

California Ruling Could Pave the Way for Smart-Gun Mandates

Decision on law concerning safety measures to come as administration looks to spur development



An expected California federal appeals court ruling could have an impact on smart-gun technology such as that developed by Armatix. The device allows the gun to be fired only if the shooter is wearing a watch that communicates with a chip implanted in the weapon. Photo: Michael Dalder/REUTERS

By Joe Palazzolo
May 12, 2016 7:36 p.m. ET

A federal appeals court in California is expected to rule soon on whether states can force firearm manufacturers to incorporate safety devices in their products, a development that could have broad effect on whether and how quickly President Barack Obama's recent calls for more "smart guns" takes effect.

The Ninth U.S. Circuit Court of Appeals in San Francisco, which covers a wide swath of the West, is weighing a challenge to a California law requiring manufacturers to make handguns that won't fire a bullet left in the chamber if their magazines are detached, and that will indicate when a bullet is in the chamber.

The two safety measures were invented more than a century ago. But the ruling, which could come any day, is likely to inform any efforts by states to mandate newer technology promoted by the Obama administration that prevents a gun from firing unless in the hands of an authorized user.

“How the Ninth Circuit rules here will have a huge impact on the ability of any state to require any kind of smart gun technology,” said Adam Skaggs, senior counsel for Everytown for Gun Safety, a gun-control group.

Safety Measures Under Fire

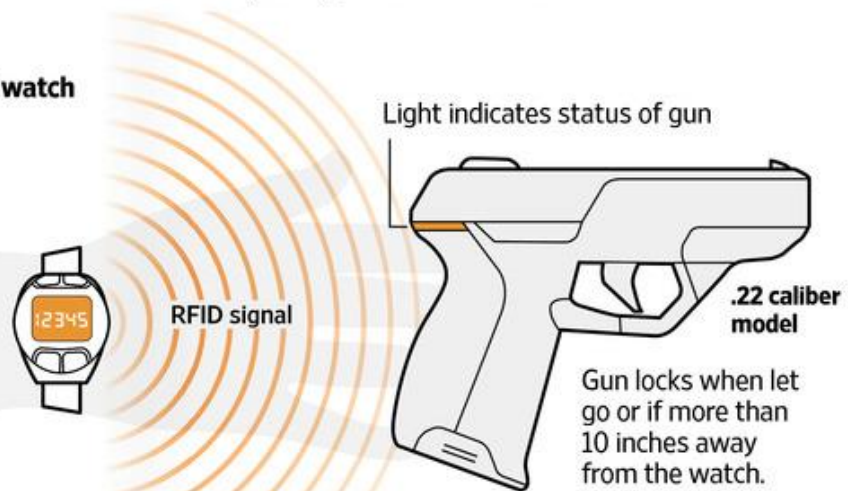
Smart guns generally come in two types: Those that won't fire unless the shooter has a device that communicates with the gun and those with readers to pick up prints from hands.

RADIO-FREQUENCY TECHNOLOGY

Armatix: iP1 pistol and iW1 RFID watch

After synchronizing the gun and the watch, the gun is activated by entering a five-digit code in the watch.

A radio-frequency signal—RFID—from the watch enables the gun to be fired only by someone wearing the watch.

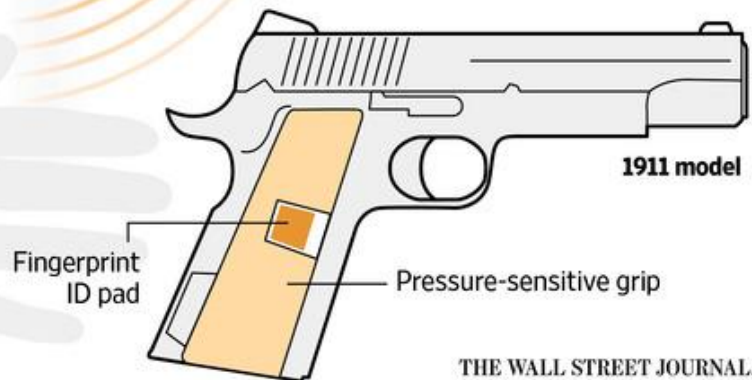


BIOMETRIC TECHNOLOGY

Kodiak Industries: Intelligun

Gun is unlocked after the user's fingerprint is read and recognized and relocks when the gun is let go.

This system may be disabled with a special key.



Drawings are schematic
Sources: the companies

THE WALL STREET JOURNAL.

Supporters of so-called personalized or smart guns say they will cut down on accidental firearms deaths. Industry representatives say they have no objection to stronger safety measures as long as they aren't forced upon them.

The Obama administration laid out a framework last month for federal law enforcement agencies to begin purchasing smart guns and pledged grant money to state and local governments to buy their own.

The report by the departments of Justice, Homeland Security and Defense insists that the goal isn't to mandate smart technology for guns but simply to spur its development.

But gun-rights groups say they fear that the adoption of smart-gun technology by some will lead states to require it for all.

"Somebody comes out with a smart gun and then a state mandates that it's the only type of gun you can own. That's what our concern is," said Alan Gottlieb, founder of the Second Amendment Foundation, one of the groups challenging the California law.

In 2002, New Jersey passed a law saying that once technology is available to prevent a gun from being used by an unauthorized person, only that type of handgun may be sold in the state.

A German company, Armatix GmbH, made a handgun designed to work only when paired with an accompanying wristwatch, potentially putting the New Jersey law into effect in 2014.

Store owners in Maryland and California who planned to sell the gun were deluged with complaints and even death threats from people who viewed the Armatix gun as a gateway to a government mandate.

Ultimately, the New Jersey attorney general deemed the handgun at odds with the definition of a smart gun in the legislation. John Jay Hoffmann said the law described a "personalized gun" as one that "may only be fired by an authorized or recognized user." But the Armatix gun could be fired by someone other than the person wearing the wristwatch, as long as the watch was nearby, Mr. Hoffman said in a December 2014 report.

Smart guns generally come in two different types: those that use fingerprint or palm print readers to authenticate a user, and those like the Armatix gun that won't fire unless the shooter is wearing or carrying a radio frequency identification chip that communicates with the gun.

The Justice Department doled out nearly \$13 million in federal grants to promote smart-gun technology since 1997, but the money failed to translate into a commercially successful firearm.

Ralph Fascitelli, president of Washington Ceasefire, a Washington state group that advocates for gun-safety regulations and has hosted summits on smart guns, said extremists on either side of the gun debate have held back the technology.

Some gun-rights activists have made portentous claims about smart-gun technology becoming a back door for government control of firearms, fanning the flames of paranoia, he said. On the other side, gun-control advocates have made the mistake of seeking mandates.

“You’re not gonna tell the gun guys what gun they can buy,” he said. “Don’t shove it down their throat.”

California legislators in 2003 amended the state’s Unsafe Handgun Act, a 1998 law, to require the magazine-disconnect feature and loaded-chamber indicator.

Another provision enacted in 2007 requires firearms sold in the state to be capable of imprinting bullet casings with tiny script that forensic ballistic experts can use to identify the gun, a process called microstamping.

All new handgun models sold in the state have to meet the three requirements, but manufacturers continue to sell models that were listed on a California roster of approved firearms prior to the laws taking effect.

The Second Amendment Foundation and another gun rights group, the Calguns Foundation, sued in 2009, saying the three provisions violate the Second Amendment because they bar the purchase of many types of handguns that are in common use.

U.S. District Judge Kimberly Mueller in Sacramento rejected the challenge in a February 2015 ruling, leading to the appeal to the Ninth Circuit.

Magazine-disconnect mechanisms and loaded-chamber indicators are available on 11% and 14% of semiautomatic handguns, respectively, according to a 1999 survey by researchers at Johns Hopkins cited by the Second Amendment Foundation.

No firearms manufacturer has submitted any handguns with microstamping technology for placement on the state roster, the groups’ lawyer, Alan Gura, wrote in a court brief filed last year.

“Scores of common, popular firearms are being banned not because they malfunction, but because the legislature dislikes the manner in which Second Amendment arms work,” Mr. Gura wrote.

Anthony Hakl, a lawyer for the state, said the gun-rights groups sought to establish “a constitutional right to purchase any handgun of one’s choice from whomever one chooses.

“No such right exists,” he wrote in a September brief.

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<http://www.wsj.com/articles/california-ruling-may-suppress-smart-gun-technology-1463096189>