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Sky Tactical Supply
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Delivered via certified mail and via email to support@skytacticalsupply.com

RE: Immediately Cease and Desist the Marketing, Sale, and Distribution of the “Fixed It For You Fixed Magazine Cage,” Also Known as the “FIFY”

To Whom It May Concern:

The Department of Justice (the “Department”) recently became aware that Sky Tactical Supply has been selling to California residents the Fixed It For You Fixed Magazine Cage (“FIFY”). Sky Tactical Supply markets the FIFY as a product that, once installed with a five-round magazine, would render a firearm outside the scope of California’s assault weapon laws. The Department has determined that Sky Tactical Supply’s position is incorrect. Because Sky Tactical Supply is potentially committing criminal offenses by selling this item in the state of California, and is misleading California consumers about their criminal liability should they purchase this item, Sky Tactical Supply must cease its marketing, sale, and distribution of the FIFY.

For the reasons explained below, the Department has determined that a FIFY installed with a suggested five-round magazine is not a “fixed magazine” under California’s assault weapon laws. Thus, a semiautomatic, centerfire rifle installed with a FIFY and its suggested magazine installed “does not have a fixed magazine” under the relevant California definition of an assault weapon. (Cal. Pen. Code § 30515, subd. (a)(1); *see also id.* at subds. (a)(4), (a)(7), (a)(9) (which also use the phrase, “does not have a fixed magazine,” but as applied to semiautomatic pistols, semiautomatic shotguns, and semiautomatic centerfire firearms that are not a rifle, pistol, or shotgun; the reasoning and conclusions in this letter apply equally to these provisions as well.) Accordingly, if a person possesses a semiautomatic, centerfire rifle with a FIFY installed and that rifle also has one of the six features described in California Penal Code section 30515, subdivision (a)(1), then such a rifle is an assault weapon.

In California, it is a felony offense to manufacture, or cause to be manufactured, an assault weapon. (Cal. Pen. Code § 30600, subd. (a).) The mere possession of an unregistered assault weapon in California can be a felony or a misdemeanor offense. (Cal. Pen. Code § 30605, subd. (a).) Sky Tactical Supply must therefore cease its marketing, sale, and distribution of the FIFY, which (1) aids and abets the violation of these and other laws; (2) misleads buyers and the public, including by representing that the product will render a firearm immune from these laws and lawful to manufacture

or possess; and (3) constitutes conduct that is otherwise unfair and deceptive under California law. The failure to do so could constitute a violation of Penal Code section 30600, subdivision (a), as well as California's Unfair Competition Law ("UCL") and False Advertising Law ("FAL"). (See Cal. Bus. & Prof. Code §§ 17200 *et seq.*, 17500 *et seq.*)

Legal Background and Analysis

Penal Code section 30515, subdivision (a)(1)(A) describes one type of an assault weapon as a "semiautomatic, centerfire rifle that does not have a fixed magazine but has any one of" six described features, including: (1) a pistol grip that protrudes conspicuously beneath the action of the weapon; (2) a thumbhole stock; (3) a folding or telescoping stock; (4) a grenade launcher or flare launcher; (5) a flash suppressor; or (6) a forward pistol grip. Another type of an assault weapon is a "semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds." (Cal. Pen. Code § 30515, subd. (a)(2).) According to Sky Tactical Supply, installation of the FIFY and what it describes as a "compatible" magazine would make a rifle fall outside both definitions because the rifle would have a fixed magazine with fewer than ten rounds.

Specifically, Sky Tactical Supply's website describes the FIFY as "a patent pending fixed magazine device that works in most modern AR-15 rifles," which when used with a suggested magazine "can be installed into a pistol grip in a way that fixes the magazine to the rifle." The website claims that once the FIFY is installed with the suggested magazine, "the magazine is installed in *such a manner that the device cannot be removed without disassembly of the firearm action,*" emphasizing language quoted from California's regulatory definitions related to assault weapons. (Compare <https://skytacticalsupply.com/fify/> with Cal. Code Regs. tit. 11, § 5471(p) (definition of "fixed magazine").) There are two magazines listed on Sky Tactical Supply's website as "compatible" with the FIFY, both of which hold a maximum of five .22 caliber rounds. (See <https://skytacticalsupply.com/fify-compatible-mags/>.)

The Department has concluded that the FIFY installed with the suggested magazine is not a "fixed magazine," and thus would not render a semiautomatic, centerfire rifle exempt from the two definitions of an assault weapon previously described. California regulations define a "fixed magazine" as "an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action." (Cal. Code Regs. tit. 11, § 5471(p).) The suggested magazine installed with the FIFY is not an ammunition feeding device for the rifle in which it is installed. Because the FIFY and the suggested magazine are installed into the pistol grip, not the magazine well, the magazine in the FIFY does not actually feed any ammunition into the action of the rifle. (See *id.* § 5471(b) ("'Action' means the working mechanism of a semiautomatic firearm, which is the combination of the receiver or frame and breech bolt together with the other parts of the mechanism by which a firearm is loaded, fired, and unloaded.")) Instead, the magazine's five rounds of ammunition merely remain in the pistol grip—uninvolved in the loading, firing, and unloading of the rifle—while the magazine well is left open. In other words, the FIFY's suggested magazine is a dummy ammunition feeding device because it is non-functional for the rifle in which it is installed. With the magazine well left open, various functionally compatible magazines can be inserted into the magazine well and used to load, fire, and unload the rifle, including a fixed magazine with more than ten rounds, a detachable magazine, or a large capacity magazine.

The FIFY and its suggested magazine also fail to meet the other aspects of the regulatory definition of a “fixed magazine.” First, the FIFY and its suggested magazine are not “permanently attached to[] a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.” (Cal. Code Regs. tit. 11, § 5471(p).) The phrase “permanently attached to” is defined to mean “the magazine is welded, epoxied, or riveted into the magazine well.” (*Id.* § 5471(w).) But as explained previously, the FIFY and its suggested magazine are inserted into the pistol grip, not the magazine well. Second, an open magazine well in a rifle with a FIFY installed would allow for the addition of an ammunition feeding device that is not “contained in . . . a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.” (*Id.* § 5471(p); *see also id.* § 5471(n) (“‘Disassembly of the firearm action’ means the fire control assembly is detached from the action in such a way that the action has been interrupted and will not function.”).) The phrase “contained in” is defined to mean “that the magazine cannot be released from the firearm while the action is assembled.” (*Id.* § 5471(k).) But with an open magazine well, a magazine can be inserted into and released from the rifle while the action is assembled. Thus, the rifle could accept a magazine that does not meet the “contained in” aspect of the “fixed magazine” definition.

In summary, installing the FIFY with its suggested magazine is an attempt to evade California’s assault weapon laws by adding a dummy ammunition feeding device to a rifle while also allowing the rifle to accept any type of ammunition feeding device for the actual loading, firing, and unloading of the weapon. Sky Tactical Supply incorrectly theorizes that the classification of a rifle as an assault weapon is tied to the ammunition feeding device of its choosing, which conveniently for Sky Tactical Supply would also render the rifle to not be an assault weapon. But a dummy ammunition feeding device cannot be the basis for the assault weapon determination because doing so would wholly ignore the type of ammunition feeding device placed in the magazine well to actually load, fire, and unload the rifle. The determination of whether a rifle is an assault weapon under Penal Code section 30515 depends on the ammunition feeding device used to load, fire, and unload the rifle. The suggested magazine placed in the FIFY is not such an ammunition feeding device.

Sky Tactical Supply’s Online Statements and Marketing

Sky Tactical Supply’s website claims that it makes “no warranty, representation, or guarantee regarding . . . the suitability/legality of any product,” that it “does not provide legal advice,” and that all purchasers and users of the FIFY “are responsible for following all relevant laws and regulations in their state of residence.” (See <https://skytacticalsupply.com/fify/>.) But these are empty words in light of Sky Tactical Supply’s statements elsewhere on its website, as well as its statements on Reddit and YouTube.

Sky Tactical Supply markets the FIFY and its suggested magazine as a legal workaround to California’s assault weapons laws. For example, Sky Tactical Supply posted on its “Blog” page a letter from an attorney concluding that the FIFY and the recommended magazine constitute a “fixed magazine” under California law. (See <https://skytacticalsupply.com/blog/the-fixed-it-for-you/>.) In a post on Reddit, Sky Tactical Supply described the attorney letter as stating that the FIFY is “legal” and “seemingly does comply with the law.” (See https://www.reddit.com/r/CAGuns/comments/y0jdnh/thoughts_on_this_fify_fixed_mag_thing_is_this_an/ (October 10, 2022 post by “STS_FixedItForYou,” thanking another user for publishing “our letter” on Reddit).) In addition, on Sky Tactical Supply’s YouTube video for how to install the FIFY, it states: “The FIFY! The newest fixed magazine device here to help gun owners make their gun a fixed mag without losing valuable features of their modern sporting rifles.” (See <https://www.youtube.com/watch?v=WXdv6XBZHbU>.)

These representations would likely mislead California consumers into believing that the installation of the FIFY and its suggested magazine would exempt a rifle from the definition of an assault weapon where, as described above, that is not the case. Moreover, Sky Tactical Supply's reliance on, and online distribution of, the attorney letter renders hollow its disclaimer that it makes no representation as to the legality of the FIFY. Sky Tactical Supply's marketing practices here could constitute fraudulent business practices within the meaning of the UCL and false advertising within the meaning of the FAL. (See Cal. Bus. & Prof. Code §§ 17200, 17500.)

In addition, Sky Tactical Supply's statements on its website, Reddit, and YouTube demonstrate that it is fully aware of California's assault weapon laws and intentionally designed the FIFY in an attempt to do an end-run around Penal Code section 30515. By selling the FIFY and marketing the product as a device that would create a "fixed magazine," Sky Tactical Supply could be aiding and abetting the manufacture of illegal assault weapons by purchasers of the FIFY. Moreover, the entire premise of the FIFY is to evade California's assault weapons laws, and by advertising and selling the product, Sky Tactical Supply could help California consumers do so. These activities could constitute unlawful and unfair business practices under the UCL. (See Cal. Bus. & Prof. Code § 17200.)

Conclusion

For these reasons, Sky Tactical Supply must immediately cease the marketing, sale, and distribution of the FIFY to California residents. It is evident from Sky Tactical Supply's website that it has been, and is currently, selling the FIFY and shipping the product within a few days. (See <https://skytacticalsupply.com/fify/>; <https://skytacticalsupply.com/blog/fixe-d-magazine-fify-update/>.) The sales have been significant enough that at one point the FIFY inventory was sold out. (See <https://skytacticalsupply.com/blog/status-update/>.)

Please respond to this letter by no later than November 28, 2022 and address how Sky Tactical Supply intends to: (1) immediately cease marketing or offering for sale the FIFY; (2) immediately cancel all pending purchases of the FIFY; (3) immediately notify anyone who has purchased the FIFY and has been delivered the product that installing the FIFY with the suggested magazine on a semiautomatic, centerfire rifle with a feature listed in Penal Code section 30515, subdivision (a)(1)(A) would violate section 30600, subdivision (a), and continuing to possess such a rifle would violate section 30605, subdivision (a).

If you have any questions regarding the Department's decision, please contact Deputy Attorney General Charlie Sarosy at Charles.Sarosy@doj.ca.gov.

Sincerely,



ALLISON MENDOZA
Acting Director
Bureau of Firearms

For ROB BONTA
Attorney General