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**ENDORSED
 FILED**
 San Francisco County Superior Court
 FEB 08 2006
 GORDON PARK-LI, Clerk
 BY: MARIA SANCHEZ
 Deputy Clerk

7 Attorneys for Plaintiffs and Petitioners

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF SAN FRANCISCO

10 UNLIMITED JURISDICTION

11 PAULA FISCAL et al.,
 12 Plaintiffs and Petitioners,
 13

14 vs.

15 CITY AND COUNTY OF SAN
 16 FRANCISCO et al.,
 17 Defendants and Respondents.
 18

CASE NO. CPF-05-505960

**DECLARATION OF C. D. MICHEL AS TO
 PREEMPTIVE EFFECT OF UNSAFE
 HANDGUN ACT**

Hearing Date: February 15, 2006
 Hearing Judge: Warren
 Time: 9:30 a.m.
 Location: Dept. 301

Date Action Filed: December 29, 2005
 Trial Date: None scheduled

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1 I, C. D. Michel, declare and say that if called as a witness I would testify as follows based on
2 my own personal knowledge:

3 1. I am one of the counsel for plaintiffs in this action.

4 2. I was an active observer of the Legislature's consideration and enactment of the Unsafe
5 Handgun Act (UHA) which is now codified as Penal Code section 12125 *et seq.* Specifically, I was
6 involved in working with clients to lobby the Legislature regarding different proposed versions of the
7 UHA and in advising my clients as to what these versions would accomplish.

8 3. After the UHA's enactment, I obtained a work-up of all the documents and file
9 contents on the UHA from the Legislative Intent Service, which work up is the source of exhibits
10 referenced herein.

11 3. Before the passage of the UHA, San Francisco, San Jose, and various other cities had
12 enacted more or less identical bans on the sale of "Saturday Night Specials" (SNSs). When the UHA
13 was under consideration, San Jose wrote the Legislature complaining that the UHA would preempt its
14 SNS sales ban ordinance. Attached hereto as Exhibit A is one of these multiple identical letters; San
15 Jose sent them to apparently every committee of the Assembly and Senate that would consider the
16 UHA.

17 4. In response to these letters, the UHA's author proposed an amendment that would have
18 expressly authorized the local SNS ordinances (see Exhibit B hereto, proposed section 12134) – but
19 this was not enacted. (Where specific proposed language would have produced a specific result, the
20 Legislature's failure to incorporate that language in the Act is probative of a contrary intent. *People v.*
21 *Superior Court (Romero)* (1996) 13 Cal.4th 497, 520).

22 5. The Senate Public Safety Committee report on the UHA warned the Legislature "[t]his
23 bill would appear to preempt any such local ordinance, both those already in existence and any
24 proposed locally in the future." (See Exhibit C hereto, p. 9.) (The admissibility, and judicial notice, of
25 such reports, are approved in *People v. Ledesma* (1997) 16 Cal.4th 90, 98, 100 (committee reports and
26 analyses) and *Hutnick v. U.S. Fidelity & Guaranty Co.* (1988) 47 Cal.3d 456, 465, fn. 7 (same). See
27 also *Home Systems, Inc. v. Superior Court* (1982) 32 C. 3d 211, 219, fn. 9 ("undated memo in
28 Assemblyman Lockyer's files, furnished by the Legislative Intent Service")).

1 6. After the UHA's enactment, I wrote CITY and all the other cities having the SNS sales
2 ban ordinances, providing them the information and Exhibits hereinbefore mentioned. Almost all of
3 them repealed their SNS ordinance in response. CITY did so after its City Attorney expressly
4 informed the city council that the ordinance was preempted by the UHA – which the City Attorney
5 now claims has no preemptive effect. See Exhibit D hereto which is the City Attorney's report to the
6 city council.

7 7. Respondents' Opposition (p. 24) tries to distinguish the UHA (as "a consumer
8 protection law designed to ensure the safety of handgun *users*") whereas the Ordinance "is designed to
9 protect the *victims* of firearms violence." (Italics by CITY.) But the UHA was also advocated, and
10 operates, as a measure to reduce handgun crime by making handguns more expensive and thus less
11 accessible. Exhibits E, F, and G are letters to the Legislature urging enactment of the UHA as a
12 measure that would reduce violence by ending SNS sales. (These letters are admissible as legislative
13 history. *County of San Bernardino v. City of San Bernardino* (1997) 15 Cal.4th 909, 917, 926 (letters
14 by proponents of the bill urging its enactment)).

15 8. CITY repealed its SNS sale ban though it was expressly based on findings about the
16 danger to gun crime victims posed by SNSs. Yet it seems to me that if the distinction CITY draws
17 between the UHA and the current Ordinance did avert preemption there was no basis for it repealing
18 its SNS sale ban.

19 9. More important, recall that the Legislature itself viewed the UHA as preempting local
20 ordinances. I believe a conflict exists between the UHA and local ordinances based on controlling gun
21 crime as the Legislature saw the purposes UHA in enacting it.

22 I declare under penalty of perjury under the laws of the State of California that the foregoing is
23 true and correct.

24 Dated: February 8, 2006

Respectfully Submitted,
TRUTANICH • MICHEL, LLP

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C. D. MICHEL
Attorney for Petitioners

EXHIBIT A

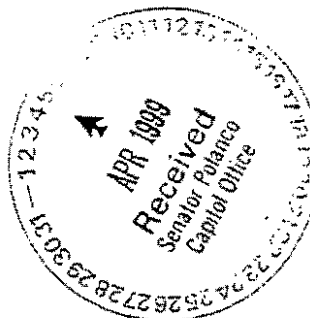


CITY OF SAN JOSÉ, CALIFORNIA

801 NORTH FIRST STREET
SAN JOSE, CALIFORNIA 95110
(408) 277-5849

CITY MANAGER

April 1, 1999



Senator John Vasconcellos
Chair, Senate Public Safety Committee
Room 4074, State Capitol
Sacramento, California 95814

Re: **SENATE BILL 15 (POLANCO) - SUPPORT**

Dear Senator Vasconcellos:

The City of San Jose has reviewed and taken a SUPPORT position on Senate Bill 15 (Polanco) relating to firearms. It is our understanding that the bill is now set for hearing on April 6 before the Senate Public Safety Committee.

Senate Bill 15, commencing January 1, 2001, would make it a misdemeanor to manufacture or cause to be manufactured, import into the state for sale, keep for sale, offer or expose for sale, give, or lend any unsafe handgun, except as specified in the bill.

The City of San Jose and many other cities and counties in California have adopted ordinances banning the sale of poorly made, unsafe handguns and in past years have supported state legislation similar to SB 15. We are concerned that the bill as written may preempt our city's ordinance, since, if the bill is signed into law, the city ordinance would duplicate an area covered by state law to the extent that it prohibits the sale of handguns that pose a hazard to consumers. We, therefore, would ask the committee to consider an amendment, similar to the smoking regulation, to assure that stricter local regulation is not preempted. (See attachment).

We support passage of SB 15 to allow for the prohibition of unsafe handguns and believe passage of this legislation is critical to protect the residents of San Jose.

Your consideration of this matter is appreciated.

Sincerely,

ROXANNE L. MILLER
Legislative Representative
Sacramento Office (916) 443-3946

RLM:sc
Attachment
c: Senator Richard Polanco
Simon Haines, Chief Counsel

AP-102



EXHIBIT B

AMENDED IN ASSEMBLY JUNE 2, 1999

AMENDED IN SENATE APRIL 13, 1999

AMENDED IN SENATE APRIL 5, 1999

AMENDED IN SENATE JANUARY 25, 1999

SENATE BILL

No. 15

Introduced by Senator Polanco

December 7, 1998

An act to add Chapter 1.3 (commencing with Section 12125) to Title 2 of Part 4 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 15, as amended, Polanco. Firearms.

Existing law makes it a misdemeanor or felony to manufacture or cause to be manufactured, import into the state, keep for sale, offer or expose for sale, give, lend, or possess specified weapons, but not including an unsafe handgun.

This bill, commencing January 1, 2001, would make it a misdemeanor to manufacture or cause to be manufactured, import into the state for sale, keep for sale, offer or expose for sale, give, or lend any unsafe handgun, except as specified. By creating new crimes, this bill would impose a state-mandated local program.

This bill additionally would require every person licensed to manufacture firearms pursuant to federal law who manufactures firearms in this state and every person who

imports into the state for sale, keeps for sale, or offers or exposes for sale any firearm to certify under penalty of perjury that every model, kind, class, style, or type of pistol, revolver, or other firearm capable of being concealed upon the person that he or she manufactures or imports, keeps, or exposes for sale is not a prohibited unsafe handgun. By expanding the crime of perjury, this bill would impose a state-mandated local program.

The bill also would require any pistol, revolver, or other firearm capable of being concealed upon the person manufactured in this state, imported into the state for sale, kept for sale, or offered or exposed for sale, to be tested by an independent laboratory certified by the Department of Justice to determine whether that pistol, revolver, or other firearm capable of being concealed upon the person meets or exceeds specified standards defining unsafe handguns. The bill would require the Department of Justice to certify laboratories for this purpose on or before January 1, 2001.

The bill also would require the Department of Justice, on and after January 1, 2001, to compile, publish, and thereafter maintain a roster listing all of the pistols, revolvers, and other firearms capable of being concealed upon the person that are not unsafe handguns by the manufacturer, model number, and model name. The bill would authorize the department to charge every person in this state who is licensed as a manufacturer of firearms pursuant to federal law, and any person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in this state, an annual fee not exceeding the costs of preparing, publishing, and maintaining the roster.

The bill would specify that nothing in its provisions requires or prohibits any local ordinance that places a more stringent requirement upon the manufacture, importation, transfer, sale, or possession of handguns.

The bill would state the intent of the Legislature that the Department of Justice pursue an internal loan from special fund revenues available to the department to cover startup costs for the unsafe handgun program established pursuant to

the bill. The bill would require the department to repay any loan with the proceeds of fees collected under that program within 6 months.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Chapter 1.3 (commencing with Section
2 12125) is added to Title 2 of Part 4 of the Penal Code, to
3 read:

4

5 CHAPTER 1.3. UNSAFE HANDGUNS

6

7 12125. (a) Commencing January 1, 2001, any person
8 in this state who manufactures or causes to be
9 manufactured, imports into the state for sale, keeps for
10 sale, offers or exposes for sale, gives, or lends any unsafe
11 handgun shall be punished by imprisonment in a county
12 jail not exceeding one year.

13 (b) This section shall not apply to any of the following:

14 (1) The manufacture in this state, or importation into
15 this state, of any prototype pistol, revolver, or other
16 firearm capable of being concealed upon the person
17 when the manufacture or importation is for the sole
18 purpose of allowing an independent laboratory certified
19 by the Department of Justice pursuant to Section 12130
20 to conduct an independent test to determine whether
21 that pistol, revolver, or other firearm capable of being
22 concealed upon the person is prohibited by this chapter,
23 and, if not, for the department to add the firearm to the
24 roster of pistols, revolvers, and other firearms capable of
25 being concealed upon the person that may be sold in this
26 state pursuant to Section 12131.

1 (2) The importation or lending of a pistol, revolver, or
2 other firearm capable of being concealed upon the
3 person by employees or authorized agents determining
4 whether the weapon is prohibited by this section.

5 (3) Firearms listed as curios or relics, as defined in
6 Section 178.11 of Title 27 of the Code of Federal
7 Regulations.

8 (4) The sale to, purchase by, or possession of, any
9 pistol, revolver, or other firearm capable of being
10 concealed upon the person by the Department of Justice,
11 any police department, any sheriff official, any marshals'
12 office, the Department of Corrections, the California
13 Highway Patrol, any district attorneys' office, full-time
14 paid peace officers of other states and the federal
15 government, the federal military forces, the California
16 National Guard, the State Military Reserve, excluding the
17 unorganized militia, or sworn members of these agencies
18 when the sworn member has written authorization from
19 the employing agency.

20 (c) Violations of subdivision (a) are cumulative with
21 respect to each handgun and shall not be construed as
22 restricting the application of any other law. However, an
23 act or omission punishable in different ways by this
24 section and other provisions of law shall not be punished
25 under more than one provision, but the penalty to be
26 imposed shall be determined as set forth in Section 654.

27 12126. As used in this chapter, "unsafe handgun"
28 means any pistol, revolver, or other firearm capable of
29 being concealed upon the person, as defined in
30 subdivision (a) of Section 12001, for which any of the
31 following is true:

32 (a) For a revolver:

33 (1) It does not have a safety device that, either
34 automatically in the case of a double-action firing
35 mechanism, or by manual operation in the case of a
36 single-action firing mechanism, causes the hammer to
37 retract to a point where the firing pin does not rest upon
38 the primer of the cartridge.

39 (2) It does not meet the firing requirement for
40 handguns pursuant to Section 12127.

1 (3) It does not meet the drop safety requirement for
2 handguns pursuant to Section 12128.

3 (b) For a pistol:

4 (1) It does not have a positive manually operated
5 safety device.

6 (2) It does not meet the firing requirement for
7 handguns pursuant to Section 12127.

8 (3) It does not meet the drop safety requirement for
9 handguns pursuant to Section 12128.

10 12127. (a) As used in this chapter, the "firing
11 requirement for handguns" means a test in which the
12 manufacturer provides three handguns of the make and
13 model for which certification is sought, these handguns
14 not being in any way modified from those that would be
15 sold if certification is granted, to an independent testing
16 laboratory certified by the Attorney General pursuant to
17 Section 12130. The laboratory shall fire 600 rounds from
18 each gun, stopping after each series of 50 rounds has been
19 fired for 5 to 10 minutes to allow the weapon to cool,
20 stopping after each series of 100 rounds has been fired to
21 tighten any loose screws and clean the gun in accordance
22 with the manufacturer's instructions, and stopping as
23 needed to refill the empty magazine or cylinder to
24 capacity before continuing. The ammunition used shall
25 be of the type recommended by the handgun
26 manufacturer in the user manual, or if none is
27 recommended, any standard ammunition of the correct
28 caliber in new condition. A handgun shall pass this test if
29 each of the three test guns meets both of the following:

30 (1) Fires the first 20 rounds without a malfunction that
31 is not due to faulty magazine or ammunition.

32 (2) Fires the full 600 rounds with no more than six
33 malfunctions that are not due to faulty magazine or
34 ammunition and without any crack or breakage of an
35 operating part of the handgun that increases the risk of
36 injury to the user.

37 (b) If a pistol or revolver fails the requirements of
38 either paragraph (1) or (2) of subdivision (a) due to
39 either a faulty magazine or faulty ammunition, the pistol
40 or revolver shall be retested from the beginning of the

1 "firing requirement for handguns" test. A new model of
2 the pistol or revolver that failed due to a faulty magazine
3 or ammunition may be submitted for the test to replace
4 the pistol or revolver that failed.

5 (c) As used in this section, "malfunction" means a
6 failure to properly feed, fire, or eject a round, or failure
7 of a pistol to accept or reject a manufacturer-approved
8 magazine, or failure of a pistol's slide to remain open after
9 a manufacturer-approved magazine has been expended.

10 12128. As used in this chapter, the "drop safety
11 requirement for handguns" means that at the conclusion
12 of the firing requirements for handguns described in
13 Section 12127, the same certified independent testing
14 laboratory shall subject the same three handguns of the
15 make and model for which certification is sought, to the
16 following test:

17 A primed case (no powder or projectile) shall be
18 inserted into the chamber. For pistols, the slide shall be
19 released, allowing it to move forward under the impetus
20 of the recoil spring, and an empty magazine shall be
21 inserted. For both pistols and revolvers, the weapon shall
22 be placed in a drop fixture capable of dropping the pistol
23 from a drop height of $1m + 1cm$ ($39.4 + 0.4$ in.) onto the
24 largest side of a slab of solid concrete having minimum
25 dimensions of $7.5 \times 15 \times 15$ cm ($3 \times 6 \times 6$ in.). The drop
26 distance shall be measured from the lowermost portion of
27 the weapon to the top surface of the slab. The weapon
28 shall be dropped from a fixture and not from the hand.
29 The weapon shall be dropped in the condition that it
30 would be in if it were dropped from a hand (cocked with
31 no manual safety applied). If the design of a pistol is such
32 that upon leaving the hand a "safety" is automatically
33 applied by the pistol, this feature shall not be defeated. An
34 approved drop fixture is a short piece of string with the
35 weapon attached at one end and the other end held in an
36 air vise until the drop is initiated.

37 The following six drops shall be performed:

- 38 (a) Normal firing position with barrel horizontal.
39 (b) Upside down with barrel horizontal.
40 (c) On grip with barrel vertical.

1 (d) On muzzle with barrel vertical.

2 (e) On either side with barrel horizontal.

3 (f) If there is an exposed hammer or striker, on the
4 rearmost point of that device, otherwise on the rearmost
5 point of the weapon.

6 The primer shall be examined for indentations after
7 each drop. If indentations are present, a fresh primed case
8 shall be used for the next drop.

9 The handgun shall pass this test if each of the three test
10 guns does not fire the primer.

11 12129. Every person who is licensed as a
12 manufacturer of firearms pursuant to Chapter 44
13 (commencing with Section 921) of Title 18 of the United
14 States Code who manufactures firearms in this state, and
15 every person who imports into the state for sale, keeps for
16 sale, or offers or exposes for sale any firearm, shall certify
17 under penalty of perjury and any other remedy provided
18 by law that every model, kind, class, style, or type of pistol,
19 revolver, or other firearm capable of being concealed
20 upon the person that he or she manufactures or imports,
21 keeps, or exposes for sale is not an unsafe handgun as
22 prohibited by this chapter.

23 12130. (a) Any pistol, revolver, or other firearm
24 capable of being concealed upon the person
25 manufactured in this state, imported into the state for
26 sale, kept for sale, or offered or exposed for sale, shall be
27 tested within a reasonable period of time by an
28 independent laboratory certified pursuant to subdivision
29 (b) to determine whether that pistol, revolver, or other
30 firearm capable of being concealed upon the person
31 meets or exceeds the standards defined in Section 12126.

32 (b) On or before July 1, 2000, the Department of
33 Justice shall certify laboratories to verify compliance with
34 the standards defined in Section 12126. The department
35 may charge any laboratory that is seeking certification to
36 test any pistol, revolver, or other firearm capable of being
37 concealed upon the person pursuant to this chapter a fee
38 not exceeding the costs of certification.

39 (c) The certified testing laboratory shall, at the
40 manufacturer's or importer's expense, test the firearm

1 and submit a copy of the final test report directly to the
2 Department of Justice along with a prototype of the
3 weapon to be retained by the department. The
4 department shall notify the manufacturer or importer of
5 its receipt of the final test report and the department's
6 determination as to whether the firearm tested may be
7 sold in this state.

8 12131. (a) On and after January 1, 2001, the
9 Department of Justice shall compile, publish, and
10 thereafter maintain a roster listing all of the pistols,
11 revolvers, and other firearms capable of being concealed
12 upon the person that have been tested by a certified
13 testing laboratory, have been determined not to be
14 unsafe handguns, and may be sold in this state pursuant
15 to this title. The roster shall list, for each firearm, the
16 manufacturer, model number, and model name.

17 (b) The department shall include on the roster any
18 pistol, revolver, or other firearm capable of being
19 concealed upon the person listed as a curio or relic, as
20 defined in Section 178.11 of Title 27 of the Code of Federal
21 Regulations.

22 (c) (1) The department may charge every person in
23 this state who is licensed as a manufacturer of firearms
24 pursuant to Chapter 44 (commencing with Section 921)
25 of Title 18 of the United States Code, and any person in
26 this state who manufactures or causes to be
27 manufactured, imports into the state for sale, keeps for
28 sale, or offers or exposes for sale any pistol, revolver, or
29 other firearm capable of being concealed upon the
30 person in this state, an annual fee not exceeding the costs
31 of preparing, publishing, and maintaining the roster
32 pursuant to subdivisions (a) and (b).

33 (2) Any pistol, revolver, or other firearm capable of
34 being concealed upon the person that is manufactured by
35 a manufacturer who manufactures or causes to be
36 manufactured, imports into the state for sale, keeps for
37 sale, or offers or exposes for sale any pistol, revolver, or
38 other firearm capable of being concealed upon the
39 person in this state, and who fails to pay any fee required

1 pursuant to paragraph (1), may be excluded from the
2 roster.

3 12131.5. (a) A firearm shall be deemed to satisfy the
4 requirements of subdivision (a) of Section 12131 if
5 another firearm made by the same manufacturer is
6 already listed and the unlisted firearm differs from the
7 listed firearm only in one or more of the following
8 features:

9 (1) Finish, including, but not limited to, bluing,
10 chrome-plating, oiling, or engraving.

11 (2) The material from which the grips are made.

12 (3) The shape or texture of the grips, so long as the
13 difference in grip shape or texture does not in any way
14 alter the dimensions, material, linkage, or functioning of
15 the magazine well, the barrel, the chamber, or any of the
16 components of the firing mechanism of the firearm.

17 (4) Any other purely cosmetic feature that does not in
18 any way alter the dimensions, material, linkage, or
19 functioning of the magazine well, the barrel, the
20 chamber, or any of the components of the firing
21 mechanism of the firearm.

22 (b) Any manufacturer seeking to have a firearm listed
23 under this section shall provide to the Department of
24 Justice all of the following:

25 (1) The model designation of the listed firearm.

26 (2) The model designation of each firearm that the
27 manufacturer seeks to have listed under this section.

28 (3) A statement, under oath, that each unlisted
29 firearm for which listing is sought differs from the listed
30 firearm only in one or more of the ways identified in
31 subdivision (a) and is in all other respects identical to the
32 listed firearm.

33 (c) The department may, in its discretion and at any
34 time, require a manufacturer to provide to the
35 department any model for which listing is sought under
36 this section, to determine whether the model complies
37 with the requirements of this section.

38 12132. This chapter shall not apply to any of the
39 following:

1 (a) The sale, loan, or transfer of any firearm pursuant
2 to Section 12082 or 12084 in order to comply with
3 subdivision (d) of Section 12072.

4 (b) The sale, loan, or transfer of any firearm that is
5 exempt from the provisions of subdivision (d) of Section
6 12072 pursuant to any applicable exemption contained in
7 Section 12078, if the sale, loan, or transfer complies with
8 the requirements of that applicable exemption to
9 subdivision (d) of Section 12072.

10 (c) The sale, loan, or transfer of any firearm as
11 described in paragraph (3) of subdivision (b) of Section
12 12125.

13 (d) *The delivery of a pistol, revolver, or other firearm*
14 *capable of being concealed upon the person to a person*
15 *licensed pursuant to Section 12071 for the purposes of the*
16 *service or repair of that firearm.*

17 (e) *The return of a pistol, revolver, or other firearm*
18 *capable of being concealed upon the person by a person*
19 *licensed pursuant to Section 12071 to its owner where that*
20 *firearm was initially delivered in the circumstance set*
21 *forth in subdivision (d).*

22 (f) *The return of a pistol, revolver, or other firearm*
23 *capable of being concealed upon the person by a person*
24 *licensed pursuant to Section 12071 to its owner where that*
25 *firearm was initially delivered to that licensee for the*
26 *purpose of a consignment sale or as collateral for a*
27 *pawnbroker loan.*

28 12133. The provisions of this chapter shall not apply to
29 a single-action revolver that has at least a five-cartridge
30 capacity with a barrel length of not less than three inches,
31 and meets any of the following specifications:

32 (a) Was originally manufactured prior to 1900 and is a
33 curio or relic, as defined in Section 178.11 of Title 27 of the
34 Code of Federal Regulations.

35 (b) Has an overall length measured parallel to the
36 barrel of at least seven and one-half inches when the
37 handle, frame or receiver, and barrel are assembled.

38 (c) Has an overall length measured parallel to the
39 barrel of at least seven and one-half inches when the
40 handle, frame or receiver, and barrel are assembled and

1 that is currently approved for importation into the United
2 States pursuant to the provisions of paragraph (3) of
3 subsection (d) of Section 925 of Title 18 of the United
4 States Code.

5 12134. *Nothing in this chapter shall require or*
6 *prohibit any local ordinance that places a more stringent*
7 *requirement upon the manufacture, importation,*
8 *transfer, sale, or possession of handguns.*

9 SEC. 2. It is the intent of the Legislature that the
10 Department of Justice pursue an internal loan from
11 special fund revenues available to the department to
12 cover startup costs for the program established pursuant
13 to Section 1 of this act. Any loan shall be repaid with the
14 proceeds of fees collected under that program within six
15 months.

16 SEC. 3. No reimbursement is required by this act
17 pursuant to Section 6 of Article XIII B of the California
18 Constitution because the only costs that may be incurred
19 by a local agency or school district will be incurred
20 because this act creates a new crime or infraction,
21 eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section
23 17556 of the Government Code, or changes the definition
24 of a crime within the meaning of Section 6 of Article
25 XIII B of the California Constitution.

EXHIBIT C

SENATE COMMITTEE ON PUBLIC SAFETY

Senator John Vasconcellos, Chair
1999-2000 Regular Session

S
B

1
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SB 15 (Polanco)
As Amended April 5, 1999
Hearing date: April 6, 1999
Penal Code
SH:br

FIREARMS -
RESTRICTIONS ON "UNSAFE HANDGUNS"

HISTORY

Source: Author

Prior Legislation: SB 1500 (1998) - vetoed
SB 500 (1997) - vetoed
SB 933 (1996) - failed passage Assembly Public Safety
SB 1118 (1995) - never heard in Senate Criminal Procedure
AB 1848 (1992) - heard, no vote taken, Senate Judiciary

Support: Handgun Control; Cities of Los Angeles, San Jose, Thousand Oaks, San Clemente, Lake Elsinore, San Luis Obispo, Buena Park, Palo Alto, Santa Rosa, Oceanside, Lompoc, Merced; Alameda County Board of Supervisors; City Council's of Berkeley; West Hollywood, Walnut Creek, Rohnert Park, Pismo Beach, Lafayette, Los Gatos Town Council; Lutheran Office of Public Policy; League of California Cities; California Academy of Family Physicians; Los Angeles County Bar Association; California Organization of Police and Sheriffs; Trauma Foundation; California Police and Sheriffs Association; Mayor, City of Burbank; California Child, Youth and Family Coalition; Los Angeles Unified School District; Chief of Police of the Town of Los Gatos and the City of Monte Sereno; California Church IMPACT; Children's Advocacy Institute; Los Angeles District Attorney's Office; Older Women's League; Chief of Police of the City of Signal Hill; California Nurses Association; Legal Community Against Violence; Episcopal Diocese of Los Angeles; Orange County Citizens for the Prevention of Gun Violence

Opposition: California Rifle and Pistol Association; National Rifle Association; California Shooting Sports Association; California Attorneys for Criminal Justice; Peace Officer Research Association of California; Outdoor Sportsmen's Coalition; Safari Club International; California Sportsman's Lobby; individual letters

KEY ISSUES

SHOULD THE MANUFACTURE, IMPORTATION, KEEPING FOR SALE, OFFERING OR EXPOSING FOR SALE, OR GIVING OR LENDING OF ANY "UNSAFE HANDGUN" - AS DEFINED - BE PROHIBITED IN CALIFORNIA, COMMENCING JULY 1, 2000?

SHOULD THE PENALTY FOR VIOLATING THAT PROHIBITION BE A MISDEMEANOR PUNISHABLE BY UP TO ONE YEAR IN A COUNTY JAIL?

SHOULD THOSE UNSAFE HANDGUNS BE DEFINED BY REFERENCE TO SPECIFIED CRITERIA INCLUDING A SAFETY DEVICE AND OTHER FACTORS INCLUDING A FIRING TEST (FOR SAFETY) AND A "DROP SAFETY" TEST, AS SPECIFIED?

SHOULD EVERY MANUFACTURER OR IMPORTER OF HANDGUNS IN THIS STATE BE REQUIRED TO CERTIFY, UNDER PENALTY OF PERJURY AND ANY OTHER REMEDY PROVIDED AT LAW, THAT ANY HANDGUN MANUFACTURED OR IMPORTED IS NOT A PROHIBITED UNSAFE HANDGUN PURSUANT TO THIS BILL

SHOULD THE DEPARTMENT OF JUSTICE (DOJ) BE REQUIRED TO CERTIFY, ON OR BEFORE JULY 1, 2000, LABORATORIES TO VERIFY COMPLIANCE WITH THIS BILL?

SHOULD THE DEPARTMENT OF JUSTICE BE REQUIRED TO PREPARE A ROSTER, ON AND AFTER JULY 1, 2000, OF ALL HANDGUNS WHICH ARE DETERMINED NOT TO BE UNSAFE HANDGUNS PURSUANT TO THIS BILL?

SHOULD TRANSFERS BETWEEN PRIVATE PARTIES - AND OTHER SPECIFIED TRANSFERS AND SPECIFIED FIREARMS - BE EXEMPTED FROM THE PROPOSED RESTRICTIONS ON "UNSAFE HANDGUNS"?

(CONTINUED)

(More)

SHOULD LEGISLATIVE INTENT BE ENACTED THAT THE DEPARTMENT OF JUSTICE PURSUE AN INTERNAL LOAN FROM SPECIAL FUND REVENUES AVAILABLE TO THE DEPARTMENT TO COVER STARTUP COSTS FOR THE NEW UNSAFE HANDGUN PROGRAM AND REPAY ANY LOAN WITH THE PROCEEDS OF FEES COLLECTED UNDER THAT PROGRAM WITHIN 6 MONTHS?

SHOULD RELATED CHANGES BE MADE?

PURPOSE

The purpose of this bill is to enact restrictions on the manufacture, importation, or sale of "unsafe handguns" – as defined in this bill – in California commencing July 1, 2000, as specified.

Under existing law it is an alternate misdemeanor/felony ("wobbler") to manufacture, import, sell, loan or possess specified disguised firearms and other deadly weapons, including plastic firearms, cane or wallet guns, flechette darts, multiburst trigger activators, nunchakus, short-barreled shotguns and rifles, leaded canes, zip guns, unconventional pistols, cane blackjacks and metal knuckles. A violation is punishable by sixteen months, two or three years in prison, or up to one year in county jail. (Penal Code section 12020)

Existing law generally requires that any sale, loan, or transfer of a firearm shall be made through a licensed firearms dealer or, in counties of fewer than 200,000 persons, a sheriff's department that elects to provide such services. (Penal Code sections 12071, 12072, 12082, 12084)

Existing law states it is the intention of the Legislature to occupy the whole field of regulation of the registration or licensing of commercially manufactured firearms as encompassed by the provisions of the Penal Code, and such provisions shall be exclusive of all local regulations, relating to registration or licensing of commercially manufactured firearms, by any political subdivision, as defined. (Government Code section 53071)

This bill would do the following:

- commencing July 1, 2000, make it a misdemeanor – punishable by up to one year in a county jail – for any person to manufacture or cause to be manufactured, import into the state for sale, keep for sale, offer or expose for sale, give, or lend any unsafe handgun, except as specified.

(More)

- defines "unsafe handgun" to mean any pistol, revolver, or other firearm capable of being concealed upon the person which either (1) for revolvers: does not have a safety device to cause the hammer to retract from contact with the primer, as specified; (2) for pistols (whether semi-automatic or not): does not have a positive manually operated safety device; (3) does not meet a specified firing requirement; (4) does not meet a specified drop safety requirement.
- requires every person licensed to manufacture firearms pursuant to federal law who manufactures firearms in this state and every person who imports into the state for sale, keeps for sale, or offers or exposes for sale any firearm to certify under penalty of perjury that every model, kind, class, style, or type of pistol, revolver, or other firearm capable of being concealed upon the person that he or she manufactures or imports, keeps, or exposes for sale is not a prohibited unsafe handgun.
- requires any pistol, revolver, or other firearm capable of being concealed upon the person manufactured in this state, imported into the state for sale, kept for sale, or offered or exposed for sale, to be tested by an independent laboratory certified by the Department of Justice to determine whether that firearm meets or exceeds specified standards defining unsafe handguns.
- requires the Department of Justice to certify laboratories for this purpose on or before July 1, 2000.
- requires the Department of Justice, on and after July 1, 2000, to compile, publish, and thereafter maintain a roster listing all of the pistols, revolvers, and other firearms capable of being concealed upon the person that are not unsafe handguns by the manufacturer, model number, and model name; authorizes the department to charge every person in this state who is licensed as a manufacturer of firearms pursuant to federal law, and any person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in this state, an annual fee not exceeding the costs of preparing, publishing, and maintaining the roster.
- exempts from the limitations on such handguns (1) prototypes which are to be tested by a laboratory to determine whether the handgun is prohibited by this bill; (2) law enforcement and others handling the weapon to determine whether or not it is prohibited by this bill; (3) firearms which are curios or relics pursuant to federal regulations.
- exempts from the transfer limitations in this bill transfers between private parties through dealers/law enforcement agencies; transfers between parties otherwise exempt from the requirement that transfer be made through a dealer or law enforcement agency (limited duration loans between known parties, loans for hunting

season, etc); and transfers pertaining to those handguns exempted in new provisions added by this bill (such as delivery to DOJ of weapons being tested).

- states the intent of the Legislature that the Department of Justice pursue an internal loan from special fund revenues available to the department to cover startup costs for the unsafe handgun program established pursuant to the bill and that the department is to repay any loan with the proceeds of fees collected under that program within six months.
- makes numerous related additions to law.

COMMENTS

1. Need for This Bill

The author submits that:

Senate Bill 15 is a common sense, responsible gun law. It requires that weapons fire when they are supposed to and that they not fire when dropped. The drop test is based on U.S. Department of Justice quality standards for law enforcement weapons and the misfire test is a slightly more lenient standard than currently used by law enforcement agencies. The tests are fair and reasonable for weapons sold to members of the public for self-protection. If a weapon is not reliable for self-defense, it has no business being sold in California.

SB 15 would require any handgun manufactured in California, imported into the State of California for sale, kept for sale or exposed for sale, given or lent, meet these basic standards. The Attorney General's office would be required to certify independent labs that would test weapons that manufacturers wished to sell in California. If they failed to pass the test it would be a misdemeanor to manufacture or sell the weapons in our state.

2. Governor's Veto of SB 500 and SB 1500

The Governor's veto message of SB 500 (9/26/97) included, in part, the following:

SB 500 is a bill that purports to protect gun users against shoddy guns. It is essentially offered as consumer protection. But the vast majority of the proponents of SB 500 who have urged me to sign it have done so because of their passionate hope and belief that it will instead protect potential victims against whom the proscribed guns might otherwise be used.

(More)

Common sense dictates that the best way to prevent gun crimes is by first removing from society the criminals who use guns in the commission of a crime. . .

. . . not only does SB 500 fail to keep guns out of the hands of criminals, it will deprive law-abiding, legitimate gun users of the needed protection of handguns--the same handguns used by thousands of peace officers as regular service and back-up guns. These weapons would--in a private citizen's hands--be caught in a net cast much too wide by SB 500.

. . . I will not support a measure that fails the basic test of protecting the innocent. Ultimately, the real test applied by the bill is whether or not the weapon is readily concealable. If so, it is adjudged by SB 500 to be "non-sporting" and is therefore prohibited. By this definition and test, all handguns--except, ironically, the largest and deadliest--are included in the ban. The clear if unstated premise of this test is that handguns that are concealable can have no sporting purpose and therefore no valid purpose. This flawed logic ignores reality: it ignores the obvious fact that millions of law-abiding Californians--including a growing number of women--have felt the need to own concealable weapons not for sport but to protect themselves, their families, and their property.

As much as I deplore the necessity, I cannot in good conscience deny them that protection if they choose it.

NOTE: The author indicated concerning SB 1500 from 1998 that: "In response to the Governor's concerns [with SB 500], . . . I have introduced Senate Bill 1500. It casts a smaller net, it addresses the Governor's concerns and it seeks to ensure that those who choose to own a handgun for self protection have a handgun that is safe and reliable."

The Governor's veto message of SB 1500 (9/27/98) includes the following:

. . . This bill is the successor to SB 500, which I vetoed last year. SB 500 was seriously flawed. Commendably, the author has removed some of its more egregious provisions. . . .

. . . The bill gives the Department of Justice six months to find and certify laboratories to perform safety tests. Once laboratories are identified, handgun manufacturers wishing to sell their products in California would be required to submit three prototypes of each model for testing. Only handguns passing the test during the following six months would be certified and placed on the initial Department of Justice roster. All other handguns would be presumed unsafe subject to penalty under this bill and remain so unless and until they were certified to have passed the test.

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The author was advised that this Administration could accept both the premise of safety testing and the specific safety tests proposed, provided that the bill be made prospective, impacting handguns manufactured, or sold new, after January 1, 2000. The author declined to amend his bill, insisting that used handguns could be sold through private transactions, but not by licensed dealers. Other than improving business for gun manufacturers by increasing demand for new guns, it is unclear how anyone would benefit by this arbitrary standard. . .

SB 1500 would deny owners of used handguns access to a dependable marketplace of licensed firearms dealers and pawnbrokers for safe and legal sales and loans, while threatening to delay market access to manufacturers and purchasers of new guns. . .

But an even more fundamental question is whether consumer safety is better achieved by a program that offers manufacturers market incentives to have their products tested, or a program that penalizes not only makers of products that fail the test, but also those who through no fault of theirs have been unable to get their guns tested. . . .

. . . There are few laboratories that perform this kind of testing now. With the manufacturers providing the cost of testing, the number of laboratories and testing capacity may increase. But in the meantime, there are hundreds, if not thousands, of makes and models of handguns. There is a very real possibility that delay--for any number of reasons beyond the control of gun maker--will lead to a large number of guns being banned without any showing that they are unsafe.

. . . While there have been isolated reports of firearms which jam excessively and even a few reports of guns which discharge accidentally, when dropped, or explode in the shooter's hand, the number of makes of suspect guns does not seem to justify a regulatory scheme that is likely to have the unintended consequence of prohibiting, or at least unreasonably holding up, sales of what clearly appears to be the vast majority of perfectly reliable weapons.

. . . And there is no objection to weapons testing. But the procedure which SB 1500 would impose threatens to unreasonably limit the right of law abiding citizens to obtain previously lawful firearms. It makes little sense for the law to deny weapons to people who need them, on the pretext that they are unsafe to the user until testing proves them safe, when they are arguably in far greater danger from certifiably unsafe thugs than from uncertified handguns.

3. Federal Regulation of "Saturday Night Specials"

At the federal level, the importation of "Saturday Night Specials" into the United States has been banned through the enactment of the Gun Control Act of 1968. Section 925 (d)(3) of the Act provides that a firearm shall be imported if it is of a type ". . . generally recognized as particularly suitable for, or readily adaptable to, sporting purposes." The

phrase "sporting purposes" has been defined to eliminate small, cheap, poorly constructed handguns.

A set of factoring criteria was designed to prevent the import of these handguns, considered a substantial crime problem in the 1960s. The factoring criteria are based on a relatively simple point system. First, the firearm must meet all of the prerequisites. If it is a pistol, it must have a manually operated safety device. The combined length and height must be not less than ten inches with the height being at least four inches and the length at least six inches. If the firearm is a revolver, it must pass the safety test and have an overall frame length of at least four and one half inches and a barrel length of at least three inches.

In addition, a point value is assigned to the handgun's individual characteristics such as length of barrel, overall length, frame construction, weight, caliber, safety features, type of sight, trigger, hammer and grip.

Generally, the handguns passing the criteria are bigger, heavier and of a better quality than "Saturday Night Specials." The Bureau of Alcohol, Tobacco, and Firearms (Secretary of the Treasurer or his/her delegate) also may grant exemptions to these requirements, as specified.

Under the proposed federal Handgun Violence Prevention Act of 1989, the above criteria would have applied to handguns produced in the United States. However, this federal legislation was defeated.

4. Exemption for Old West Revolvers

This bill contains an exemption for "old west" single-action revolvers and replicas of those revolvers. SB 15 contains the following language:

Penal Code section 12131. The provisions of this chapter shall not apply to a single-action revolver that has at least a five-cartridge capacity with a barrel length of not less than three inches, and meets any of the following specifications:

- (a) Was originally manufactured prior to 1900 and is a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.
- (b) Has an overall length measured parallel to the barrel of at least seven and one-half inches when the handle, frame or receiver, and barrel are assembled.
- (c) Has an overall length measured parallel to the barrel of at least seven and one-half inches when the handle, frame or receiver, and barrel are assembled and that is currently approved for importation into the United States pursuant to the provisions of paragraph (3) of subsection (d) of Section 925 of Title 18 of the United States Code.

5. Implementation Dates in This Bill

If enacted, this bill would take effect on January 1, 2000. This bill contains several "operative" dates within its text:

- July 1, 2000 – restrictions/penalties for selling, manufacturing, etc., of unsafe handguns take effect.
- July 1, 2000 – DOJ shall certify laboratories to verify compliance with standards.
- July 1, 2000 – on/after this date, DOJ shall publish a roster of firearms, which are "not unsafe firearms".

WOULD THE DATES SET IN THIS BILL ALLOW FOR THE APPROPRIATE IMPLEMENTATION OF THE NEW PROGRAM, E.G., WOULD FIREARMS BE TESTED BY JULY 1, 2000, WHEN THE LABORATORIES DO NOT HAVE TO BE CERTIFIED FOR TESTING UNTIL THAT DATE?

6. Definition of "Any Person Who Imports" in This Bill

This bill exempts sales of "unsafe handguns" between private parties. Most of those weapons may be anticipated to be handguns manufactured before January 1, 2000. This bill would prohibit all "unsafe handgun" manufacturing, importing, or selling by licensed manufacturers and licensed dealers after January 1, 2000, no matter when the handgun is manufactured.

However, there is now a new Penal Code section reference to "importer". Private parties moving to California after January 1, 1998, who possess a handgun must now report that firearm to the Department of Justice within 60 days of bringing the handgun into the state. Those persons are now defined in statute as a "personal handgun importer." Whether or not those persons would be considered an "importer" pursuant to this bill is unclear, although this bill does appear to be aimed at commercial persons.

7. Other Issues Raised by This Bill

Under existing Government Code section 53071, some local entities have adopted restrictions on the local sale by licensed dealers of so-called "Saturday Night Specials" (see reference to San Jose ordinance in the second paragraph, below). This bill would appear to preempt any such local ordinance, both those already in existence and any proposed locally in the future

SB 500, as introduced on February 20, 1997, would have restricted sales in California of handguns which would have otherwise failed to meet the federal test for importation into

the United States. Previous efforts to restrict so-called "Saturday Night Specials" took a similar approach or used such tests as the tensile strength of metals. As SB 500 and SB 1500 evolved in the process, the approach taken became one of size restrictions and "safety" tests, which were developed using tests used for law enforcement weapons. Subsequently, the size criteria were deleted from SB 1500 and are not part of SB 15 as currently amended.

Some local jurisdictions in California have existing restrictions on specified weapons. For example, the City of San Jose has a local ordinance entitled "Saturday Night Special/Junk Gun Sale Ban" (SJ Code, Chapter 10.33) which uses several characteristics, including metal strength and composition and for semi-automatic pistols a requirement for a "locked breech action" with the chief of police maintaining a roster of prohibited weapons and an appeals process to the chief.

The San Jose ordinance is relatively simple in that it states in colloquial terms the types of weapons it is intended to restrict and then uses a relatively simple set of criteria. It may be unclear whether or not that kind of approach would or would not be as effective as the "safety test" procedures proposed in this bill or whether or not this bill would be over or under inclusive of the types of handguns which the sponsors and supporters would seek to prohibit in California.

As indicated in last year's SB 1500 veto message, there has been some discussion of whether or not the application of the restrictions in SB 1500 and this year's SB 15 would effectively eliminate the used handgun market for all those handguns -- lawfully sold/possessed prior to the testing requirements of this bill -- which could be sold between private parties through dealers/law enforcement agencies but which could not be purchased by licensed dealers for resale in California. It may be assumed that there is little likelihood that anyone would pay for certification of weapons which are "used" and not substantially the same as new weapons offered for sale and manufactured after July 1, 2000, if this bill is enacted.

At the present time, firearms may be pawned and subsequently returned to the person who pawned them. This bill would arguably restrict such "returns" for handguns lawfully possessed prior to the restrictions imposed by this bill.

8. Opposition to This Bill

The National Rifle Association (NRA) letter in opposition includes:

As currently constructed, SB 15 would provide a strong stimulus for illegal "street" gun sales. Most used handguns made since 1946 would not be submitted for certification as required by SB 15 and thus could not be legally sold by retail firearm dealers. Pawnshops would not give loans on handguns that they couldn't sell if not

(More)

picked up by the owner. Without access to retail firearms dealers (including pawnshops) the obvious alternative is "street sales".

The California Rifle and Pistol Association letter in opposition to SB 15 includes:

. . . Its prohibition on dealer sales of used handguns not meeting the bills extremely broad provisions would make handguns economically unavailable to many persons who do not have large incomes. . . Whether a handgun meets the proposed SB 15 standards in most cases would have no relevance to its suitability for its intended purpose. . . SB 15 requires that both civilian and law enforcement handguns have the same standards. . . SB 15 would not significantly improve any product line nor would it prevent the occasional occurrence of a defective part. But, it would unjustly have an adverse impact on lawful residents of California who need a handgun for lawful purposes but cannot afford the expensive models. . .

The California Shooting Sports Association letter in opposition indicates that SB 15 would not reduce crime nor improve public safety.

9. Related Legislation

AB 505 (Wright) is currently in the Assembly Committee on Public Safety. It would require every model of pistol, revolver, or other firearm capable of being concealed upon the person that is manufactured for sale in California on or after July 1, 2000, to satisfy specified safety tests and standards, with a system of self-certification by the manufacturer or importer and specified penalties.

10. Need to Revise the Legislative Counsel's Digest

The Legislative Counsel's digest of this bill as amended on April 5, 1999, on line six of the first page indicates that "commencing January 1, 2000" the limitations on "unsafe handguns" takes effect; the text in fact sets that date at July 1, 2000 (page 3, line 8). Thus the Digest should be corrected as this bill is amended or moves through the process.

11. Other Firearms Bills Imposing Duties on the Attorney General/Department of Justice

Other firearms bills this session which would require the Attorney General/Department of Justice to take on tasks, in addition to SB 15, include SB 23 (registration and other elements of the assault weapons program), SB 130 and AB 106 (certification of laboratories to test firearms safety devices; other duties), and AB 505 (California Sporting and Self Defense Handgun Safety Standards Act).

EXHIBIT D

LEGISLATIVE DIGEST

[Restricting the sale of large caliber firearms, requiring reporting of firearm thefts, and deleting obsolete provisions regulating firearms sales.]

Ordinance amending the Police Code by amending Sections 613.1 and 613.10 to delete requirements relating to "Saturday Night Specials" and security practices for firearms dealers that have been superceded by state law; amending Section 613.3 to require the Chief of Police to conduct a background check on applicants for a firearms dealer license; amending Section 613.10-1 to restrict the sale of large caliber firearms, and adding a new section 619, requiring owners of firearms to report the loss or theft of a firearm to the Police Department.

Existing Law

The Police Code currently imposes licensing and regulatory requirements for firearms dealers, including restrictions on the sale of inexpensive, unsafe handguns known as "Saturday Night Specials." The Police Code also requires firearms sold by dealer to include a trigger lock, and imposes a 15 day waiting period before a purchaser can take possession of the firearm. Existing City law does not restrict the sale of firearms above a certain caliber.

Amendments to Current Law

This legislation would amend the Police Code to prohibit the sale of rifles or handguns capable of firing .50 caliber ammunition or larger, with specified exceptions governed by state law. This legislation would also delete existing provisions regulating Saturday Night Specials and requiring trigger locks, as these requirements have been superceded by state law. The legislation would also change the waiting period for firearms purchases from 15 days to ten days in order to conform with state law, and clarify that the Chief of Police shall conduct background check on applicants for a firearms dealer license. Finally, the legislation would require that firearms owners report the theft or loss of a firearm to the Police Department within 48 hours of becoming aware of the theft or loss.

Background Information

.50 caliber ammunition is extremely destructive, and capable of tremendous damage. Such ammunition can penetrate 8 inches of concrete. Weapons using this ammunition have no legitimate sporting use, and are not well-suited for defense of persons or property. In addition, such weapons in the hands of terrorists could be devastating. This legislation is designed to protect the citizens of San Francisco from the potential dangers of these firearms.

EXHIBIT E



CITY OF OCEANSIDE

MAYOR
DICK LYON

DEPUTY MAYOR
COLLEEN C. O'HARRA

COUNCILMEMBERS
BETTY HARDING
TERRY W. JOHNSON
CAROL R. McCAULEY

February 2, 1999

Senator Richard Polanco
Public Safety Committee
State Capitol, Room 313
Sacramento, CA 95814

Dear Senator Polanco:

I am writing on behalf of the City of Oceanside to thank you for authoring SB15 regarding firearms.

As you are well aware, SB15 is a reintroduction of last year's SB1500 which was vetoed by Governor Pete Wilson. The purpose of SB15 is to create restrictions on the manufacture, importation or sale of "unsafe handguns." The bill would outlaw the poorly constructed, cheap and easily concealed "Saturday Night Specials" which account for four out of the top five guns traced by law enforcement in the country. The cheap cost of these guns make them readily accessible to criminals and youths. The enactment of SB15 should limit the number of "Saturday Night Specials" available and consequently make our streets safer.

Oceanside is pleased to join you in support of SB15.

Cordially,

Dick Lyon

SP-8

EXHIBIT F



VIOLENCE PREVENTION RESEARCH PROGRAM
WESTERN FAIRS BUILDING
2315 STOCKTON BLVD.
SACRAMENTO, CALIFORNIA 95817
(916) 734-3539
(916) 734-3063 (FAX)

January 7, 1999

Melissa Kladjian
Office of Senator Richard Polanco
State Capitol
Room 313
Sacramento, CA 95814

Dear Ms. Kladjian:

Congratulations on the reintroduction of legislation to ban the manufacture and sale of "junk" guns in California. The Violence Prevention Research Program has recently published a study that is relevant to this legislation. We found that, among young adults who purchase handguns legally, those with a prior criminal record are substantially more likely than those who have been law abiding to purchase small, inexpensive handguns. Moreover, among all law abiding purchasers, those who purchased small, inexpensive handguns were substantially more likely to be arrested for a first adult offense than were those who purchased other types of handguns. This is consistent with the oft-repeated observation that such guns constitute "starter set" guns for persons involved in crime.

A copy of the study is enclosed. I have also enclosed a copy of *Ring of Fire*, our study of the "junk" gun industry in California. Please let me know if I can provide any further information.

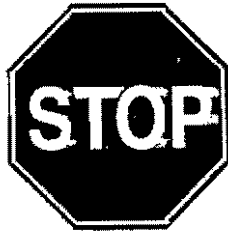
Sincerely,

A handwritten signature in cursive script, appearing to read "Garen Wintemute".

Garen Wintemute, MD, MPH
Professor and Director
Violence Prevention Research Program

GJW/vsm

EXHIBIT G



GUN VIOLENCE!

ORANGE COUNTY CITIZENS FOR THE
PREVENTION OF GUN VIOLENCE

Founded in Memory of Matthew C. Blek

February 1, 1999

The Honorable Richard Polanco
Capitol Building, Room 313
Sacramento, CA 95814

Re: Senate Bill 15
Position: Strongly Support

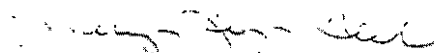
Dear Senator Polanco:

Orange County Citizens for the Prevention of Gun Violence strongly supports efforts to bring quality and safety standards to the production of domestic handguns. This potentially lethal consumer product must be regulated for safety and quality.

SB 15 is a responsible bill that will help address the important safety and quality standards so necessary for handguns in our society. We applaud your efforts and offer our support in working for responsible gun policies that include eliminating junk guns in California. We find it outrageous that California manufactures over 70 % of the junk guns in our nation. Surely we have a special obligation to end the manufacture of such poor quality handguns, especially when it is known that these disposable guns are used disproportionately in crime, especially youth crime.

We endorse SB 15 and hope for its passage into law.

Sincerely yours,


Mary Leigh Blek
Chair

SP-7

1 PROOF OF SERVICE

2 STATE OF CALIFORNIA

3 COUNTY OF LOS ANGELES

4 I, Claudia Ayala, am employed in Long Beach, Los Angeles County, California. I am over the
5 age eighteen (18) years and am not a party to the within action. My business address is 180 East Ocean
Boulevard, Suite 200, Long Beach, California 90802.

6 On February 8, 2006, I served the foregoing document(s) described as

7 **DECLARATION OF C. D. MICHEL AS TO**
8 **PREEMPTIVE EFFECT OF UNSAFE HANDGUN ACT**

9 on the interested parties in this action by placing

10 the original

a true and correct copy

thereof enclosed in sealed envelope(s) addressed as follows:

11 Wayne K. Snodgrass, Deputy City Attorney
12 Vince Chhabria, Deputy City Attorney
13 SAN FRANCISCO CITY ATTORNEY'S OFFICE
14 #1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, CA 94102
Fax: (415) 554-4699

15 (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and
16 processing correspondence for mailing. Under the practice it would be deposited with the U.S.
17 Postal Service on that same day with postage thereon fully prepaid at Long Beach, California,
18 in the ordinary course of business. I am aware that on motion of the party served, service is
presumed invalid if postal cancellation date is more than one day after date of deposit for
mailing an affidavit.

Executed on February 8, 2006, at Long Beach, California.

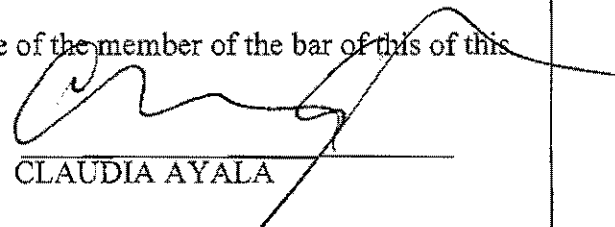
19 (PERSONAL SERVICE) I caused such envelope to delivered by hand to the offices of the
20 addressee.

21 X (VIA OVERNIGHT MAIL) As follows: I am "readily familiar" with the firm's practice of
22 collection and processing correspondence for overnight delivery by UPS/FED-EX. Under the
23 practice it would be deposited with a facility regularly maintained by UPS/FED-EX for receipt
24 on the same day in the ordinary course of business. Such envelope was sealed and placed for
collection and delivery by UPS/FED-EX with delivery fees paid or provided for in accordance
with ordinary business practices.

Executed on February 8, 2006, at Long Beach, California.

25 X (STATE) I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

26 (FEDERAL) I declare that I am employed in the office of the member of the bar of this of this
27 court at whose direction the service was made.

28 

CLAUDIA AYALA