the sport it is today, I think it's critical that we as an industry pull together to support all of the shooting sports in any way we can."¹⁰⁴

THE REALITY OF CHILDREN AND GUNS

Much like the tobacco industry before it, the firearms industry — gun and accessory manufacturers, trade associations (both self-proclaimed, such as the NSSF, and *de facto*, such as the National Rifle Association) and related publications — consistently denies the risk associated with its products, especially in the marketing of guns to children. As noted earlier, their arguments, such as NSSF's assertion that hunting is safer than bowling, can at times be so divorced from reality that they cross the line from the absurd to the surreal.

Despite the rosy picture painted by the firearms industry, the combination of children and firearms poses risks that are widely recognized. These include death and injury, not just from unintentional shootings, virtually the sole category of firearm death acknowledged by the gun industry, but suicide and homicide. In addition, the exposure to lead that young shooters experience — either when firing a weapon or making their own ammunition, a practice commonly known as "hand loading" — can harm many different body organs and systems, including the brain, and exposure can lead to reduced intelligence as well as behavioral problems.

YOUTH GUN DEATHS

In 2014, more than 1,300 children under the age of 18 died from firearms: 699 homicides, 532 suicides, 74 unintentional shootings,¹⁰⁵ and 19 from undetermined intent. From 1999 to 2014, nearly 23,000 children under the age of 18 died from guns: 13,756 homicides, 6,903 suicides, 1,723 unintentional shootings, and 395 from undetermined intent.¹⁰⁶

For the age group one to 17 in 2014, unintentional injury was the leading cause of death, the most common cause of unintentional death being motor vehicle-related deaths (49 percent) and drownings (18 percent). Firearms accounted for two percent of all fatal unintentional injuries. Malignant neoplasms (primarily cancers) were second. Suicide was the third leading cause of death. Guns accounted for 40 percent of these deaths, making firearms the second most popular method of suicide for this age group, behind suffocation. Homicide was the fourth leading cause of death for this age group, with firearms being used in 59 percent of all homicides.¹⁰⁷

TABLE THREE: FIREARM DEATHS IN THE UNITED STATES, LESS THAN 18 YEARS OF AGE, 1999 - 2014¹⁰⁸

Year	Homicide	Suicide	Unintentional	Undetermined Intent	Total
1999	1,001	558	158	50	1,767
2000	819	537	150	23	1,529
2001	835	451	125	16	1,427
2002	872	423	115	26	1,436
2003	805	377	102	25	1,309
2004	868	384	105	22	1,379
2005	921	412	127	25	1,485
2006	1,082	371	102	24	1,579
2007	1,038	325	112	36	1,511
2008	984	361	98	26	1,469
2009	887	401	83	16	1,387
2010	835	375	98	26	1,334
2011	730	448	102	23	1,303
2012	740	457	78	15	1,290
2013	640	491	94	23	1,248
2014	699	532	74	19	1,324
Total	13,756	6,903	1,723	395	22,777

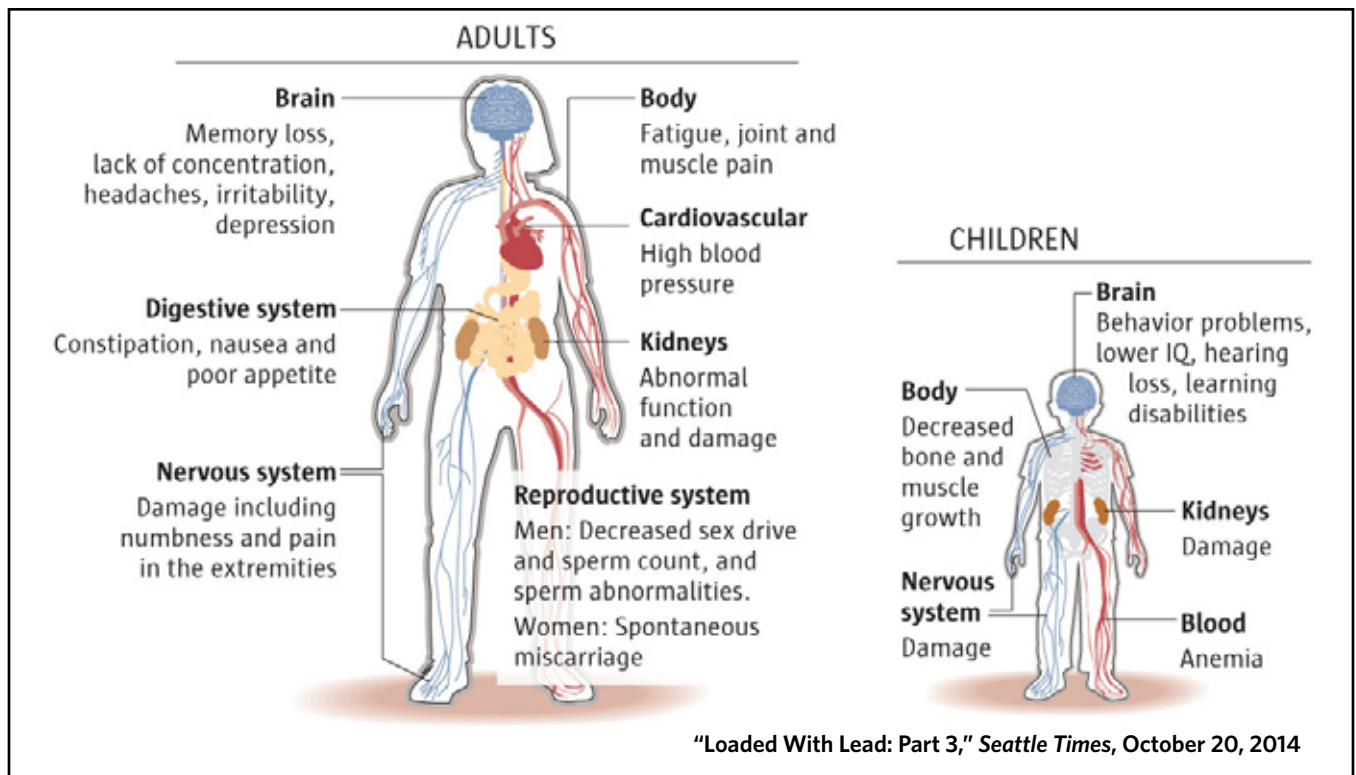
A common myth is that children and teens living in rural areas do not suffer the effects of gun violence experienced by their contemporaries who live in urban environments, despite being exposed to guns at a young age. The fact is that guns kill rural youth at a rate equal to urban youth but in different circumstances. While more urban youth die from gun homicide, the difference is made up in rural areas through firearm suicide and unintentional deaths. A 2010 study in the *American Journal of Pediatrics* examined all pediatric firearm deaths up to age 19 from 1999 through 2006. The deaths were analyzed by rural-urban settings based on population size and proximity to metropolitan areas. The study concluded:

“Children in the most-rural US counties had firearm mortality rates that were statistically indistinguishable from those for children in the most-urban counties. This finding reflects a greater homicide rate in urban counties counterbalanced by greater suicide and unintentional firearm death rates in rural counties.”¹⁰⁹

Parents also have significant ability to prevent youth suicide recognizing that adolescents who commit suicide most often use the family gun.¹¹⁰ By removing guns from homes where children and teens live, especially depressed adolescents, parents will reduce likelihood of suicide and unintentional death for everyone in the household, but especially for teens.

While 85 percent of suicide attempts with guns are fatal, other means are less lethal: only one percent of cutting or piercing attempts are fatal, while only two percent of poisoning/overdose attempts result in death.¹¹¹ Moreover,

studies show that many teen suicide attempts are impulsive. Of teens who survived a suicide attempt, one quarter said they thought of suicide just five minutes before making the attempt. There is also little truth to the widely held belief that those who attempt to kill themselves are determined to succeed. In fact, 90 percent of near-lethal suicide attempts do not attempt to kill themselves again.¹¹²



LEAD: THE SILENT HEALTH THREAT FROM FIREARMS

While the health and safety threats of gun violence can be measured in death and injury, there is another reason guns pose a grave threat to human health and particularly children's health: the toxic lead found in ammunition.

Lead is a highly toxic metal that is especially harmful to the developing brains of young children. It can harm many different body organs and systems, and exposure can lead to reduced intelligence and many behavioral problems. The federal Centers for Disease Control and Prevention (CDC) maintains there is *no* safe level of lead in the blood for children, and states, "Even low levels of lead in blood have been show to affect IQ, ability to pay attention, and academic achievement."^{113 114}

In recent decades, public health-based regulations have dramatically reduced the presence of lead in what were once common sources of exposure for children, such as lead-based paint and lead in gasoline. The major health threat that remains is lead from bullets. The Environmental Protection Agency (EPA) regulates lead in paint and gasoline but is prohibited from regulating the lead contained in cartridges and shells. The EPA has rejected a petition filed by 101 environmental organizations to regulate lead from spent bullets and shot citing a section of the Toxic Substances and Control Act (TSCA) that exempts cartridges and shells from the agency's reach. Both the NRA and the NSSF intervened in court to object to EPA regulation of lead in ammunition.¹¹⁵ A 2013 consensus statement from scientists from across the nation warned: "Lead-based ammunition is likely the greatest, largely unregulated source of lead knowingly discharged into the environment in the United States."¹¹⁶

For both children and adults, the primary risk of exposure comes from shooting ranges, most notably indoor ranges. At the firing range, children can be exposed to lead through particles suspended in the air or even by eating contaminated food. Even when children do not go to the firing range themselves, they can be contaminated by clothing or accessories from adults returning from the range.¹¹⁷ The CDC recommends that individuals “shower and change clothes after finishing a task that involves working with lead-based products, such as stained glass, making bullets, or using a firing range.”¹¹⁸

Yet despite the well-documented public health risk, shooting ranges remain a largely unregulated industry. A recent investigation in the *Seattle Times* revealed that shooting range owners routinely violate workplace safety laws, resulting in their employees as well as their children and adult customers being exposed to lead. The newspaper found that only 201 of the estimated 6,000 commercial gun ranges in the United States have been inspected within the past decade, but 86 percent of those which had been inspected violated at least one lead-related standard. Thousands more gun ranges are volunteer-led or members-only clubs with no employees, and these do not have to follow federal regulations at all.¹¹⁹ Not surprisingly, while the NRA and its self-described gun industry “corporate partners” will at times pay lip service to the safety hazards posed by lead, their overriding focus remains actively encouraging children to visit shooting ranges. As a medical officer for the National Institute for Occupational Safety and Health told the *Seattle Times*, “Some firing ranges cater to children, they have birthday parties and special events.” An NRA official, Susan Recce, told the newspaper, “The issue of lead problems for indoor ranges is extremely rare.”¹²⁰

The facts state otherwise. At a Vancouver, Washington shooting range, tests in 2010 found 20 youth and young adults on the Rifle and Pistol Club team had been overexposed to lead. “We weren’t very cautious,” one of the participants was quoted as saying. “We would get lead on our hands and eat finger food.” Tests showed that the floor of the range had a lead level 993 times that allowed by a federal housing guideline.¹²¹

There is no cure or treatment for the effects of lead exposure, and the effects are chronic and irreversible. The only option is prevention. And yet, the response from all too many parents is to ignore the threat. In response to an online discussion thread titled “is 3 yrs old too young to help dad clean ar [AR-15 assault rifle]?,” one commenter responded:

“The whole lead, chemical paranoia is out of control IMO [in my opinion]. I grew up with lead paint, played with lead toy soldiers, dunked my hands in kerosene while cleaning car parts and used real MEK to degrease stuff. According to my doc I’m in good health aside from high cholesterol. Use common sense. Don’t let your kid drink Hoppe’s or Frog Lube. Don’t let him stick his hands in his mouth...He’s more likely to drown or get hurt at the playground than die for touching the bolt of a rifle once a week.”¹²²



This photo from the cover of a 1997 Browning firearms catalog ignores the threat lead poses to children

CONCLUSION AND RECOMMENDATIONS

The efforts of the gun industry and gun lobby to put firearms in the hands of young children and teens are the exact opposite of what health experts advise. The American Academy of Pediatrics is emphatic in urging parents not to keep guns in homes with children. Their [healthychildren.org](https://www.healthychildren.org) website advises parents, “The best way to keep your children safe from injury or death from guns is to NEVER have a gun in the home.” Specifically, the pediatricians’ organization warns parents as follows:¹²³

- Do not purchase a gun, especially a handgun.
- Remove all guns present in the home.
- Remember that young children simply do not understand how dangerous guns can be, despite parents’ warnings.
- Find out if there are guns in the homes where your children play. If so, talk to the adults in the house about the dangers of guns to their families.

“For those who know of the dangers of guns but still keep a gun in the home,” the site advises:

- Always keep the gun unloaded and locked up.
- Lock and store the bullets in a separate place.
- Make sure to hide the keys to the locked boxes.

As noted, one study found that adolescents who commit suicide most often use the family gun.¹²⁴ By removing guns from homes where children and teens live, especially depressed adolescents, parents will reduce likelihood of suicide and unintentional death for everyone in the household, but especially for teens.

A common argument is that giving children guns teaches them personal responsibility and other life skills. Typical is the language found on the website of National 4-H Shooting Sports, which promises “Skills for Life — Activity for a Lifetime.” Sponsors of the program include: the National Shooting Sports Foundation; online accessories and ammo vendor MidwayUSA (headed by top NRA donor Larry Potterfield); the ammunition manufacturer Hornady (headed by NRA board member Steve Hornady); and, Hodgdon Powder (headed by one-time NRA board member Bob Hodgdon). In the “Just for Youth” section under the heading “Kids ‘n’ Guns,” the site states:

“4-H uses shooting sports to teach youth development. Our programs are valuable for helping young people develop self-confidence, personal discipline, responsibility, teamwork, self esteem and sportsmanship. The discipline and self-control required for responsible firearms use carries over into many other aspects of life.”¹²⁵

In the same section, the question is asked, “Isn’t easy access to firearms one reason for the violent behavior we’ve seen in Columbine and other school shootings?” The response is as predictable as it is disingenuous: “No, access is not the issue. The safest location for a responsible gun owner to store a firearm is the secure environment of his or her home...Firearms should however, be stored so that they are inaccessible to unauthorized users.”

Left unstated is the fact that with the creation of the youth gun culture envisioned by the firearms industry and the gun lobby, the children themselves in the home are all too often the *authorized* users.

At the same time, the “skills” learned by youth at the foot of today’s gun industry — with its embrace of heightened lethality and increased militarization, combined with the immaturity and limited judgment that define childhood — can be put into action with horrific results.

In addition to urging that homes with children be gun-free, the Violence Policy Center recommends the following:

- Firearms are an adult product just like tobacco and alcohol and should be treated as such to protect the health and safety of children. Just as our society does not condone the use of alcohol or tobacco by minors even with adult supervision, we should prohibit the acquisition, possession, and use of firearms by children. Current federal law prohibits the transfer of handguns by Federal Firearms License (FFL) holders to anyone under the age of 21. Federal law also prohibits handgun possession by those under the age of 18 with a number of exceptions. Federally licensed dealers are also prohibited from selling long guns (shotguns and rifles) to those under the age of 18. These laws should be revised so that possession standards strictly match sales standards: 18 years old for long guns and 21 years old for handguns.
- The Federal Trade Commission should investigate whether the firearms industry is inappropriately marketing firearms to children and also whether manufacturers are engaged in product placement of firearms in video games marketed to minors to determine whether such efforts violate applicable advertising standards.
- Websites for gun manufacturers and vendors of related products (such as ammunition and ammunition magazines) should have the same age restrictions and criteria for access as those for tobacco and alcohol vendors.
- Congress should repeal the section of the Toxic Substances Control Act prohibiting the Environmental Protection Agency from regulating lead in ammunition.
- States should review their laws regarding firearm possession by children with the goal of having the age for legal possession at least match that for legal purchase from a Federal Firearms License holder.
- An effective public education campaign should be developed and implemented to warn parents and youth about the dangers associated with the presence and use of firearms.

To put the gun industry and gun lobby’s child-marketing efforts into perspective, imagine the public outcry if the alcohol industry announced a program targeting grade school children, promoting a line of “youth cocktails.” Or if the tobacco industry urged parents to introduce their second and third grade-age children to the satisfaction and sophistication of smoking with “junior cigarettes.” Or if it was revealed that these industries had a “strategic plan” targeting children to not only “start them young,” but to create a cadre of “youth ambassadors,” whose goal would be to convince their playmates via personal contact and social media to join them in these adult activities. Yet, the firearms industry and gun lobby are today aggressively pursuing just such a campaign targeting America’s youth.

And while the firearms industry and gun lobby consistently work to present this marketing effort in terms of tradition and family, the real impetus lies in profit and political power. Most tragically, the effects of this campaign are all too often measured in unnecessary death and crippling injury.

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(<http://www.motherjones.com/environment/2013/01/lead-crime-link-gasoline>); Jessica Wolpaw Reyes, "Environmental Policy as Social Policy? The Impact of Childhood Lead Exposure on Crime," National Bureau of Economic Research Working Papers, May 2007 (<http://www.nber.org/papers/w13097>); and, Rick Nevin, "Understanding international crime trends: The legacy of preschool lead exposure," *Environmental Research* 104 (2007) 315-336 (<http://pic.plover.com/Nevin/Nevin2007.pdf>).

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EXHIBIT D

The New York Times

The Opinion Pages

Taking Note

The Editorial Page Editor's Blog Marketing Guns to Children

By Anna North February 19, 2016 10:05 am

The gun industry markets a variety of products explicitly to children, a new report shows, from armed stuffed animals to lighter versions of rifles. And some see kids as a vital group of future gun buyers who need to be brought into the fold at a young age.

The report, called “Start Them Young” and issued on Thursday by the Violence Policy Center, lists a variety of firearms meant at least partly for children. It mentions the Crickett rifle, a gun made for children by the company Keystone Sporting Arms. Keystone’s website and some of its merchandise bear the image of “Davey Crickett,” a gun-wielding cartoon insect. The company sells Davey Crickett hats, dog tags and pins, as well as a Davey Crickett Beanie Baby, listed as “not for children under three years of age.”

Keystone’s website also sells books featuring “Little Jake,” a boy who uses his gun to bring down a bear and save an African village from a marauding elephant. The publisher of the books says Little Jake is actually older than he looks: “Little Jake is a fictional character in his late teens. While small in stature so that young children may relate to him, Little Jake is old enough to hunt and fish safely on his own without adult supervision.”

“Start Them Young” also cites the rise of .22-caliber versions of higher-caliber rifles, often produced with lightweight materials. According to an article in the trade magazine Shooting Sports Retailer, “these guns bring the coolness and fun of the tactical rifle to kids and less serious shooters.” The website of the retailer Gander Mountain describes one such weapon thus: “Designed for the indoor range and the youth shooter, this Carbon15 .22 LR Rimfire lightweight is sure to add new dimensions to your Bushmaster shooting pleasure. Operational controls are functionally and ergonomically identical to AR-15 type rifles.”

The report makes the case that the gun industry and some gun-rights advocates see putting guns in the hands of children as a crucial recruitment move. In a 2012 report, the National Shooting Sports Foundation, the gun industry's trade association, explicitly recommended that gun manufacturers market to children: "To help hunting and target shooting get a head start over other activities, stakeholders such as managers and manufacturers should target programs toward youth 12 years old and younger. This is the time that youth are being targeted with competing activities." An online ad for a Marlin XT rifle features a father and son and boasts, "FOR THE FUTURE OF OUR SPORT, IT'S THE MOST POWERFUL FIREARM ON EARTH." And the editor-in-chief of the magazine Junior Shooters wrote in 2012:

Each person who is introduced to the shooting sports and has a positive experience is another vote in favor of keeping our American heritage and freedom alive. They may not be old enough to vote now, but they will be in the future. And think about how many lives they will come in contact with that they can impact!

In 2015, at least 282 people were accidentally shot by a child under 18, according to the group Everytown for Gun Safety. This year, the count is already up to 33.

And while weapons designed for children may be lighter, they are still deadly — "Start Them Young" notes that a five-year-old Kentucky boy accidentally killed his two-year-old sister with a Crickett rifle in April 2013. He had gotten the gun as a birthday present.

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California Notices

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