

The following material is from LCAV's February 2008 edition of [Regulating Guns in America: An Evaluation and Comparative Analysis of Federal, State and Selected Local Gun Laws](#)

Design Safety Standards for Handguns: Regulating Junk Guns/Saturday Night Specials

Background

The terms “junk guns” and “Saturday Night Specials” describe low-quality handguns which are composed of inferior metals and designed in ways to unreasonably reduce the costs of manufacture. Broadly speaking, these handguns are cheap, easily concealed, and more likely to misfire or malfunction than other firearms. Handguns widely acknowledged to be junk guns are also disproportionately associated with criminal misuse, especially by juveniles and young adults.¹

Many junk guns were produced by the so-called “Ring of Fire” companies – a small group of gun manufacturers originally based in the Los Angeles area. After steadily increasing production during the 1980s, Ring of Fire companies manufactured guns which accounted for one-third of all U.S. handguns produced in the early 1990s.² Numerous experts criticize the low quality of the guns produced by these companies in terms of design (based on their lack of basic safety features), materials and performance.³ Because these guns are so poorly constructed, inaccurate, and unreliable, they are widely considered inappropriate for either personal protection or sporting purposes.⁴

By 2003, five of the six original Ring of Fire companies had declared bankruptcy.⁵ Nevertheless, because so many of the junk guns they produced are still in circulation, five of the 10 crime guns most frequently traced by ATF in 2000 were manufactured by Ring of Fire companies.⁶ Additionally, the average time between the purchase of the firearm and its recovery in a crime is much faster for guns manufactured by Ring of Fire companies.⁷

There is evidence that legislation banning the sale of junk guns directly affects the number of firearm homicides. A 2002 study of Maryland's junk gun ban found that the ban resulted in an 8.6% decrease in firearm homicides in the state – an average of 40 lives saved per year – between 1990 and 1998.⁸

¹ Garen Wintemute, *California's Guns and Crime: New Evidence* 7-8, Violence Prevention Research Program, University of California, Davis (May 1997); Bureau of Alcohol, Tobacco and Firearms, U.S. Department of the Treasury, *Youth Crime Gun Interdiction Initiative, Crime Gun Trace Reports (2000) – National Report* 15-16 (July 2002).

² See, e.g., Garen Wintemute, *Ring of Fire: The Handgun Makers of Southern California* ix, 11-17, Violence Prevention Research Program, University of California, Davis (1994).

³ *Id.* at 17-51.

⁴ *Id.*

⁵ Dick Dahl, *Campaign Seeks to Halt Gun Makers' Bankruptcy Ploy*, Join Together Online, May 28, 2004 (on file with author). Another Ring of Fire junk gun, the Raven .25-caliber semiautomatic – has not been manufactured since the Raven Arms manufacturing plant was destroyed by fire in 1991. *Id.*

⁶ *Id.*

⁷ *Youth Crime Gun Interdiction Initiative, Crime Gun Trace Reports (2000)*, *supra* note 1, at 33-38.

⁸ Daniel W. Webster et al., *Effects of Maryland's Law Banning "Saturday Night Special" Handguns on Homicides*, 155 *Am. J. Epidemiology* 406, 409-411 (Mar. 2002). Another study on Maryland's ban showed that the law reduced the use of prohibited junk guns by criminals in Baltimore, finding that a junk gun prohibited in Maryland was more than twice as likely to be the subject of a law enforcement crime gun

Summary of Federal Law

The federal Consumer Product Safety Act, which imposes health and safety standards on consumer products, *exempts* firearms and ammunition from its requirements.⁹ Federal law does prohibit the importation of junk guns through a ban on importation of firearms not suited for “sporting purposes.”¹⁰ However, because the federal government has not regulated the safety of domestically-produced firearms, there is effectively a protected market for domestic models of junk guns.¹¹

SUMMARY OF STATE REGULATION OF JUNK GUNS

Eight states require design and/or safety standards for handguns: California, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, New York and South Carolina.

States Regulating Junk Guns Through Handgun Design and Safety Standards

California	Cal. Penal Code §§ 12125 – 12133
Hawaii	Haw. Rev. Stat. Ann. § 134-15(a)
Illinois	720 Ill. Comp. Stat. 5/24-3(A)(h)
Maryland	Md. Code Ann., Pub. Safety, §§ 5-405, 5-406
Massachusetts	Mass. Gen. Laws ch. 140, §§ 123, 131½, 131¾; 501 Mass. Code Regs §§ 7.01 – 7.16; 940 Mass. Code Regs. §§ 16.01 – 16.09
Minnesota	Minn. Stat. §§ 624.712, 624.716
New York	N.Y. Penal Law § 400.00(12-a); N.Y. Comp. Codes R. & Regs. tit. 9, § 482.1 – 482.7
South Carolina	S.C. Code Ann. § 23-31-180

States Requiring Drop Testing and Firing Testing

California
Massachusetts
New York

trace request in 15 other major U.S. cities combined than in Baltimore. Jon S. Vernick et al., *Effects of Maryland’s Law Banning Saturday Night Special Handguns on Crime Guns*, 5 Inj. Prevention 259, 261-263 (Dec. 1999).

⁹ 15 U.S.C. § 2052(a)(1)(ii)(E), referencing 26 U.S.C. § 4181.

¹⁰ 18 U.S.C. § 925(d)(3). The Attorney General determines the criteria used to evaluate whether a particular handgun is one suitable for “sporting purposes.” Under these guidelines, a pistol must have a positive manually operated safety device, a revolver must pass a safety test, and all firearms must have a certain number of safety features to be approved for importation, among other criteria. Bureau of Alcohol, Tobacco, & Firearms, U.S. Department of the Treasury, *ATF Form 4590*.

¹¹ A 2007 report by the International Association of Chiefs of Police (IACP) recommends that Congress enact legislation to allow federal health and safety oversight of the firearms industry. [International Association of Chiefs of Police, *Taking a Stand: Reducing Gun Violence in Our Communities* 26 \(Sept. 2007\)](#).

States Imposing Melting Point Tests

Hawaii
Illinois
Massachusetts
Minnesota
New York
South Carolina

States Requiring Specific Handgun Safety Features

California
Massachusetts
New York

States Using a List of Approved Handguns

California
Maryland
Massachusetts

Description of State Laws Regulating Junk Guns

Eight states have enacted laws to address the regulatory void regarding domestic junk guns, establishing a series of design and safety tests or standards that handguns must meet before they can be lawfully manufactured, transferred and/or possessed: California, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, New York, and South Carolina. California, Massachusetts and New York also require that all handguns have certain safety features.

1. *Design and Safety Standards:* Design and safety standards are intended to ensure the structural integrity of the firearm and to prevent the firearm from misfiring or malfunctioning. Examples of design standards include drop testing, firing testing, and melting point testing, which must be conducted by a designated state agency or independent lab before a handgun may be manufactured and/or sold in the state. Firing tests are intended to confirm that a firearm remains structurally sound and does not malfunction after repeated firing. Typically, the test involves firing the handgun a specified number of times to ensure that it performs as intended, and then examining the firearm to confirm it is free from cracks or other defects. Drop testing is used to determine whether a handgun can fire when dropped, thereby exposing persons nearby to risk of injury. States typically require tests that examine firearms after being dropped onto a hard surface from a specified distance.

California, Massachusetts and New York have the most comprehensive schemes of design and safety standards for handguns.

California prohibits the manufacture or sale of any “unsafe handgun.” An unsafe handgun is any handgun that lacks an appropriate safety, that does not meet the state’s firing requirement, or that does not meet the state’s drop safety requirement, as determined by an independent lab certified by the state Attorney General. Junk guns sold through private sales are not required to comply with the state testing requirements.

Massachusetts prohibits licensed firearms dealers from transferring any handgun that does not appear on a roster of approved firearms. An “approved firearm” is a handgun that meets or exceeds various design and safety criteria, including drop testing, firing testing, and a melting point test. Tests are conducted by independent firearm testing laboratories approved by the Secretary of the Executive Office of Public Safety.¹² A 2006 amendment to Mass. Gen. Laws ch. 140, § 123 exempts owners of handguns lawfully owned or possessed under a license issued on or before October 21, 1998 from the testing requirements.

In New York, under rules promulgated by the Superintendent of State Police, all handguns manufactured in the state must first receive a certificate of compliance from the Superintendent of State Police. The certificate requires compliance with various safety standards, including drop testing, firing testing, and a melting point standard.

Melting point tests are another standard used to measure a handgun’s design safety. These tests require that the working components of handguns be comprised of metals with melting points above the heat generated by the ballistic forces when the handgun is fired (thus preventing the gun from being structurally weakened). Melting point standards also may include standards for density and tensile strength. Hawaii, Illinois, Massachusetts, Minnesota, New York and South Carolina use melting point tests. The designated melting point ranges from 800 to 1,000 degrees. Minnesota and Massachusetts also impose density and tensile strength standards.

2. *Specific Safety Features Required:* California, Massachusetts and New York also define as “unsafe handguns” those lacking certain specified safety features to protect users against unintended discharge, including safeties to prevent accidental firing, chamber load indicators, and magazine disconnect mechanisms. A “chamber load indicator” is a device that plainly indicates that a cartridge is in the firing chamber. A “magazine disconnect mechanism” is a mechanism that prevents a semiautomatic pistol that has a detachable magazine from operating to strike the primer of ammunition in the firing chamber when a detachable magazine is not inserted in the pistol.¹³

In California, as of January 1, 2006, an “unsafe handgun” will include any pistol that does not have either a chamber load indicator or a magazine disconnect mechanism. As of January 1, 2007, handguns in California will be required to have both a chamber load indicator and, if they have a detachable magazine, a magazine disconnect mechanism.

¹² Massachusetts, through the initiative of its Attorney General, was the first state to utilize statutory powers under the state’s consumer protection laws to implement gun safety regulations. See 940 Mass. Code Regs. § 16.00 *et seq.* These regulations were later codified by the state legislature. *Id.* Based on a detailed analysis of Illinois law, LCAV has concluded that the Illinois Attorney General has similar authority. This analysis is contained in LCAV’s May 2003 report, *The Illinois Attorney General’s Authority to Promulgate Handgun Safety Regulations Under the Consumer Fraud and Deceptive Business Practices Act*, available at http://www.lcav.org/library/reports_analyses.asp. Other states, including Alaska, Florida, Idaho, Iowa, Louisiana, Maine, Maryland, Missouri, Montana, Nebraska, New Jersey, New Mexico, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont and West Virginia, may have similar regulatory authority. See Legal Action Project, Center to Prevent Handgun Violence, *Targeting Safety* 18-38 (2001).

¹³ See Cal. Penal Code § 12126(c), (d).

When this provision takes effect in 2007, California will be the only state that requires both a chamber load indicator and a magazine safety disconnect. As of January 1, 2010, California will require that all new semiautomatic pistols be equipped with microstamping technology in order to be sold in California.¹⁴

Massachusetts requires that all handguns be equipped with a safety device designed to allow use only by the owner or authorized user of the firearm. Massachusetts also requires all handguns with a mechanism to load cartridges via a magazine to have a chamber load indicator or magazine disconnect mechanism.

New York requires that all handguns be equipped with a safety device to prevent unintended firing.¹⁵

3. *Use of Roster of Approved Handguns:* California, Maryland and Massachusetts use rosters prepared and maintained by a state agency to list approved handgun models that satisfy the state's design and safety standards. In California, the Department of Justice ("DOJ") publishes and maintains a roster listing all handgun models that have been tested by a certified testing laboratory, determined not to be unsafe handguns, and that may be sold in California. The DOJ may retest up to 5% of handgun models listed on the roster annually. The Attorney General will remove from the roster any model that fails retesting. The DOJ also maintains a list of handguns removed from the state roster.

In Massachusetts, any person may petition the Secretary to place a handgun on or remove a handgun from the Roster, but must do so within 90 days of the Secretary's original decision concerning the handgun.

In Maryland, handguns may not be manufactured for distribution or sale if they are not included on Maryland's handgun roster. The handgun roster is compiled by the Handgun Roster Board, an entity of the Maryland State Police, which considers the handgun's concealability, ballistic accuracy, weight, quality of materials, quality of manufacture, reliability as to safety, caliber, detectability (vis-à-vis airport and courthouse security equipment standards), and utility for legitimate sporting activities, self protection, or law enforcement purposes.

¹⁴ Detailed information on microstamping technology is contained in the section on [Ballistic Identification](#).

¹⁵ Pistols must have a "positive, manual or automatically operated safety device to prevent firing." Double-action revolvers must have a "safety feature, that when the trigger is in its most forward position, automatically allows the firing pin to retract to where it does not connect the primer of a cartridge." N.Y. Comp. Codes R. & Regs. tit. 9, § 482.5(f).

SUMMARY OF SELECTED¹⁶ LOCAL LAWS REGULATING JUNK GUNS

In California, Los Angeles and San Francisco (and at least 54 other communities) adopted junk gun bans between 1996 and 2000. These local bans led directly to the state law (described above) which was adopted in 1991 and went into effect in 2001.¹⁷

FEATURES OF COMPREHENSIVE DESIGN SAFETY LAW FOR HANDGUNS¹⁸

The features listed below are intended to provide a framework from which policy options may be considered and debated. LCAV has not attempted to include every provision or every creative approach identified in the analysis above, nor have we addressed appropriate exceptions so that the regulation does not produce unintended consequences. A jurisdiction considering modifying existing, or developing new legislation in this area should consult with counsel to ensure its legal sufficiency and compatibility with existing codes and statutes, as appropriate.

- Drop testing and firing testing are required, and standards are set, for all handgun models manufactured, transferred or possessed in the jurisdiction (*California, Massachusetts, New York*)
- Melting point testing is required, and standards are set, for all handgun models manufactured, transferred or possessed in the jurisdiction (*Hawaii, Illinois, Massachusetts, Minnesota, New York, South Carolina*)
- New models of handguns are required to be equipped with a chamber load indicator and, for handguns with detachable magazines, a magazine disconnect mechanism (*California*)
- A roster is created and regularly updated of approved handgun models that satisfy the jurisdiction's safety tests, and that lawfully may be manufactured, transferred or possessed in the jurisdiction (*California, Maryland, Massachusetts*)
- All testing is conducted by a certified independent lab (*California, Massachusetts*)

¹⁶ This section is based on research and analysis of existing firearms laws in: Boston, Massachusetts; Chicago, Illinois; Hartford, Connecticut; Los Angeles, California; Newark, New Jersey; New York, New York; Omaha, Nebraska; and San Francisco, California. LCAV selected these cities because they are located in states that grant local jurisdictions broad authority to regulate firearms. It also includes existing laws in Cleveland and Columbus, Ohio. Note, however, that in 2006, the Ohio Legislature passed House Bill 347 (overriding the Governor's veto), which created Ohio Rev. Code Ann. § 9.68(A), a provision that purports to preempt all local authority to regulate firearms with few, limited exceptions. Legal challenges to the law are pending. Additional information about state laws governing local authority to regulate firearms is contained in the section of this report titled "[The Legal Background.](#)"

¹⁷ In addition, Chicago prohibits the transfer of any handgun that does not contain a load indicator device and a safety mechanism such as a trigger lock. Chicago, Ill., Code § 4-144-062. Additional information on Chicago's requirements is contained in the section on [Locking Devices](#).

¹⁸ A comprehensive design safety law for handguns may also include required locking devices. A detailed discussion of locking devices is contained in the section on [Locking Devices](#).