

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FOUR

**PAULA FISCAL, LARRY P. BARSETTI, REBECCA KIDDER,
DANA K. DRENKOSKI, JOHN CANDIDO, ALAN BYARD,
ANDREW SIRKIS, NATIONAL RIFLE ASSOCIATION, SECOND
AMENDMENT FOUNDATION, CALIFORNIA ASSOCIATION OF
FIREARM RETAILERS, LAW ENFORCEMENT ALLIANCE OF
AMERICA, SAN FRANCISCO VETERAN POLICE OFFICERS
ASSOCIATION**

No.:A115018

Plaintiffs-Respondents,

vs.

**THE CITY AND COUNTY OF SAN FRANCISCO, SAN FRANCISCO
POLICE CHIEF HEATHER FONG in her official capacity, SAN
FRANCISCO POLICE DEPARTMENT**

Defendants-Appellants.

County of San Francisco Case No.: CPF05505960
The Honorable James Warren

**RESPONDENTS' MOTION FOR JUDICIAL NOTICE
OF LEGISLATIVE HISTORY DOCUMENTS;
MEMORANDUM IN SUPPORT THEREOF**

C. D. Michel- S.B.N. 144258
Don B. Kates - S.B.N. 39193
Glenn S. McRoberts - S.B.N. 144852
Thomas E. Maciejewski - 222736
TRUTANICH • MICHEL, LLP
180 East Ocean Blvd., Suite 200
Long Beach, CA 90802
Telephone: 562-216-4444
Facsimile: 562-216-4445
Attorneys for Petitioners/Respondents

INTRODUCTION

Petitioners/Respondents move this court to take judicial notice of documents from the legislative history of Penal Code section 12026 and the Unsafe Handgun Act, Penal Code § 12125, *et seq* (“UHA”). These documents are attached hereto as exhibits.

This motion is based upon the newfound importance of Section 12026 in this appeal. Specifically, before the trial court, Appellants conceded that the trial court was bound by the determination of this court in *Doe v. City of San Francisco* (1982) 136 Cal.App.3d 509, that Appellants’ ordinance conflicted with Section 12026. (Appellants’ Appendix, Volume 3, Tab 14, p. 0481 at lines 7-13, 23-38 (hereafter 3 AA 14:0481 at lines 7-13, 23-38).) Due to this concession, Petitioners/Respondents spent relatively little time or effort arguing the meaning of Section 12026 or the legislative history behind that section. (See Reply to City’s Opposition to Motion for Writ of Mandate, 4 AA 27:0630-0656 (containing no discussion of the legislative history of Section 12026.))

Now that the matter has proceeded to the appellate level, Appellants argue that this court should reverse its earlier determination in *Doe v. City of San Francisco* that Penal Code section 12026 conflicts with a complete ban on handgun ownership. (Appellants’ Opening Brief at pp. 28-34.) The

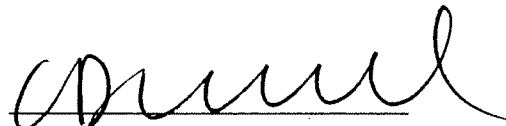
meaning and legislative intent behind section 12026 thus take on new significance now.

This motion is also based upon the fact that appellants argue that the Unsafe Handgun Act does not preempt Proposition H as the City ordinance serves a different purpose from the UHA. Namely, appellants argue that the UHA sought to ensure that the public owned only safe handguns and that the UHA had no crime prevention purpose. (Appellants' Opening Brief at pp. 23-26.) The attached documents show the UHA did have crime prevention as one of its purposes.

This motion is based upon the attached memorandum of points and authorities, the record on appeal, the appellate briefs, and upon all of the pleadings and records in this case.

DATED: May 1, 2007

TRUTANICH • MICHEL, LLP

A handwritten signature in black ink, appearing to read "C. D. Michel", written over a horizontal line.

C. D. Michel

Attorney for Petitioners/Respondents

MEMORANDUM

LEGAL STANDARD

Judicial Notice is available for legislative history under Evidence Code section 452 (c). (*In re S.B.* (2004) 32 Cal.4th 1287, 1296, fn. 3; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1135, fn 1.) Committee reports and letters from supporters of laws later enacted are judicially noticeable sources for understanding that legislation and its purposes. (*People v. Cruz* (1996) 13 Cal.4th 764, 774, fn. 5.)

As many of the material presented herewith were provided to us by the Legislative Intent Service, the following authorities are pertinent: *Gaetani v. Goss-Golden West Sheet Metal Profit Sharing Plan* (2000) 84 Cal.App.4th 1118, 1126 (“We, like the trial court, take judicial notice of these materials, most furnished by a commercial firm, the Legislative Intent Service.”); *Arya Group v. Cher, Inc.* (2000) 77 Cal.App.4th 610, 614, fn. 3; *Commodore Home Systems, Inc. v. Superior Court* (1982) 32 Cal.3d 211, 218, fn. 9.

Further, periodicals may be subject to judicial notice under Evidence Code section 452 (h). (*Seelig v. Infinity Broadcasting Corp.* (2002) 97 Cal.App.4th 798, 808, fn. 5.)

Under Local Rule 9, “[a] motion seeking judicial notice pursuant to

Evidence Code section 452 must include a showing of the relevance of the information to be judicially noticed.”

ARGUMENT

In the trial court, the City conceded that Section 3 of Proposition H conflicted with state law as construed by *Doe v. City and County of San Francisco* (1982) 136 Cal.App.3d 509:

Section 3 conflicts with Penal Code Section 12026(b) as *Doe* interpreted that subsections. *Doe* “infer[red] from Penal Code Section 12026 that the Legislature intended to occupy the field of residential handgun possession to the exclusion of local government entities. Section 12026, as thus interpreted cannot be reconciled with Section 3, which prohibits most City residents from possessing a handgun within city limits including their homes.

(Page 13 of City’s Memorandum of Points and Authorities at lines 7-13; 3 AA 14:0481 at lines 7-13 (citation omitted.))

Due to this concession, at the trial court level Petitioners spent relatively little time and effort arguing that Section 12026 conflicts with the ordinance’s ban on handgun possession. (See Reply to City’s Opposition to Motion for Writ of Mandate, 4 AA 27:0630-0656 (containing no discussion of the legislative history of Section 12026.))

Now that the matter has proceeded to the appellate level, Appellants argue that this court should reverse its earlier determination in *Doe v. City of San Francisco* that Penal Code section 12026 conflicts with a complete ban on handgun ownership. (Appellants’ Opening Brief at pp. 28-34.) The

meaning and legislative intent behind section 12026 thus take on new significance now. Appellants therefore request that this Court take judicial notice of documents selected from the legislative history of section 12026 as an aid in determining the legislative intent. In particular, these documents support *Doe*'s interpretation of Penal Code section 12026 that in enacting and amending Section 12026, the State Legislature intended to create a right to possess handguns within the home and foreclose local legislation to the contrary. (*Doe, supra*, 136 Cal.App.3d 509, 518.)

Moreover, appellants argue that the Unsafe Handgun Act (Penal Code § 12125) sought to ensure that the public only had access to safe handguns and that the UHA served no crime prevention purpose. (Appellants' Opening Brief at pp. 23-26.) The attached documents show the UHA did have crime prevention as one of its purposes. The attached documents also show that various parties who supported the UHA understood that, without amendment, the bill would preempt local ordinances.

DOCUMENTS

Respondents specifically request that the Court take judicial notice of the following items:

Penal Code § 12026

Exhibit 1: San Francisco Chronicle article “New Firearms Law Effective on August 7.” This article was included among the legislative history materials provided to Respondents by the Legislative Intent Service for the initial version of Penal Code section 12026, passed in 1923. The article states that “It was largely on the recommendation of R.T. McKissick, president of the Sacramento Rifle and Revolver Club, that Governor Richardson” signed the 1923 Act. The article quotes R.T. McKissick as saying that the measure introduced a “measure of sanity into firearms legislation, so as to provide adequate punishments upon an increasing scale for the habitual gunman and, at the same time, permit law-abiding citizens to continue to own firearms for home defense and other legitimate use.” The article further provides that the bill provided exemptions and exceptions “to preserve the rights of those using firearms for competition or hunting or for protection in outing trips.”

Exhibit 2: Magazine article “Pistol Regulation: Its Principles and History.” This article was originally printed in *The American Rifleman* in its issues of December 1930 to July 1931. The

article was also included among the legislative history materials provided to Respondents by the Legislative Intent Service for the 1923 version of Penal Code section 12026. The article, on page 28, notes that work on the Uniform Firearms Act began in 1922 and that the Act was adopted in 1923 in California (as Penal Code section 12026), North Dakota, and New Hampshire. The article, pages 29 to 30, further states the purpose of the Uniform Firearms Act:

The act does not attempt the impossible. It does not make the fatal mistake of disarming the law-abiding citizens of the community in the vain hope of keeping pistols in the hands of criminals. It does not place insuperable or intolerable obstacles in the way of the purchase and possession of hand guns by law-abiding citizens. It does not diminish the forces opposed to crime; consequently, it does not aid the criminal while masquerading as a crime-prevention statute. It does what can be done to reach the criminal by making it more difficult and dangerous than it now is for him to use pistols in the commission of a crime.

Exhibit 3: Attorney General's analysis of 1988 Amendment to Penal Code section 12026. This was among the legislative history documents provided to Respondents by the Legislative Intent Service. The third paragraph of page three of the analysis explicitly refers to Section 12026 as provided a right to possess handguns within the home: "With the recently

expanded rights to carry handguns in locked containers and this bill's expanded right to carry loaded and concealed handguns at business and residence locations, the need for CCWs would logically diminish."

Exhibit 4: Legislative Counsel opinion of 1989 amendments to Penal Code section 12026. The Legislative Intent Service provided this document to Respondents among the legislative history documents it found for SB 1388, the 1989 amendments to Penal Code section 12026. The first paragraph of the "Analysis" section of the document (pages 1 and 2 of the letter) refers to Penal Code section 12026 as creating a right to possess handguns within the home: "Existing law provides in Section 12026 of the Penal Code, with limited exceptions, that any citizen of the United States, over the age of 18 years, who resides or is temporarily within this state may, among other things, own, possess, keep, or carry anywhere within the citizen's place of residence any pistol, revolver, or other firearm capable of being concealed upon the person."

Exhibit 5: The January 4, 1995 version of AB 92, the 1995 amendments to Penal Code section 12026. This is the first version of AB

92, and it was provided to Respondents by the Legislative Intent Service. Pages 1 and 2 of the bill refer to Penal Code section 12026 as providing a right to possess a handgun within the home: “Existing law provides that notwithstanding this prohibition, any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state and who is not within certain excepted classes shall not be prohibited from owning, possessing, keeping, or carrying, either openly or concealed, anywhere within his or her place of residence, place of business, or on private property a concealable weapon.”

Exhibit 6: The final version of AB 92, which was approved by the Governor. This document was provided by the Legislative Intent Service to Respondents among the legislative history to the 1995 amendments to Penal Code section 12026. Page 1 of the final version of AB 92 retained the language from the initial version of AB 92, referring to Section 12026 as creating a right to possess handguns within the home.

Exhibit 7: Report of the Senate Committee on Criminal Procedure on the 1995 amendments to Penal Code section 12026. This

document was included in the legislative history documents provided to Respondents by the Legislative Intent Service. Page 2 of the report notes that “existing exceptions exist to the law against carrying concealed weapons in public; those exceptions specifically allow specified persons over the age of 18 to carry, openly or concealed, any concealable handgun at a person’s legal residence, place or business, or in private property owned or lawfully possessed.”

Unsafe Handgun Act

- Exhibit 8: Letter from City of San Jose to Senator John Vascancellos warning various committees of the Legislature that the UHA would preempt San Jose’s Saturday Night Special Ordinance and those of various other cities.
- Exhibit 9: City of San Jose’s proposed Non-Preemption Amendment to the UHA, dated April 1, 1999.
- Exhibit 10: The original version of the UHA, proposed on December 7, 1998. This version of the UHA does not contain the Non-Preemption Amendment suggested by the City of San Jose.
- Exhibit 11: The version of the UHA resulting from the Assembly’s June 2, 1999 amendment to the UHA. Page 2 of this version of the

bill contains the amendment language suggested by the City of San Jose: “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.”

Exhibit 12: The next version of the UHA, amended by the Assembly on June 16, 1999. Page 2 of this version of the bill shows the City of San Jose’s proposed amendment struck out.

Exhibit 13: The final version of the UHA, amended by the Assembly on August 16, 1999. This version of the bill also does not contain the City of San Jose’s proposed non-preemption amendment.

Exhibit 14: The Senate Committee on Public Safety’s report on the version of the UHA bill amended on April 5, 1999. On page 9, section 7, this report advises that April 5, 1999 version of the UHA bill, which did not contain the City of San Jose’s non-preemption amendment, would preempt existing local Saturday Night Special regulations:

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

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. Pages 5 through 7 of the committee report show that versions of the UHA had been passed by the State Legislature twice before as SB 500 and SB 1500. These bills were vetoed by the Governor.

- Exhibit 15: City and County of San Francisco Master Report. This document shows that after the passage of the state UHA, the City of San Francisco repealed its own Saturday Night Special Ordinance.
- Exhibit 16: The City of San Francisco's Saturday Night Special ordinance (repealed). The findings to the ordinance say that the ordinance's purposes included curbing gun crime as well as protecting gun buyers and the public from gun accidents.
- Exhibit 17: Letters from various organizations and local governments urging enactment of the UHA and praising the UHA not only as a consumer protection measure but also as a measure to reduce crime by reducing the overall number of guns, and especially because cheap guns were disproportionately attractive to those who should not be able to have guns.
- Exhibit 18: Letters in support of the previous attempts of the state legislature to enact the UHA. These letters show that support

for SB 500 and SB 1500, the prior attempts, was also
premiered upon a crime prevention strategy.

DATED: May 1, 2007

TRUTANICH • MICHEL, LLP

A handwritten signature in cursive script, appearing to read "C. D. Michel", written over a horizontal line.

C. D. Michel

Attorney for Petitioners/Respondents

EXHIBIT 1

Possible Unconstitutionality of Clause Provided for in Drafting

Stringent regulations against carrying concealed firearms or explosives and prohibition against possession of other deadly weapons become effective on August 7, under the Hawes bill signed by Governor Richardson.

The new measure will install a uniform licensing system for carrying concealed weapons. Licenses now in existence will become inoperative December 31, 1924.

U. K. URGED

Aimed at disarming the lawless, the bill provides exemptions and exceptions to preserve the rights of those using firearms for competition or hunting or for protection in outing trips. It was largely on the recommendation of H. T. McKisack, president of the Sportsmen, Rifle and Revolver Club, that Governor Richardson approved the measure.

McKisack classed it as a measure that introduces "an element of sanity into firearms legislation, so as to provide adequate punishments upon an increasing scale for the habitual gunman and at the same time, permit law-abiding citizens to continue to own firearms for home defense and other legitimate uses."

WELL SIMILAR

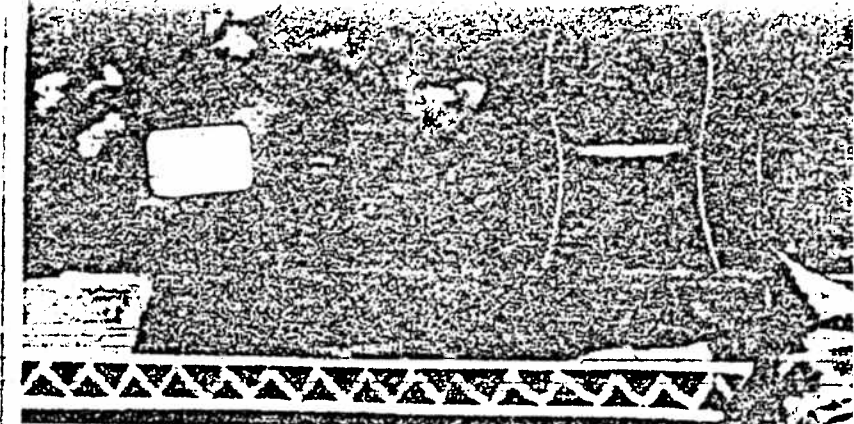
The bill, according to McKisack follows almost literally one offered in the United States Senate by Senator Capper and advocated by associations interested in the manufacture, sale and legitimate use of pistols and revolvers, as a model for a uniform bill to be introduced in each State. "It is frankly," he says, "an effort upon the part of those who know something about firearms to forestall the flood of fanatical legislation intended to deprive all citizens of the United States of the right to own and use, for legitimate purposes, firearms capable of being concealed upon the person."

The new measures change existing law by making the carrying of barred weapons such as blackjack, a felony instead of a misdemeanor. The provision against carrying explosive also is new.

ACT EXPLAINED

Possible unconstitutionality of the provision against possession of weapons by non-naturalized residents was admitted in McKisack's letter to the Governor urging signing of the bill, but he pointed out that if this clause should be held invalid the rest of the act will not be affected and that if it can be sustained that it will have a salutary effect in checking long wars among the Chinese and vendettas among our people who are of Latin descent.

The provision for additional sentences, where weapons are used in committing a felony, is one with a sliding scale. The first time the added penalty is from five to ten years; the second from ten to fifteen; the third from 15 to 25 years, and only on the fourth offense it is possible to add more than 25 years to the sentence imposed for the crime itself.



MAJ. KENDRICK STIRS FRENCH TO CHEERING

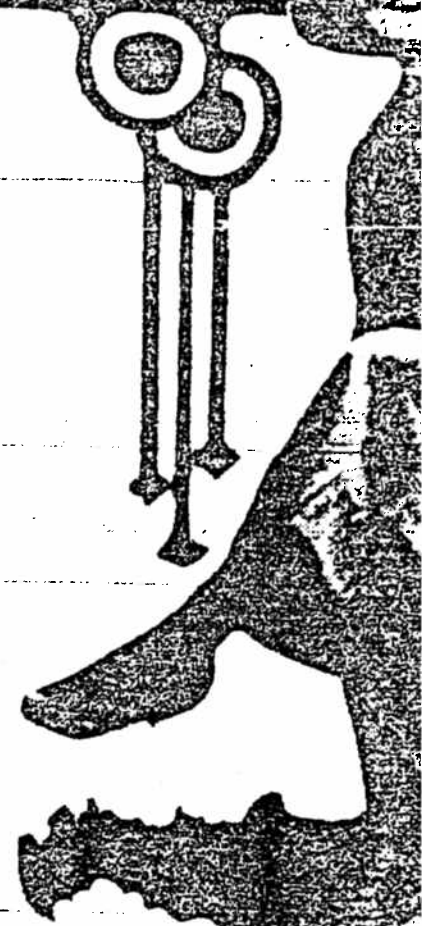
Legion Leader Supports Ruhr Invasion to Collect Reparations From Germany

Thousands of members of the city's French colony and their friends met yesterday afternoon at Dreamland Auditorium to celebrate the 13th anniversary of the Fall of the Bastille. When Major Charles H. Kendrick, former national vice-commander of the American Legion and an officer of the Legion of Honor, declared that the United States stood solidly back of the French nation in its present course to get reparations and restitution from Germany, the throngs stood up and cheered.

The occasion was marked by the presence of the consuls of foreign nations and Mayor Rolph, who sat on the platform during the speeches, songs and entertainment features. Julien Neltner, consul-general of France, was an impressive figure in his full dress uniform which glittered with medals. His speech, which was delivered in French, rang with the love of country. He read messages of greeting from President Poincare and from King Albert of the Belgians.

Major Kendrick, in his speech upholding France in her present actions, said:

"Restitution and reparation must be made by Germany. In spite of all that you may have heard and read, be assured that America stands solidly behind the French nation in its hour when it is trying to get restitution and reparation." Other speakers emphasized the



Miss Constant

The consuls of many nations guests of honor at the French on the Bastille, which was given in I afternoon, attended by thousands friends.

Greatly

Urge You

Som

EXHIBIT 2

PISTOL REGULATION

Its Principles and History

*A careful discussion from the viewpoint of
the lawyer and sportsman of a problem
which is attracting nationwide attention.*

Originally printed in
THE AMERICAN RIFLEMAN
Issues of December 1930 to July 1931

Revised 1964

by
NATIONAL RIFLE ASSOCIATION
1600 Rhode Island Ave., N.W.
Washington, D. C.

By

KARL T. FREDERICK, A. M.; LL. B.
(1881-1963)

Special Consultant, National Conference of Commissioners on
Uniform Laws, Firearms Committee

Member

National Crime Commission, Committee on Firearms Regulation
American Bar Association
New York State Bar Association
Association Bar of the City of New York

Foreword

The regulation of the purchase, possession, and use of firearms, whether by Federal, State, or local laws or ordinances, is a matter of vital concern to all that great number of men, and women too, who love their innocent use. Publicity seekers or reformers of the type who are prepared on ten minutes' notice to cure any and every social ill, whether real or fancied, by the time-worn expedient of "passing another law," have busied themselves for many years with proposals of every conceivable kind with respect to firearms. No year passes without the accompaniment of numerous legislative proposals to restrict or abolish the manufacture, possession, or use of firearms and ammunition. Fortunately, most of these die unborn; but there is hardly a State in the Union whose statute books do not contain laws relating to firearms. Many of the bills which have been proposed from time to time have been weird in the extreme. Nevertheless earnest study and serious thought have been given to the subject by a few persons, and some of the legislative proposals which have resulted have been intelligent and well designed pieces of work.

While agitation has been chiefly directed at pistols and revolvers, it must be apparent to every thoughtful person that this is but a first step toward the restriction or destruction of all firearms. Almost every argument which is used against the handgun is equally applicable to rifles and shotguns. The sawed-off shotgun is almost as common a tool of crime as the pistol, and it can hardly be denied that it is a much more dangerous weapon. Other types of firearms would undoubtedly continue to be used in the perpetration of crime even after pistols were abolished. The reformers would not, however, admit the failure or unsoundness of their program. They would merely assert the necessity of extending it to all firearms and ammunition, and we would then come face to face with the proposition of completely disarming the nation. The battle against unreasonable pistol legislation is, therefore, not one which is of interest solely to pistol-shooters. It is of vital concern to all riflemen and shotgun-shooters. For that reason the National Rifle Association of America has been and will continue to be alert and active in the interest primarily of shooters as a class, and in a larger sense in the interest and for the sake of the general public welfare. The safety, indeed the very existence of the nation may depend in the future, as it has at times depended in the past, upon the familiarity and efficiency of the whole people in the use of fire-

K. T. F. — 1930

About The Author

FOR years a prominent New York attorney, the late Karl T. Frederick achieved national prominence in three fields of endeavor outside his profession — competitive shooting, firearms legislation and conservation.

Mr. Frederick first achieved national renown in shooting when he won first place in the 50-meter Free-Pistol Match at the 1920 Olympic Games in Belgium. He was a member of the Executive Committee of the United States Olympic Association from the time of its founding in 1920, and was, at the time of his death, Chairman of the U. S. Olympic Pistol Shooting Committee. As recently as 1948, Mr. Frederick captained the U. S. Shooting Team at the Olympic Games in London, England. Included in his shooting honors is the winning of the U. S. National Individual Pistol Championship in 1921.

Probably in the field of firearms legislation, Mr. Frederick made his greatest contribution to the rifle and pistol shooters of America and to all gun owners. With a professional background which included a Master of Arts degree from Princeton and a Bachelor of Laws degree from Harvard, Mr. Frederick brought into the fight against unwise gun laws both a knowledge of firearms control legislation that was unsurpassed and a zeal for the protection of the rights of shooter-sportsmen that never faded.

In the gangster era of the early 1930's, when national attention was focused on the guns of the underworld, it was Karl Frederick and Lt. General Milton A. Reckord, then NRA Executive Vice President, who virtually alone fought and defeated the highly restrictive features of the National and the Federal Firearms Acts as originally proposed.

Mr. Frederick, a former President of the National Rifle Association and member of its Board of Directors and Executive Committee, contributed many articles on firearms legislation to the *AMERICAN RIFLEMAN* and other publications. He served on the NRA Committee on Firearms Legislation until 1962 and was the chairman for the first two years of its existence, 1957 and 1958.

Mr. Frederick also devoted a lifetime interest and effort to the cause of conservation, both nationally and in his home State of New York. He was the organizer of the New York State Conservation Council and served as its President from 1935 to 1942, and continuously then as Chairman of its Board of Directors. He was a Director of the National Wildlife Federation, a Trustee of the American Wildlife Foundation, and a Director and Chairman of the Executive Committee of the American Forestry Association. He was for many years an ardent and successful big-game hunter. He was a member of the Boone and Crockett Club and of the Camp Fire Club of America, an organization which he served as President from 1926 to 1928.

Pistol Regulation Its Principles and History

The Problem

Crime is rampant and appears, for the present at least, to be on the increase. More and more of it seems to be accompanied by violence. In 1962, there were 2,048,370 serious crimes reported — a six percent rise over 1961.

Crime in the last five years has increased *five times* faster than our nation's population. Four serious crimes per minute are recorded on the crime clock, according to the Federal Bureau of Investigation.

Firearms were used as a fatal weapon in 54-percent of the murders committed in 1962. Cutting instruments were used in one of every four killings.

Arrests of young people under 18 years of age were up nine percent over 1961.

Crimes against the person — murder and nonnegligent manslaughter, aggravated assault and forcible rape — make up eight percent of the total 2,048,370 serious crimes, an increase of four percent over the previous year.

The property crimes of robbery, burglary, larceny (\$50 and more) and auto theft rose seven percent in volume and comprised 92-percent of the serious crimes.

General crime increases were recorded in all cities when grouped by population size ranging from five percent in cities from 100,000 to 250,000 to 11-percent in cities with 500,000 to 1,000,000 inhabitants. The metropolitan counties surrounding large American cities recorded a crime experience similar to that of cities with a five-percent increase, whereas the rural counties reported an over-all two-percent decrease.

Geographically, the trend ranged from a nine-percent increase in the Northeastern and Western states to three-percent in the North Central states.

The 1962 nationwide crime trend was 13-percent above the average experience recorded during the three-year period 1959-1961. With the exception of murder and nonnegligent manslaughter, all offenses show increases over the previous three-year average, particularly the property crimes of larceny (\$50 and over), auto theft and burglary. These latter offenses, if only because of their sheer volume, are serious crime problems both for the local police and the community.

Generally, the highest crime rates are reported by those states experiencing the fastest growing population.

There were 113 law enforcement officers killed by felons during the three-year period 1960-1962. An analysis of the types of weapons used to kill them reveals that 109 officers were shot to death. In 86 of these incidents a revolver or automatic pistol was used. Shotguns and rifles were the instruments of death on 23 occasions. Knives were used as murder weapons in two of the cases.

Involved in these murders were 142 individuals, 80-percent of whom had records of prior arrests; 75-percent had been convicted on one or more occasions. Leniency in the form of probation or parole had been previously granted to 56-percent of the offenders, and 37-percent were on parole or probation at the time they murdered a law enforcement officer; not exactly law-abiding citizens!

It is interesting to note that the total number of murder victims by firearms in 1962 was 3,931 — compared with 40,900 deaths in motor vehicle accidents.

When we look at the money losses through crimes of violence, it is impossible to submit accurate figures. Experienced estimates based on the data available to society companies and similar institutions indicate, however, that the money losses through crimes of violence amount to less than 5-percent of the total annual crime losses of the nation. The losses which are suffered through fraud, in its various forms, are incredibly greater than those which occur from violence.

No well-informed person can deny that the crime situation is a very serious one, and it has always been a serious one. We cannot prove the statement by statistics, but the student of history will conclude that crimes of violence were much more prevalent in the Middle Ages and in early times than they are at the present time. Inefficient as it is in preventing crime, society is much better organized, has much better means of communication, and is much better prepared to detect and punish crimes of violence than it used to be. The days have passed when it is unsafe to pass through a city street at night without an armed guard. A trip from one city or town to another no longer involves serious elements of personal danger. And this improvement has come about coincidentally with and partly because of the development of firearms.

Pistols have been in common use for only three or four hundred years. They have been manufactured in large quantities only for the last one hundred years. *During that time personal safety has become the rule rather than the exception. We cannot avoid the conclusion that pistols are not a cause of crime. Can did not need a pistol to kill Abel. Brutus slew Caesar without a pistol. The Borgias eliminated their enemies without the aid of firearms. Robin Hood and his merry men were not dependent upon the handgun for the success of their ambushes.*

which was invented about the middle of the fifteenth century. By this process the mechanical mixture was dampened, worked into grains, crushed to the requisite size, sieved for uniformity, and glazed by adding graphite in the corning mill to prevent deterioration from dampness.

For hundreds of years powder was commonly made by the individual for his own use. Those who made it frequently employed an interesting testing device known as an "éprouvettes," in which a small charge of powder was set off with a flintlock. This revolved a wheel against a spring and registered the strength of the powder. These "éprouvettes" are frequently to be found in the hands of collectors.

Smokeless powder, of course, is a more difficult chemical compound. As has been suggested, it can readily be procured from rifle or shotgun cartridges, but its use is by no means necessary to the criminal. Ordinary black powder served the world very well for hundreds of years and will easily supply the needs of any crook who experiences difficulty in providing himself with the more modern powders.

To sum up: laws which attempt to disarm criminals by making it impossible for them to procure pistols or ammunition are inevitably bound to fail. Instead of accomplishing the desirable object of disarming the crook, they can accomplish little in that direction. Such laws, however, will disarm the law-abiding citizen and tend to make him helpless against the raids of the criminal. The legitimate uses of the pistol vastly outnumber its illegitimate uses in the approximate proportion of 98 to 2. Laws which seek to abolish pistols, consequently, are not only impractical, unworkable, and unenforceable but are, in addition, harmful to society because they place the honest man at a distinct disadvantage in the face of crime. They inflict injury upon the honest part of society, without interfering to any appreciable extent with the dishonest and criminal element of society. Their result is exactly the opposite of that which is intended.

The Constitution

Before we take up the consideration of various statutory controls which have at one time or another been proposed or adopted, we shall refer to a constitutional provision which is believed by many laymen to afford general protection against laws intended to abolish or restrict the possession and use of pistols. This provision is the Second Amendment to the Constitution of the United States and reads as follows:

"A well-regulated militia being necessary to the security of the state, the right of the people to keep and bear arms shall not be infringed."

The first ten amendments to the Federal Constitution constitute what is generally termed "A Bill of Rights," and were adopted shortly after the adoption of the Constitution to relieve the minds of many who feared that, in creating a Federal Government, a new creature was being brought into existence which might disregard principles of

English liberty which had been established after long and bitter struggles. The Second Amendment, however (referring to the right of the people to keep and bear arms), does not afford protection against state firearms laws. The reader will recall that the original states thought of themselves as separate, complete, and independent sovereignties that voluntarily joined in a Federal Union. To this Federal Union or Government they each gave up under the Constitution certain rights and powers, but anything which was not definitely surrendered to the Federal Government was reserved to the states. This was explicitly recognized and stated in the Tenth Amendment, which declares:

"The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the states respectively or to the people."

Consequently, the Federal Government cannot pass laws applicable outside of Federal territory and concerning such ordinary matters as marriage and divorce, robbery or murder, or intrastate commerce. The provision regarding the bearing of arms contained in the Second Amendment applies only to the Federal Government, not to the states.

To carry the matter still further, we find that a number of state constitutions contain provisions similar to that found in the Second Amendment. (In New York State such a provision, while not contained in the Constitution, is found in a general statute known as the "Civil Rights Laws.") The question of the constitutionality of laws regulating pistols may frequently, therefore, be raised in the state courts. Indeed, it has been raised on a number of occasions. The decisions of the courts have generally been to the effect that laws regulating the possession or use of pistols were not unconstitutional but were a valid exercise of the "police power" of the state. The courts have been extremely reluctant to declare such statutes to be unreasonable. They have sometimes expressed grave doubts as to the wisdom of the legislation but have taken the position that the matter of wisdom was one of the legislature to determine. Constitutional provisions which set forth the right of citizens to keep and to bear arms will not protect us against vicious and undesirable statutes affecting pistols. Protection lies in an enlightened public sentiment and in intelligent legislative action. It is not to be found in the United States Constitution.

Scope of Federal Regulation

One often hears the statement that "we ought to have a Federal law against pistols." Such statements are made only by the uninformed. Apart from its power over the District of Columbia and federal territories, the National Government has no power under the Constitution to regulate the manufacture, sale, use or possession of pistols except as it may do so under its general power to regulate interstate or foreign or to tax commerce. It has otherwise no more power to pass a national pistol law than it has to pass a national burglary or murder law.

The Present Trend

Signs are not entirely lacking that public sentiment is becoming more enlightened, and this fact is certain to have its effect upon legislative action. We all know that novel nostrums are frequently foisted upon an unsuspecting or uninformed public. Time and experience, however, usually bring enlightenment. Much harm can be done while the lesson is being learned. So many times have "reformers" proved to be false guides that the very name of "reformer" has fallen into disrepute. "Reformers" are frequently fanatics who are constitutionally incapable of sound judgment, unable to see any but their own points of view, and intolerant of the opinions and rights of others. Unwilling to expend the time and effort necessary to convince by an appeal to reason, or unable to sustain their theses in a fair and open forum, they resort to the short cut of "a new law" and strive to silence by abuse those whose logic cannot be answered. Such, unfortunately, has been the course of many pistol "reformers," and our statute books bear all too many traces of their misguided efforts, while crime and criminals — their ostensible and professed enemies — flourish and grow fat. This result, which they profess to abhor, is due in part at least to the activities of these self-appointed saviors of society.

Signs, as we said, are not entirely lacking, however, of the reassertion of public intelligence. Public opinion appears, at times to be awakening to the folly of disarming the law-abiding in the hope of preventing crime. One indication of this awakening is to be found in the not-infrequent refusals of legislatures to adopt extreme, absurd and drastic bills.

Another hopeful indication is to be found in the increasing irritability of "pistol prohibitionists." One constantly hears that the suppression of the pistol evil is prevented by rich and active "lobbies" which haunt the legislative halls. Such statements are not credited by anyone who has any knowledge of the facts, but they doubtless impress a certain class who are prepared to believe any statement, if only it is sensational. One may safely assert that no evidence can be produced of any extensive or organized lobbies in connection with pistol legislation other than those which have been organized by the "pistol prohibitionists" themselves.

Encouraging, indeed, is such evidence of the force of public sentiment aroused to action. Upon such force of public sentiment and good sense must we depend for our protection against the folly of the anti-pistol agitation.

Self-Evident Principles

In this study we should bear in mind certain principles which appear to be axiomatic and which we may state as follows:

1. A law which for any reason is incapable of accomplishing its object with reasonable success is harmful and undesirable.

2. A criminal statute which is intended to affect any considerable number of persons and which is not voluntarily obeyed by the great majority of that group is certain to fail. Laws depend chiefly for their effectiveness upon voluntary acquiescence.

3. Laws relating to pistols have but one legitimate general purpose, namely, to hinder or prevent the use of pistols in crimes of violence. (The legitimate and desirable uses of pistols have already been enumerated. They outnumber the improper uses in the approximate ratio of 98 to 2.)

4. A pistol law which is incapable of preventing the frequent use of pistols in crime, but which tends to prevent their use for self-defense or other desirable purposes, will inevitably defeat its own object. It will increase crime by decreasing the means for resisting crime.

The foregoing principles seem to be almost self-evident. But it is apparent that they are not appreciated, or that they are often overlooked. In the end, however, they cannot be ignored. Like the laws of nature they are almost inevitable.

State Regulation

We have now considered the pistol problem from what we may call the national point of view. We have seen that the Federal Government has no direct jurisdiction over the subject except in the District of Columbia and in other federal territory. It has no general police power upon which it may base regulatory legislation. It can act only indirectly through its constitutional power over the mails and over interstate and foreign commerce. Attempts to prevent the use of pistols in crimes of violence in these indirect ways will generally, from the very nature of the case, prove ineffective; they fail to take into account the fact that in the overwhelming majority of cases the acquisition, transportation, and use of pistols are legitimate and desirable.

The states alone, in our divided system of government, have power to legislate directly upon the subject. Local municipal ordinances derive their authority wholly from the state as the fountain head. We have come, therefore to the subject of state laws affecting pistols.

The Sullivan Act

The most drastic statute to be found in any state, as well as the worst from many standpoints, is found in New York and is commonly known as the Sullivan Law. It was originally enacted in 1911 and has been amended many times and, in many respects, almost always in the direction of greater severity and increased restriction. Indeed, it is the prototype of all restrictive pistol legislation in this country.

Its provisions, with respect to the city of New York, differ in detail from those relating to the rest of the state, and are considerably more onerous and offensive. This tendency toward severity and increased

restriction has been encouraged by the city authorities in spite of the fact that "fear of the Sullivan law is no deterrent to crime."

The outstanding provision of the Sullivan law is that no person may purchase, possess, or carry a firearm capable of being concealed upon the person without procuring a license or permit. Outside the city of New York such licenses may be granted by a judge or justice of a court of record and are generally stated to be good until revoked. Some judges require the approval of the local police authorities before granting permits. In some localities, it has been the practice, at comparatively frequent intervals, to revoke all permits, thus requiring holders to incur the trouble, expense, and risk of new applications. The only apparent reason for this procedure is to add to the local revenue. The mere possession of a pistol without a license is a crime. The unfortunate person whose license has expired or been revoked without cause in this way is obviously open to, and indeed is not infrequently in fact the subject of, early arrest and consequent criminal proceedings. On the other hand, in many rural parts the law is completely ignored in so far as enforcement is concerned and only an occasional individual troubles himself with the matter of obtaining a license.

A resident of the city of New York who desires a pistol permit first goes to his police station house for a blank application. After filling it out, giving a full personal description, references, and his reasons for desiring a permit, he swears to the statements before a notary and procures two small photographs of himself. He then returns to the station house, pays a substantial fee and submits to fingerprinting as though he were a felon.

If the applicant has unwisely stated that he wants a permit so that he may indulge in the innocent and desirable practice of target-shooting, he is likely to be told gruffly that that is not a good reason and that his application will be disapproved. If he explains that he has received anonymous letters threatening his life or the life of some member of his family, he may be informed that writers of anonymous letters are cowards and that in any case the police will protect him. *If he innocently states that he desires a pistol for the protection of his home and his family, he may receive a lecture to the effect that a pistol is useless for defense; that it is better to love his watch than his life; that he probably could not hit a barn door even if he had a chance to shoot; that he and his family will be much safer without firearms; that nobody ought to have them; and that his application is not likely to be granted.* He will probably be asked whether he already possesses a pistol or revolver, and if he has, he may be told that he must bring it around at once and turn it over to the police as he is already subject to arrest for violation of the Sullivan Law. If he persists, however, and is fortunate, he may in the course of two to six weeks receive a notice that his application has been granted. He must then for the third time journey to the police station and obtain his permit bearing his picture, signature, description, and fingerprints. In the city of New York, permits may be granted

exclusively by the Police Department, and there is no appeal from a refusal, which may be based on the merest whim.

If the applicant has stated that he does not already own a pistol, the permit will bear a coupon, upon the presentation and removal of which he may purchase one from a dealer. But if he already owns a pistol, the coupon will be removed before the permit is delivered. Unhappy is the man who tries to explain that he wants to procure a second pistol. That any man can, under any circumstances, have need for more than one pistol is beyond the comprehension of the Police Department. In connection with the granting of a permit, the citizen is told that upon its expiration he must surrender his gun to the police. This polite method of confiscation without "due" or any other "process" or warrant of law is "standard practice."

All of the experiences detailed above have happened either to the writer or to his friends. This procedure, involving hundreds of times the trouble and humiliation incident to procuring an automobile permit, must be endured annually in spite of the well-known fact that the automobile is just as truly the "tool of the criminal" as is the pistol. The official attitude in New York is that no persons other than the military, officers of the law, and professional guards have any rights of any kind to the possession or use of pistols, and that licenses permitting them to own such firearms are great privileges, to be bestowed only in extraordinary cases. So far as any theory exists for the justification of the law, it is that the way to stop crimes involving the use of pistols is to disarm the entire population, except in a few favored cases.

Results of The Sullivan Law

Let us look at the results of the Sullivan law. Statistical data is difficult to obtain; however, the New York City Police Department's Report for 1963, speaks in detail with respect to the ineffectiveness of this law in keeping pistols out of the hands of criminals.

The Department reports an 8.1 percent rise in homicides for 1963, compared with the previous year. Of the 549 homicides committed during 1963, guns were used in 138 cases; knives, sharp instruments and physical force accounted for the others.

Let us consider briefly why the Sullivan law has been such an abject failure; why it has increased rather than diminished crimes of violence in New York.

The folly of the law lies in the fact that to a great extent it disarms the decent and law-abiding citizen through its requirement of a license to purchase or possess a pistol. We must not be understood as asserting that the purchase of pistols should not be surrounded with safeguards. A license to purchase, however, places upon the citizen a burden of hardship which is an effective bar to his procuring a weapon for legitimate purposes in the case of all but the most determined person. This is proved by the fact that during the first year of the Sullivan law the purchase of pistols by legitimate buyers in

New York fell off by approximately 94 per cent. That such a result was not desirable is shown by the steady increase in homicides and other crimes of violence and the rapid rise in robbery — insurance rates since that time.

The worst feature of the Sullivan law, however, is the provision requiring a license to possess a pistol. Such a license provision in New York City reaches the acme of absurdity because it must be renewed annually. In other parts of the state it is slightly less troublesome because licenses may be granted for longer periods. Mere failure to renew a license, to which the citizen has no right, and which is granted grudgingly, is a crime. Such a law is an insult to every American. This rule is probably as great a deterrent to the original purchase of the gun as is the purchase license provision itself.

It is a common thing in New York for a man to be arrested and charged with "violation of the Sullivan law" when, in connection with a fire or in any other accidental way, the police come across some ancient handgun in his house. It is quite certain that tens of thousands, perhaps hundreds of thousands, of good citizens are today in danger of arrest and conviction because of this situation. To disarm the honest people of a great American state and to deprive them of the means of self-protection and defense is a great wrong. To threaten them with jail if they possess the means of defending themselves, their families, or their property is a practice equally wrong.

The requirement of a license to possess a pistol is the most harmful provision of law which has ever been devised with reference to guns. Only slightly less harmful is the provision of a license to purchase. These provisions accomplish absolutely nothing in crime prevention; they disarm a law-abiding citizen; they increase crimes of violence by diminishing the means of resistance to crime. Those who advocate them are allies, unconsciously perhaps, of the underworld — of the thug, the gangster, and the assassin.

The License to Carry a Pistol

A provision found in the laws of many states is that of a license to carry a pistol concealed upon the person. Opinions may differ with respect to this point; indeed, many fair-minded people believe that this also is an unreasonable and undesirable provision of law. It is, however, and has been for a long time, a common statutory requirement. In the opinion of the writer, a license to carry is a reasonable and, on the whole, a desirable provision of law. It does not interfere in itself with the purchase or possession of a pistol in one's home or place of business, nor with its use for most of its many legitimate purposes. The practice of carrying a concealed weapon on the streets and in other public places is, in general, an undesirable practice. The real need for such use is comparatively uncommon, and a person who has a genuine reason to carry a pistol should be required to obtain a permit so to do. Such a rule appears to be of distinct assistance to the police and to contribute toward public order and safety. The principle has received general approval in this country.

Fingerprinting

While fingerprinting is infallible for purposes of identification and might well be applied to bank depositors, automobile licensees, and many others, the fact remains that it is at the present time exclusively associated, in the minds of the public, with criminals and "rogue galleries." The almost universal feeling with respect to it is that of indignity. Perhaps this feeling ought not to exist, but we must take facts as we find them. Human feelings can, not with propriety be disregarded when we are dealing with human beings. Feeling, not logic, usually controls society. At the present time, people feel that fingerprinting is an outrage and an insult.

The vast majority of the users of pistols are as honest, law-abiding, and reputable as any class of citizens to be found. To require them to be fingerprinted is to discourage the proper use of pistols for self-protection, the safety of property and other desirable purposes.

Firearms Registration

A number of reasons, pro and con, have been advanced concerning the question of the need for firearms registration. In general, we are opposed to this form of regulation principally because of the utter impossibility of getting criminals to register their guns.

Such a law discourages the ownership of firearms by reputable citizens by imposing administrative burdens, extra taxes and contacts with the police which the average person prefers to avoid.

Registration does not disarm criminals. Persons willing to risk the penalties for criminal activity, such as robbery, burglary, assault and even murder, worry little about the penalty for possessing an unregistered firearm. Thus, the burden of registration falls on the law-abiding citizen.

Registration is of little value in keeping firearms out of the hands of undesirable persons. The effective and proper method to prevent the possession of firearms by minors, mental incompetents, drug addicts or similar irresponsible individuals is a statute forbidding possession by such persons and prohibiting the sale or transfer of firearms to such persons.

Professional criminals operate largely with stolen firearms. In a small number of cases, the weapons are stolen from private owners. In most instances, the weapons are stolen from shipments in transit, from dealer's stocks, or from military and police authorities and Government arsenals. Since the weapons were stolen in the first place, a tracing of the records of a weapon used in the perpetration of a crime could only lead to the location of the theft.

Finally, registration is a departure from the concepts and principles of personal rights and liberties inherent in our Constitutional structure.

Honest Thinking Vs. Bunk

In the study which we have been making of the general subject of pistol legislation, we have necessarily been largely occupied with an analysis of the doctrines of those who say that pistols have no value except to the criminal and who have in one form or another advocated their general suppression. We are searching for the truth. The prospector who searches for gold must look facts in the face. He must recognize the difference between gold and worthless rock or clay. Pious wishes will not make gold out of pebbles. And so it is in the search for truth. We must reject what is false and keep only that which is real.

We abhor dishonesty; most of all we abhor intellectual dishonesty; that insidious poison which corrupts the mind. We have no jails for intellectual crooks; we can only destroy them by exposing their crooked thinking. We despise bunk. We have tried to expose the bunk in the arguments and theories of the pistol prohibitionists. It does not help to say that "they mean well." The man who tackles any human problem needs more than "good intentions." He needs the ability and the will to think straight, and he must know the facts.

The fair-minded student of the pistol problem will come to certain general conclusions, among which are the following: (1) There is no pistol problem except where pistols are used in crime; (2) laws relating to pistols have one legitimate purpose and only one: to reach the criminal users; (3) pistols can not, to any great extent, be kept out of the hands of criminals, and they ought not be kept out of the hands of honest men; (4) comparatively little can be accomplished by pistol legislation in the way of preventing crime; and (5) the desirable objects which are attainable as a practical matter are, briefly, to keep a record of pistol transfers as an aid to the detection of crime; to make possession by criminals illegal, and to make it inexpedient for criminals to use pistols in crime by punishing such use severely. *These objects must be obtained without seriously interfering with the legitimate use of pistols by honest men. Such use should be encouraged because it is clearly in the public interest.*

Uniform State Legislation

It has been felt for many years that pistol laws should be substantially uniform throughout the states. Active work in this direction began a number of years ago, and after much study an act was prepared in 1922 and was offered to the legislatures of the various states. In substance, it was adopted in 1923 in California, North Dakota, and New Hampshire.

Realizing that the subject required further study and that the act might well be improved, the matter was, in 1923, brought by the United States Revolver Association to the attention of the National Conference of Commissioners on Uniform Laws. That body is composed of lawyers, judges, or teachers of law appointed by each of the

states, territories, insular possessions, and the District of Columbia. Its work consists of the study and drafting of uniform statutes on appropriate subjects, such as negotiable instruments, warehouse receipts, and many others. These acts after final completion by the Commission and approval by the American Bar Association are offered to the states and other jurisdictions for adoption.

The Conference decided to undertake the task of framing a uniform pistol law and appointed a subcommittee for that purpose. After a preliminary study the committee decided that the draft, already referred to, contained so much good material and was so far in advance of anything which had yet been done that it was adopted as the starting point.

The work of the Conference upon a pistol law was continued from 1923 until 1930. At each annual meeting of the Commissioners a report and revised draft of the act were presented and vigorously discussed in detail. The research of the subcommittee was exhaustive and resulted, among other things, in the collection of more complete information on the subject of pistol laws and comparative state legislation than has ever been assembled. It is not an exaggeration to say that the Conference has done vastly more scientific work and has given vastly more serious thought to the subject than any group that ever existed.

Even before the Conference completed its work, its tentative draft of a pistol act was in substance adopted in Indiana and Oregon, and various parts of its work were adopted in Massachusetts, Michigan, New Jersey, Rhode Island, and Hawaii. The last-named jurisdictions have, however, in one respect or another, fallen a victim to the bunk of the anti-pistol crowd.

In 1926, at its meeting in Denver, the Conference adopted a final form of the act; this was unanimously approved at the meeting of the American Bar Association the following week. Shortly afterwards, the New York Police Commissioner wrote a letter criticizing the act in certain respects; the Executive Committee withdrew it temporarily and referred the criticisms to the subcommittee for consideration. Practically all criticisms were found to be unsound; meantime, however, the subcommittee gave extensive consideration to the possible extension of the law to include machine guns and poisonous gases. It was ultimately decided to limit the act exclusively to pistols but to recommend the preparation of a further law upon collateral topics. The recommendation was approved. In the summer of 1930, a final form of pistol act was adopted. This was practically identical, except for minor formal changes, with the form adopted in 1926. It was again approved by the American Bar Association, and thus the work of the pistol subcommittee of the Conference came to an end. (The provisions of the act are fully set forth at the end of this booklet.)

The act does not attempt the impossible. It does not make the fatal mistake of disarming the law-abiding citizens of the community in the vain hope of keeping pistols out of the hands of criminals.

It does not place insuperable or intolerable obstacles in the way of the purchase and possession of hand guns by law-abiding citizens. It does not diminish the forces opposed to crime; consequently, it does not aid the criminal while masquerading as a crime-prevention statute. It does what can be done to reach the criminal by making it more difficult and dangerous than it now is for him to use pistols in the commission of a crime.

The principal provisions of the Uniform Act may be summarized as follows: The carrying of a pistol in a vehicle or concealed on the person is forbidden to all except law-enforcement officers and certain others, except upon the issuance of a license. No license is required for the purchase or possession of a pistol, so long as it is not carried beyond the limits of the owner's abode or place of business. A crime of violence committed by one armed with a pistol involves a further penalty in addition to that prescribed by the crime, and the fact that once charged with such a crime of violence is armed, without a license to carry, is in itself *prima facie* evidence of his intention to commit such crime of violence.

Forbidden is the delivery of pistols to convicts, drug addicts, habitual drunkards and incompetents, as well as to minors under the age of eighteen. The first class are forbidden to possess pistols.

Sales are regulated through the method of licensing the dealer. If such licenses are properly granted, dealers will be limited to selling only to reputable and responsible persons. A sale by a dealer may be made only after forty-eight hours have elapsed from the time the purchaser makes application. At the time of application, the purchaser must sign a statement containing appropriate information about himself (such as that he has never been convicted of a crime of violence) and describing the gun to be purchased. False statements are punishable under the act. A copy of this application is then promptly sent by the dealer to the local police authorities. If they know of any reason which disqualifies the purchaser to buy or possess a pistol under the terms of the statute, they immediately notify the seller. If the seller has knowledge of any such fact, or is placed on notice by the police of facts indicating that the purchaser is not entitled to buy under the terms of the act, then the seller is forbidden to complete the sale. If the police do not make prompt disclosure to the seller of reasons disqualifying the purchaser under the act, if any such reasons exist; or if the seller has no reason to believe that the purchaser is disqualified, then he is free to complete the sale. An important feature of this regulation is that the purchaser and the seller must each sign the application in the presence of the other, and the purchaser must be personally known to the seller. This imposes no greater hardship than is involved in the cashing of a bank check; nevertheless, the delay of forty-eight hours in completing the sale, taken together with the other requirements, obviously will tend to discourage the purchase of pistols by criminals, and will virtually prevent such purchases if the police are competent. Furthermore, the method employed will give to the police a record description

of each pistol purchased and its purchaser. This will sometimes be of value in tracing guns used in the perpetration of a crime. There is no limitation upon the number of pistols that may be purchased by any qualified person.

The pawning of pistols is forbidden. A penalty is imposed for altering or removing the identifying marks of the gun, and the possession of a pistol from which the identifying marks have been removed is *prima facie* evidence that the possessor has removed such marks.

We have avoided all reference to such other types of weapons because the chief outcry from the "reformer" has been directed at pistols and revolvers. We hope that this discussion may contribute to the general understanding of the problem and may aid in the passage of intelligent firearms legislation.

The Uniform Firearms Act

(Approved by the National Conference of Commissioners on Uniform State Laws, August, 1930. Approved by the American Bar Association, August, 1930.)

An Act Regulating the Sale, Transfer and Possession of Certain Firearms, Prescribing Penalties and Rules of Evidence, and to Make Uniform the Law with Reference Thereto.

SECTION 1. *Definitions.* "Pistols," as used in this act, means any firearm with barrel less than twelve inches in length.

"Crime of Violence," as used in this act, means any of the following crimes or an attempt to commit any of the same, namely, murder, manslaughter, rape, mayhem, assault to do great bodily harm, robbery, burglary (housebreaking, breaking and entering, kidnapping and larceny).

"Persons," as used in this act, includes firm, partnership, association or corporation.

SEC. 2. *Committing Crime When Armed.* If any person shall commit or attempt to commit a crime of violence when armed with a pistol, he may in addition to the punishment provided for the crime, be punished also as provided by this act.

SEC. 3. *Being Armed Prima Facie Evidence of Intent.* In the trial of a person for committing or attempting to commit a crime of violence, the fact that he was armed with a pistol and had no license to carry the same shall be *prima facie* evidence of his intention to commit said crime of violence.

SEC. 4. *Certain Persons Forbidden to Possess Arms.* No person who has been convicted in this State or elsewhere of a crime of violence, shall own a pistol or have one in his possession or under his control.

SEC. 5. *Carrying Pistol.* No person shall carry a pistol in any vehicle or concealed on or about his person, except in his place of

abode or fixed place of business, without a license therefor as herein-after provided.

SEC. 6. *Exception.* The provisions of the preceding section shall not apply to marshals, sheriffs, prison or jail wardens or their deputies, policemen or other law-enforcement officers, or to members of the Army, Navy, or Marine Corps of the United States or of the National Guard or Organized Reserves when on duty, or to the regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States or from this State provided such members are at or are going to or from their places of assembly or target practice, or to officers or employees of the United States duly authorized to carry a concealed pistol, or to any person engaged in the business of manufacturing, repairing, or dealing in firearms or the agent or representative of any such person having in his possession, using, or carrying a pistol in the usual or ordinary course of such business, or to any person while carrying a pistol unloaded and in a secure wrapper from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business or in moving from one place of abode or business to another.

SEC. 7. *Issue of Licenses to Carry.* The judge of a court of record, the chief of police of a municipality, the sheriff of a county, may upon the application of any person issue a license to such person to carry a pistol in a vehicle or concealed on or about his person within this State for not more than one year from date of issue, if it appears that the applicant has good reason to fear an injury to his person or property, or has any other proper reason for carrying a pistol, and that he is a suitable person to be so licensed. The license shall be in triplicate, in form to be prescribed by the Secretary of State, and shall bear the name, address, description, and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, the duplicate shall within (seven days) be sent by registered mail to the (Secretary of State) and the triplicate shall be preserved for six years, by the authority issuing said license. The fee for issuing such license shall be \$..... which fee shall be paid into the (..... Treasury).

SEC. 8. *Delivery to Minors and Others Forbidden.* No person shall deliver a pistol to any person under the age of eighteen or to one who he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind.

SEC. 9. *Sales Regulated.* No seller shall deliver a pistol to the purchaser thereof until forty-eight hours shall have elapsed from the time of the application for the purchase thereof, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. At the time of applying for the purchase of a pistol the purchaser shall sign in triplicate and deliver to the seller a statement containing his full name, address, occupation, color, place of birth, the date and hour of application, the caliber, make, model, and manufacturer's number

of the pistol to be purchased and a statement that he has never been convicted in this State or elsewhere of a crime of violence. The seller shall within six hours after such application, sign and attach his address and forward by registered mail one copy of such statement to the chief of police of the municipality or the sheriff of the county of which the seller is a resident; the duplicate duly signed by the seller shall within seven days be sent by him with his address to the (Secretary of State); the triplicate he shall retain for six years. This section shall not apply to sales at wholesale.

SEC. 10. *Dealer's Licenses, by Whom Granted and Conditions Thereof.* The duly constituted licensing authorities of any city, town, or political subdivision of this State may grant licenses in forms prescribed by the (Secretary of State) effective for not more than one year from the date of issue, permitting the licensee to sell pistols at retail within this State subject to the following conditions in addition to those specified in Section 9 hereof, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in this act.

1. The business shall be carried on only in the building designated in the license.

2. The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be read.

3. No pistol shall be sold (a) in violation of any provision of this act, nor (b) shall a pistol be sold under any circumstances unless the purchaser is personally known to the seller or shall present clear evidence of his identity.

4. A true record in triplicate shall be made of every pistol sold, in a book kept for the purpose, the form of which may be prescribed by the (Secretary of State) and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, color and place of birth of the purchaser and a statement signed by the purchaser that he has never been convicted in this State or elsewhere of a crime of violence. One copy shall within six hours be sent by registered mail to the chief of police of the municipality or the sheriff of the county of which the dealer is a resident; the duplicate the dealer shall within seven days send to the (Secretary of State); the triplicate the dealer shall retain for six years.

5. No pistol or imitation thereof or placard advertising the sale thereof shall be displayed in any part of any premises where it can readily be seen from the outside.

The fee for issuing said license shall be \$..... which fee shall be paid into the (..... Treasury).

SEC. 12. *Certain Transfers Forbidden.* No person shall make any loan secured by a mortgage, deposit, or pledge of a pistol; nor shall any person lend or give a pistol to another or otherwise deliver a pistol contrary to the provisions of this act.

SEC. 13. *False Information Forbidden.* No person shall, in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, give false information or offer false evidence of his identity.

SEC. 14. *Alteration of Identifying Marks Prohibited.* No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any pistol. Possession of any pistol upon which any such mark shall have been changed, altered, removed, or obliterated, shall be *prima facie* evidence that the possessor has changed, altered, removed or obliterated the same.

SEC. 15. *Existing Licenses Revoked.* All licenses heretofore issued within this State permitting the carrying of pistols concealed upon the person shall expire at midnight of the day of 19.....

SEC. 16. *Exceptions.* This act shall not apply to antique pistols unsuitable for use as firearms and possessed as curiosities or ornaments.

SEC. 17. *Penalties.* Any violation of any provision of this act constitutes an offense punishable by (a fine of not more than (\$.....) or imprisonment for not more than (.....) or both, or by imprisonment in the penitentiary for not less than (.....), nor more than (.....)).

SEC. 18. *Constitutionality.* (If any part of this act is for any reason declared void, such invalidity shall not affect the validity of the remaining portions of this act.)

SEC. 19. *Short Title.* This act may be cited as the "Uniform Firearms Act."

SEC. 20. *Uniform Interpretation.* This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it.

SEC. 21. *Effective Date.* This act shall take effect on the day of 19.....

SEC. 22. *Certain Acts Repealed.* All laws or parts of laws inconsistent herewith are hereby repealed.

(The Uniform Firearms Act was adopted in the 1930's in substantial form, with changes to suit particular circumstances, by five states and the District of Columbia. The States are Alabama, Indiana, Pennsylvania, South Dakota and Washington. Other jurisdictions have adopted several provisions in whole or in part of the Uniform Act as part of their laws on firearms.)

EXHIBIT 3

BILL NO. A.B. 4370 SUPPLEMENTAL

ROBERT C. SCHNEIDER

DATE AMENDED April 18, 1988

(213)736-2257

AUTHOR Hauser

8-677-2257

I Summary of Bill and Existing Law

Penal code section 12031 does not presently prohibit the loaded carrying of firearms in areas of unincorporated territories where it is not otherwise prohibited. This bill would permit the concealed loaded carrying of handguns in those unprohibited-unincorporated territories.

II Background

The cattle and ranch people are the apparent primary target of this bill. They can carry loaded now if they are in the unprohibited-unincorporated territories. They want to be able to carry concealed beneath their overcoats and in their pick-up trucks.

III Impact of Bill

~~This bill would take care of the cowboys without any change to section 12031 being necessary. The possibility of ranch folk causing problems with guns out in the back country is not very high. There would probably be no significant impact if the goal of the bill is limited to ranchers on their own property in a back country setting.~~

IV Recommendation - W

I have no position as long as the scope of the bill is limited to remote areas. If the bill is not limited to remote ranch type situations I would continue to Disapprove.

V Amendments

The bill will have to be drafted in such a way as to make it clear that the expanded right to "carry" does not extend to business and residences where there is a probability of contact with the public. If the interpretation rendered in Overturf is accepted there should be no problem with having to amend the bill. However, because Overturf is only an opinion of the Appellate Department of the Los Angeles Superior Court, it does not have binding authority Statewide. If Overturf were codified by this bill the problem of expanded loaded carrying might be limited to the areas where it is acceptable.

ROBERT C. SCHNEIDER
Deputy Attorney General

4/25/88

A-34

BILL NO. A.B. 4370

ROBERT C. SCHNEIDER

DATE AMENDED April 18, 1988

(213)736-2257

AUTHOR Hauser

8-677-2257

I Summary of Bill and Existing Law

Existing Penal Code section 12026 is simply an explicit statement that section 12025, dealing with the carrying of concealed handguns, does not prohibit or restrict "owning, possession, or keeping" of handguns in places of business or residences. Section 12026 does specifically enumerate exemptions. Section 12031(h) separately and independently permits the "having" of a loaded firearm in a place of business or on private property. The term "having" is used rather than the word "carrying" which is used in other subsections of section 12031. People v. Overturf (1976) 64 Cal.App.3d Supp. 1, is very explicit in its analysis of the distinction between "carrying" and "having." The court points out that in the various sections of 12031 exemptions for lawful activities are linked to the word "carrying" such as the exemption for persons making arrests. However, when the section refers only to the geographical area where an act is permitted, the word "having" is used. The court in Overturf summed up its reading of 12031 by stating, "Under our reading of the statute, it is proper for a person to own, possess or keep a weapon at his place of a business or his residence or on his private property, as the case may be, but not to carry it about thereon unless it is necessary to use it under circumstances where use of a firearm is otherwise lawful." (People v. Overturf, supra, at pp. 6-7; emphasis added.) In 12 years Overturf has not been challenged as the correct interpretation of 12031.

The clear language of Overturf means that a citizen may not walk around his own residence "carrying" a loaded firearm. That interpretation will no doubt come as a surprise to many people but it is not the product of this departments imagination. It is the reasonable interpretation of the of the clear language of the statute. It is important to this bill because the concealed "carrying" permitted by this bill has to be harmonized with the "carrying" loaded provisions of 12031 if the result is that a citizen may "carrying" a loaded and concealed handgun in or about the locations contained within the bill.

This bill would expand the "keeping" provision of section 12026 to include "carrying, concealed or exposed, anywhere within the citizen's place of residence, including within, if it is otherwise lawful, the confines of the citizen's lawful temporary residence or lawful campsite . . . or on

A.B. 4370
April 18, 1988
Page Two

private property owned or lawfully possessed by the citizen
. . . . "

People v. Vega, 18 Cal.App.3d 954, 958 has ruled a grocery store parking lot is a "public place" for the purposes of section 12031.

II Background

It is the intention of this bill to expand the scope of the legal carrying of loaded handguns. A particular group that is intended to be benefited by the bill is ranchers and cattlemen who travel about on their own property. Persons in their homes and business would also be the beneficiaries of the expanded carrying if this bill did what it is intended to do.

I am unaware of any pressing need for cowboys to carry loaded, concealed handguns, but such might be the case because of the remote areas in which they find themselves. A rancher who can justify carrying a handgun for personal protection while out on the range would probably be able to justify carrying it concealed because the handgun might be covered-up by his coat etc.

Urban business owners and workers might be able to identify a more pressing need for personal protection. Crime is rampant. A small businessman may feel safer if he can carry a loaded handgun under his shirt as he moves about his place of business. In some parts of the State, a citizen may feel the need to carry a concealed handgun just to go to the mailbox or hang-up the laundry. Whether a person is better off or not with a concealed and loaded handgun in any given circumstance is the product of many variables. Generally a firearm is only going to be of benefit for the purpose of protection if it is loaded and immediately available.

There is reportedly some support for this bill among law enforcement agencies because it would take off some of the pressure for the issuance of carrying concealed weapons (CCW) permits. Issuing a CCW creates an aura of responsibility for the guns use while denying the CCW upsets the constituent.

III Impact of Bill

Putting aside the difficult question of whether a person will be benefited by carrying a handgun, this bill does not accomplish the goal of permitting the type of carrying desired.

A.B. 4370
April 18, 1988
Page Three

Because this bill only addresses exemptions to the "concealment" section, 12025, it does not affect the separate and independent "loaded" section, 12031. Overturf has taught us that citizens may not "carry" loaded firearms at their residence, place of business or private property absent an exception to the ban on carrying loaded firearms. Section 12025 does not affect the loaded status of firearms. It only deals with the "concealment" of handguns. As presently written this bill will only expand the right to carry empty handguns at the enumerated locations.

If the bill were amended to accomplish its goal, serious concerns arise. This bill, if it attains its goal, would permit an usher at the Los Angeles Memorial Coliseum to carry a loaded and concealed handgun anywhere he went among 100,000 attendees at a rock concert at the facility. Gas station attendants, those who are not already locked inside glass boxes, could move around the entire station with loaded guns under their shirts. The interface of the public and armed citizens would increase substantially.

The justification for CCW permits would be reduced. With the recently expanded right to carry handguns in locked containers and this bill's expanded right to carry loaded and concealed handguns at business and residence locations, the need for CCWs would logically diminish.

IV Recommendation - DP

This bill does not do what it intends to do. The goal is of uncertain benefit and the scope may be too broad.

V Amendments

If the goal is to be attained, section 12031 should be amended to provide in subsection (h) for the "having or carrying" of loaded firearms.

Intermediate positions would allow for the loaded carrying within residences and portions of business or private property not readily accessible to the general public.

ROBERT C. SCHNEIDER
Deputy Attorney General

4/21/88

EXHIBIT 4

COPY

Sacramento, California

AUG 28 1989

Honorable Richard L. Mountjoy
2175 State Capitol

Firearms (S.B. 1388) - #22974

Dear Mr. Mountjoy:

QUESTION

Under the provisions of Section 12026 of the Penal Code, as proposed to be amended by Senate Bill No. 1388, as amended July 19, 1989, would it be permissible for an illegal alien over the age of 18 years to possess or own a pistol, revolver, or other firearm capable of being concealed upon the person within the alien's place of residence?

OPINION

Under the provisions of Section 12026 of the Penal Code, as proposed to be amended by Senate Bill No. 1338, as amended July 19, 1989, it would be permissible for an illegal alien over the age of 18 years to possess or own a pistol, revolver, or other firearm capable of being concealed upon the person within the alien's place of residence, provided that the possession does not involve a demonstrated nexus with interstate commerce.

ANALYSIS

Existing law provides in Section 12026 of the Penal Code,¹ with limited exceptions, that any citizen of the United States, over the age of 18 years, who resides or is temporarily within this state may, among other things, own, possess, keep, or carry anywhere within the citizen's place of

¹ All statutory references are to the Penal Code.

COPY

Honorable Richard L. Mountjoy - p. 2 - #22974

residence any pistol, revolver, or other firearm capable of being concealed upon the person. Senate Bill No. 1338, as amended July 19, 1989 (hereafter referred to as S.B. 1388) would, among other things, change the reference from "citizen of the United States" to "person" in Section 12026.

In making this change to Section 12026, it cannot be assumed that the Legislature is indulging in an idle act (Stafford v. Realty Bond Service Corp., 39 Cal. 2d 797, 805). Rather, this change proposed by S.B. 1388 must be construed with reference to the whole system of law of which it would be a part so that all provisions may be harmonized and have effect (Stafford v. Realty Bond Service Corp., supra). In this respect, the word "person" for purposes of the Penal Code, includes, among other things, a natural person (Sec. 7). Thus, the word "person" is not limited for purposes of the Penal Code to citizens of the United States (see, e.g., Torrez v. Sierra (N.M.), 553 P. 2d 721, 724, wherein the word "person" for purposes of that state's Wrongful Death Act was construed to include a nonresident alien who was illegally in this country). Accordingly, S.B. 1388, would apparently broaden the scope of persons who may own or possess described concealable firearms within their personal place of residence to include all noncitizens.

However, federal law restricts various activities with respect to the sale, transportation, and possession of firearms by certain persons, including, but not limited to, persons, who, being aliens, are illegally or unlawfully in the United States (18 U.S.C.A. Sec. 922). Specifically, it is unlawful for any person to do the following: (1) sell or dispose of any firearm to any person knowing or having reasonable cause to believe, the person is an illegal or unlawful alien; (2) who, being an illegal or unlawful alien, to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition or to receive any firearm or ammunition which has been shipped or transported in interstate commerce (subds. (d) and (g), 18 U.S.C.A. Sec. 922). The United States Supreme Court in United States v. Bass, 30 L. Ed. 488, 496-498), construed the phrase "in commerce or affecting commerce" to require a nexus with interstate commerce in order for a violation of a related federal firearm statute to be found.

Accordingly, the change in reference from "citizen of the United States" to "person" in Section 12026, proposed by S.B. 1388, would broaden the scope of persons who would be entitled to possess concealable firearms within the purview of Section 12026 subject to the restrictions found in federal law.

Therefore, it is our opinion that under the provisions of Section 12026, as proposed to be amended by S.B. 1388, it would

A-14

Honorable Richard L. Mountjoy - p. 3 - #22974

COPY

be permissible for an illegal alien over the age of 18 years to possess or own a pistol, revolver, or other firearm capable of being concealed upon the person within the alien's place of residence provided that the possession does not involve a demonstrated nexus with interstate commerce.

Very truly yours,,

Bion M. Gregory
Legislative Counsel

By
Thomas R. Heuer
Deputy Legislative Counsel

TRH:jdg

Two copies to Honorable Barry Keene,
pursuant to Joint Rule 34.

A-15

EXHIBIT 5

ASSEMBLY BILL

No. 92

Introduced by Assembly Member Hauser

January 4, 1995

An act to amend Sections 12023, 12026, 12026.1, 12026.2, and 12050 of, and to add and repeal Section 12038 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 92, as introduced, Hauser. Firearms.

(1) Existing law provides that every person who carries a loaded firearm with the intent to commit a felony is guilty of armed criminal action, punishable by imprisonment in a county jail not exceeding one year or in the state prison.

This bill would provide instead that every person who carries a firearm, loaded or not, with the intent to commit a felony is guilty of armed criminal action. A violation of this provision where the firearm is loaded or the firearm is a pistol, revolver, or other firearm capable of being concealed upon the person is armed criminal action of the first degree, punishable by imprisonment in the state prison for 2, 3, or 4 years. All other violations are armed criminal action of the second degree, punishable by imprisonment in a county jail not exceeding one year or in the state prison.

(2) Existing law makes it a misdemeanor, with limited exceptions, for any person to carry a concealable weapon concealed within any vehicle or concealed upon the person without having a license. Existing law provides that notwithstanding this prohibition, any citizen of the United



States or legal resident over the age of 18 years who resides or is temporarily within this state and who is not within certain excepted classes shall not be prohibited from owning, possessing, keeping, or carrying, either openly or concealed, anywhere within his or her place of residence, place of business, or on private property a concealable weapon.

This bill would provide, instead, that the above prohibition shall not apply to or affect any citizen of the United States or legal resident as specified above who carries a concealable weapon within or on the described places or property. The bill would additionally make the above prohibition inapplicable to the transportation of a firearm to an authorized government representative who is acquiring the weapon as a part of an authorized voluntary program to buy or receive weapons from private individuals.

(3) Existing law requires the Attorney General to make reports to the Legislature regarding various subjects, including wiretapping, sex abuse offenses, hate crimes, and domestic violence. Existing law requires local law enforcement entities to submit specified information to the Attorney General.

This bill would require the district attorney of each county to prepare and submit to the Attorney General until 1999 an annual report consisting of profiles by race, age, gender, and ethnicity of persons charged with specified felonies for the current and previous calendar years. It would also require the Attorney General to prepare and submit to the Legislature until 1999 an annual report compiling all of the reports submitted to the Attorney General. The bill would impose a state-mandated local program by expanding the scope of the reporting duties of the district attorney in each county.

(4) Existing law sets forth procedures for the sheriff of a county or the chief or other head of a municipal police department of any city or city and county to issue a license to carry a pistol, revolver, or firearm capable of being concealed upon the person. A license issued pursuant to these provisions is valid for any period of time not to exceed one year from the date of the license, or in the case of a peace officer appointed pursuant to certain provisions, 3 years from the date of the license.

This bill would provide that any license issued under these provisions is valid for any period not to exceed 3 years from the date of the license.

(5) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. Section 12023 of the Penal Code is
- 2 amended to read:
- 3 12023. (a) Every person who carries a ~~loaded~~ firearm
- 4 with the intent to commit a felony is guilty of armed
- 5 criminal action.
- 6 (b) (1) *Armed criminal action is in the first degree*
- 7 *where either of the following exists:*
- 8 (A) *The firearm is loaded.*
- 9 (B) *The firearm is a pistol, revolver, or other firearm*
- 10 *capable of being concealed upon the person.*
- 11 (2) *All kinds of armed criminal action other than that*
- 12 *specified in paragraph (1) are in the second degree.*
- 13 (c) *Armed criminal action is punishable as follows:*
- 14 (1) *Armed criminal action in the first degree is*
- 15 *punishable by imprisonment in the state prison for two,*
- 16 *three, or four years.*
- 17 (2) *Armed criminal action in the second degree is*
- 18 *punishable by imprisonment in a county jail not*
- 19 *exceeding one year, or in the state prison.*



1 SEC. 2. Section 12026 of the Penal Code is amended
2 to read:

3 12026. (a) ~~Notwithstanding~~ Section 12025; *shall not*
4 *apply to or affect* any citizen of the United States or legal
5 resident over the age of 18 years who resides or is
6 temporarily within this state, and who is not within the
7 excepted classes prescribed by Section 12021 ~~shall not be~~
8 ~~prohibited from owning, possessing, keeping, or carrying~~
9 ~~or 12021.1 of this code or Section 8100 or 8103 of the~~
10 ~~Welfare and Institutions Code, who carries, either openly~~
11 ~~or concealed, anywhere within the citizen's or legal~~
12 ~~resident's place of residence, place of business, or on~~
13 ~~private property owned or lawfully possessed by the~~
14 ~~citizen or legal resident any pistol, revolver, or other~~
15 ~~firearm capable of being concealed upon the person, and~~
16 ~~no permit or license to purchase, own, possess, keep, or~~
17 ~~carry, either openly or concealed, any such firearm~~
18 ~~within the citizen's or legal resident's place of residence,~~
19 ~~place of business, or on private property owned or~~
20 ~~lawfully possessed by the citizen or legal resident, shall be~~
21 ~~required of the citizen or legal resident.~~

22 (b) *No permit or license to purchase, own, possess,*
23 *keep, or carry, either openly or concealed, shall be*
24 *required of any citizen of the United States or legal*
25 *resident over the age of 18 years who resides or is*
26 *temporarily within this state, and who is not within the*
27 *excepted classes prescribed by Section 12021 or 12021.1 of*
28 *this code or Section 8100 or 8103 of the Welfare and*
29 *Institutions Code, to purchase, own, possess, keep, or*
30 *carry, either openly or concealed, a pistol, revolver, or*
31 *other firearm capable of being concealed upon the*
32 *person within the citizen's or legal resident's place of*
33 *residence, place of business, or on private property*
34 *owned or lawfully possessed by the citizen or legal*
35 *resident.*

36 (c) Nothing in this section shall be construed as
37 affecting the application of Section 12031.

38 SEC. 3. Section 12026.1 of the Penal Code is amended
39 to read:



1 12026.1. (a) Section 12025 shall not be construed to
2 prohibit any citizen of the United States over the age of
3 18 years who resides or is temporarily within this state,
4 and who is not within the excepted classes prescribed by
5 Section 12021 or 12021.1 of this code or Section 8100 or
6 8103 of the Welfare and Institutions Code, from
7 transporting or carrying any pistol, revolver, or other
8 firearm capable of being concealed upon the person,
9 provided that the following applies to the firearm:

10 (1) The firearm is within a motor vehicle and it is
11 locked in the vehicle's trunk or in a locked container in
12 the vehicle other than the utility or glove compartment.

13 (2) The firearm is carried by the person directly to or
14 from any motor vehicle for any lawful purpose and, while
15 carrying the firearm, the firearm is contained within a
16 locked container.

17 (b) The provisions of this section do not prohibit or
18 limit the otherwise lawful carrying or transportation of
19 any pistol, revolver, or other firearm capable of being
20 concealed upon the person in accordance with this
21 chapter.

22 (c) As used in this section, "locked container" means
23 a secure container which is fully enclosed and locked by
24 a padlock, key lock, combination lock, or similar locking
25 device.

26 SEC. 4. Section 12026.2 of the Penal Code is amended
27 to read:

28 12026.2. (a) Section 12025 does not apply to, or affect,
29 any of the following:

30 (1) The possession of a firearm by an authorized
31 participant in a motion picture, television, or video
32 production or entertainment event when the participant
33 lawfully uses the firearm as part of that production or
34 event or while going directly to, or coming directly from,
35 that production or event.

36 (2) The possession of a firearm in a locked container by
37 a member of any club or organization, organized for the
38 purpose of lawfully collecting and lawfully displaying
39 pistols, revolvers, or other firearms, while the member is



1 at meetings of the clubs or organizations or while going
2 directly to, and coming directly from, those meetings.

3 (3) The transportation of a firearm by a participant
4 when going directly to, or coming directly from, a
5 recognized safety or hunter safety class, or a recognized
6 sporting event involving that firearm.

7 (4) The transportation of a firearm by a person listed
8 in Section 12026 directly between any of the places
9 mentioned in Section 12026.

10 (5) The transportation of a firearm by a person when
11 going directly to, or coming directly from, a fixed place
12 of business or private residential property for the purpose
13 of the lawful repair or the lawful transfer, sale, or loan of
14 that firearm.

15 (6) The transportation of a firearm by a person listed
16 in Section 12026 when going directly from the place
17 where that person lawfully received that firearm to that
18 person's place of residence or place of business or to
19 private property owned or lawfully possessed by that
20 person.

21 (7) The transportation of a firearm by a person when
22 going directly to, or coming directly from, a gun show,
23 swap meet, or similar event to which the public is invited,
24 for the purpose of displaying that firearm in a lawful
25 manner.

26 (8) The transportation of a firearm by an authorized
27 employee or agent of a supplier of firearms when going
28 directly to, or coming directly from, a motion picture,
29 television, or video production or entertainment event
30 for the purpose of providing that firearm to an authorized
31 participant to lawfully use as a part of that production or
32 event.

33 (9) The transportation of a firearm by a person when
34 going directly to, or coming directly from, a target range,
35 which holds a regulatory or business license, for the
36 purposes of practicing shooting at targets with that
37 firearm at that target range.

38 (10) The transportation of a firearm by a person when
39 going directly to, or coming directly from, a place
40 designated by a person authorized to issue licenses

1 pursuant to Section 12050 when done at the request of the
2 issuing agency so that the issuing agency can determine
3 whether or not a license should be issued to that person
4 to carry that firearm.

5 (11) The transportation of a firearm by a person when
6 going directly to, or coming directly from, a law
7 enforcement agency for the purpose of a lawful transfer,
8 sale, or loan of that firearm pursuant to Section 12084.

9 (12) The transportation of a firearm by a person when
10 going directly to, or coming directly from, a lawful
11 camping activity for the purpose of having that firearm
12 available for lawful personal protection while at the
13 lawful campsite. This paragraph shall not be construed to
14 override the statutory authority granted to the
15 Department of Parks and Recreation or any other state
16 or local governmental agencies to promulgate rules and
17 regulations governing the administration of parks and
18 campgrounds.

19 (13) The transportation of a firearm by a person in
20 order to comply with subdivision (c) or (i) of Section
21 12078 as it pertains to that firearm.

22 (14) The transportation of a firearm by a person in
23 order to utilize subdivision (l) of Section 12078 as it
24 pertains to that firearm.

25 (15) The transportation of a firearm by a person when
26 going directly to, or coming directly from, a gun show or
27 event, as defined in Section 178.100 of Title 27 of the Code
28 of Federal Regulations, for the purpose of lawfully
29 transferring, selling, or loaning that firearm in
30 accordance with subdivision (d) of Section 12072.

31 (16) *The transportation of a firearm by a person in*
32 *order to utilize paragraph (3) of subdivision (a) of*
33 *Section 12078 as it pertains to that firearm.*

34 (b) In order for a firearm to be exempted under
35 subdivision (a), while being transported to or from a
36 place, the firearm shall be unloaded, kept in a locked
37 container, as defined in subdivision (d), and the course of
38 travel shall include only those deviations between
39 authorized locations as are reasonably necessary under
40 the circumstances.



1 (c) This section does not prohibit or limit the
2 otherwise lawful carrying or transportation of any pistol,
3 revolver, or other firearm capable of being concealed
4 upon the person in accordance with this chapter.

5 (d) As used in this section, "locked container" means
6 a secure container which is fully enclosed and locked by
7 a padlock, key lock, combination lock, or similar locking
8 device. The term "locked container" does not include the
9 utility or glove compartment of a motor vehicle.

10 SEC. 5. Section 12038 is added to the Penal Code, to
11 read:

12 12038. (a) The district attorney of each county shall
13 submit annually on or before June 30 to the Attorney
14 General a report consisting of profiles by race, age,
15 gender, and ethnicity of persons charged with felonies
16 under paragraph (2) of subdivision (b) of Section 12025
17 for the current and previous calendar year.

18 (b) The Attorney General shall prepare and submit
19 annually on or before December 31 to the Legislature a
20 report compiling all of the reports submitted pursuant to
21 subdivision (a).

22 (c) This section shall remain in effect only until
23 January 1, 1999, and as of that date is repealed.

24 SEC. 6. Section 12050 of the Penal Code is amended
25 to read:

26 12050. (a) (1) The sheriff of a county or the chief or
27 other head of a municipal police department of any city
28 or city and county, upon proof that the person applying
29 is of good moral character, that good cause exists for the
30 issuance, and that the person applying is a resident of the
31 county, may issue to that person a license to carry a pistol,
32 revolver, or other firearm capable of being concealed
33 upon the person in either one of the following formats:

34 (A) A license to carry concealed a pistol, revolver, or
35 other firearm capable of being concealed upon the
36 person.

37 (B) Where the population of the county is less than
38 200,000 persons according to the most recent federal
39 decennial census, a license to carry loaded and exposed

1 in that county a pistol, revolver, or other firearm capable
2 of being concealed upon the person.

3 (2) A license issued pursuant to this section is valid for
4 any period of time not to exceed ~~one year from the date~~
5 ~~of the license, or in the case of a peace officer appointed~~
6 ~~pursuant to Section 830.6,~~ three years from the date of the
7 license.

8 (b) A license may include any reasonable restrictions
9 or conditions which the issuing authority deems
10 warranted, including restrictions as to the time, place,
11 manner, and circumstances under which the person may
12 carry a pistol, revolver, or other firearm capable of being
13 concealed upon the person.

14 (c) Any restrictions imposed pursuant to subdivision
15 (b) shall be indicated on any license issued.

16 (d) A license shall not be issued if the Department of
17 Justice determines that the person is within a prohibited
18 class described in Section 12021 or 12021.1 of this code or
19 Section 8100 or 8103 of the Welfare and Institutions Code.

20 (e) (1) The license shall be revoked by the local
21 licensing authority if at any time either the local licensing
22 authority is notified by the Department of Justice that a
23 licensee is within a prohibited class described in Section
24 12021 or 12021.1 of this code or Section 8100 or 8103 of the
25 Welfare and Institutions Code, or the local licensing
26 authority determines that the person is within a
27 prohibited class described in Section 12021 or 12021.1 of
28 the code or Section 8100 or 8103 of the Welfare and
29 Institutions Code.

30 (2) If at any time the Department of Justice
31 determines that a licensee is within a prohibited class
32 described in Section 12021 or 12021.1 of this code or
33 Section 8100 or 8103 of the Welfare and Institutions Code,
34 the department shall immediately notify the local
35 licensing authority of the determination.

36 (3) If the local licensing authority revokes the license,
37 the Department of Justice shall be notified of the
38 revocation pursuant to Section 12053. The licensee shall
39 also be immediately notified of the revocation in writing.



1 (f) (1) A person issued a license pursuant to this
2 section may apply to the licensing authority for an
3 amendment to the license to do one or more of the
4 following:

5 (A) Add or delete authority to carry a particular pistol,
6 revolver, or other firearm capable of being concealed
7 upon the person.

8 (B) Authorize the licensee to carry concealed a pistol,
9 revolver, or other firearm capable of being concealed
10 upon the person.

11 (C) If the population of the county is less than 200,000
12 persons according to the most recent federal decennial
13 census, authorize the licensee to carry loaded and
14 exposed in that county a pistol, revolver, or other firearm
15 capable of being concealed upon the person.

16 (D) Change any restrictions or conditions on the
17 license, including restrictions as to the time, place,
18 manner, and circumstances under which the person may
19 carry a pistol, revolver, or other firearm capable of being
20 concealed upon the person.

21 (2) When the licensee changes his or her address, the
22 license shall be amended to reflect the new address and
23 a new license shall be issued pursuant to paragraph (3).

24 (3) If the licensing authority amends the license, a new
25 license shall be issued to the licensee reflecting the
26 amendments.

27 (4) The licensee shall notify the licensing authority in
28 writing within 10 days of any change in the licensee's
29 place of residence. If the license is one to carry concealed
30 a pistol, revolver, or other firearm capable of being
31 concealed upon the person, then it may not be revoked
32 solely because the licensee changes his or her place of
33 residence to another county if the licensee has not
34 breached any conditions or restrictions set forth in the
35 license or has not fallen into a prohibited class described
36 in Section 12021 or 12021.1 of this code or Section 8100 or
37 8103 of the Welfare and Institutions Code. If the license
38 is one to carry loaded and exposed a pistol, revolver, or
39 other firearm capable of being concealed upon the
40 person, the license shall be revoked immediately if the

1 licensee changes his or her place of residence to another
2 county.

3 (5) An amendment to the license does not extend the
4 original expiration date of the license and the license shall
5 be subject to renewal at the same time as if the license had
6 not been amended.

7 (6) An application to amend a license does not
8 constitute an application for renewal of the license.

9 SEC. 7. Notwithstanding Section 17610 of the
10 Government Code, if the Commission on State Mandates
11 determines that this act contains costs mandated by the
12 state, reimbursement to local agencies and school
13 districts for those costs shall be made pursuant to Part 7
14 (commencing with Section 17500) of Division 4 of Title
15 2 of the Government Code. If the statewide cost of the
16 claim for reimbursement does not exceed one million
17 dollars (\$1,000,000), reimbursement shall be made from
18 the State Mandates Claims Fund.

19 Notwithstanding Section 17580 of the Government
20 Code, unless otherwise specified, the provisions of this act
21 shall become operative on the same date that the act
22 takes effect pursuant to the California Constitution.

O

EXHIBIT 6

Assembly Bill No. 92

CHAPTER 322

An act to amend Sections 12026, 12026.1, and 12026.2 of the Penal Code, relating to firearms.

[Approved by Governor August 3, 1995. Filed with Secretary of State August 3, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 92. Hauser. Firearms.

(1) Existing law makes it a misdemeanor, with limited exceptions, for any person to carry a concealable weapon concealed within any vehicle or concealed upon the person without having a license. Existing law provides that notwithstanding this prohibition, any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state and who is not within certain excepted classes shall not be prohibited from owning, possessing, keeping, or carrying, either openly or concealed, anywhere within his or her place of residence, place of business, or on private property a concealable weapon.

This bill would provide, instead, that the above prohibition shall not apply to or affect any citizen of the United States or legal resident as specified above who carries a concealable weapon within or on the described places or property. The bill would additionally make the above prohibition inapplicable to the transportation of a firearm to an authorized government representative who is acquiring the weapon as a part of an authorized voluntary program to buy or receive weapons from private individuals.

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

SECTION 1. Section 12026 of the Penal Code is amended to read:

12026. (a) Section 12025 shall not apply to or affect any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, who carries, either openly or concealed, anywhere within the citizen's or legal resident's place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident any pistol, revolver, or other firearm capable of being concealed upon the person.

(b) No permit or license to purchase, own, possess, keep, or carry, either openly or concealed, shall be required of any citizen of the

United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, to purchase, own, possess, keep, or carry, either openly or concealed, a pistol, revolver, or other firearm capable of being concealed upon the person within the citizen's or legal resident's place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident.

(c) Nothing in this section shall be construed as affecting the application of Section 12031.

SEC. 2. Section 12026.1 of the Penal Code is amended to read:

12026.1. (a) Section 12025 shall not be construed to prohibit any citizen of the United States over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, from transporting or carrying any pistol, revolver, or other firearm capable of being concealed upon the person, provided that the following applies to the firearm:

(1) The firearm is within a motor vehicle and it is locked in the vehicle's trunk or in a locked container in the vehicle other than the utility or glove compartment.

(2) The firearm is carried by the person directly to or from any motor vehicle for any lawful purpose and, while carrying the firearm, the firearm is contained within a locked container.

(b) The provisions of this section do not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.

(c) As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device.

SEC. 3. Section 12026.2 of the Penal Code is amended to read:

12026.2. (a) Section 12025 does not apply to, or affect, any of the following:

(1) The possession of a firearm by an authorized participant in a motion picture, television, or video production or entertainment event when the participant lawfully uses the firearm as part of that production or event or while going directly to, or coming directly from, that production or event.

(2) The possession of a firearm in a locked container by a member of any club or organization, organized for the purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other firearms, while the member is at meetings of the clubs or organizations or while going directly to, and coming directly from, those meetings.



- (3) The transportation of a firearm by a participant when going directly to, or coming directly from, a recognized safety or hunter safety class, or a recognized sporting event involving that firearm.
- (4) The transportation of a firearm by a person listed in Section 12026 directly between any of the places mentioned in Section 12026.
- (5) The transportation of a firearm by a person when going directly to, or coming directly from, a fixed place of business or private residential property for the purpose of the lawful repair or the lawful transfer, sale, or loan of that firearm.
- (6) The transportation of a firearm by a person listed in Section 12026 when going directly from the place where that person lawfully received that firearm to that person's place of residence or place of business or to private property owned or lawfully possessed by that person.
- (7) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show, swap meet, or similar event to which the public is invited, for the purpose of displaying that firearm in a lawful manner.
- (8) The transportation of a firearm by an authorized employee or agent of a supplier of firearms when going directly to, or coming directly from, a motion picture, television, or video production or entertainment event for the purpose of providing that firearm to an authorized participant to lawfully use as a part of that production or event.
- (9) The transportation of a firearm by a person when going directly to, or coming directly from, a target range, which holds a regulatory or business license, for the purposes of practicing shooting at targets with that firearm at that target range.
- (10) The transportation of a firearm by a person when going directly to, or coming directly from, a place designated by a person authorized to issue licenses pursuant to Section 12050 when done at the request of the issuing agency so that the issuing agency can determine whether or not a license should be issued to that person to carry that firearm.
- (11) The transportation of a firearm by a person when going directly to, or coming directly from, a law enforcement agency for the purpose of a lawful transfer, sale, or loan of that firearm pursuant to Section 12084.
- (12) The transportation of a firearm by a person when going directly to, or coming directly from, a lawful camping activity for the purpose of having that firearm available for lawful personal protection while at the lawful campsite. This paragraph shall not be construed to override the statutory authority granted to the Department of Parks and Recreation or any other state or local governmental agencies to promulgate rules and regulations governing the administration of parks and campgrounds.

(13) The transportation of a firearm by a person in order to comply with subdivision (c) or (i) of Section 12078 as it pertains to that firearm.

(14) The transportation of a firearm by a person in order to utilize subdivision (l) of Section 12078 as it pertains to that firearm.

(15) The transportation of a firearm by a person when going directly to, or coming directly from, a gun show or event, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, for the purpose of lawfully transferring, selling, or loaning that firearm in accordance with subdivision (d) of Section 12072.

(16) The transportation of a firearm by a person in order to utilize paragraph (3) of subdivision (a) of Section 12078 as it pertains to that firearm.

(b) In order for a firearm to be exempted under subdivision (a), while being transported to or from a place, the firearm shall be unloaded, kept in a locked container, as defined in subdivision (d), and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.

(c) This section does not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.

(d) As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device. The term "locked container" does not include the utility or glove compartment of a motor vehicle.



EXHIBIT 7

SENATE COMMITTEE ON CRIMINAL PROCEDURE

Senator Milton Marks, Chair
1995-96 Regular Session

A
B

9
2

AB 92 (Hauser)
As amended May 31, 1995
Hearing date: June 27, 1995
Penal Code
SAH:js

PENALTY INCREASE/ARMED CRIMINAL ACTION - OTHER AMENDMENTS TO
THE DANGEROUS WEAPONS' CONTROL LAW

HISTORY

Source: Author

Prior Legislation: AB 2469 (1994) - held in Senate Appropriations Committee
AB 482 - Chapter 23, Statutes of 1994

Support: Unknown

Opposition: California Attorneys for Criminal Justice

Assembly Floor Vote: Ayes 70 - Noes 2

KEY ISSUE

1. THE NEW CRIME OF "ARMED CRIMINAL ACTION" WAS CREATED IN AB 482 (CHAPTER 23, STATUTES OF 1994) TO PROVIDE A MISDEMEANOR/FELONY (16 MONTHS, TWO, OR THREE YEARS IN STATE PRISON) PENALTY FOR CARRYING A LOADED FIREARM WITH THE INTENT TO COMMIT A FELONY.

SHOULD "ARMED CRIMINAL ACTION" BE FURTHER EXPANDED TO CREATE SPECIFIED FIRST AND SECOND DEGREE CATEGORIES (FOR LOADED/CONCEALABLE AND UNLOADED/LONGGUNS) AND TO EXPAND THE PUNISHMENT FOR FIRST DEGREE OFFENSES TO TWO, THREE, OR FOUR YEARS IN STATE PRISON? (SEE COMMENT THREE FOR "THREE STRIKES" IMPACT, WHICH DOES NOT INCLUDE THE CREATION OF A NEW FELONY.)

(Continued)



2. EXISTING EXCEPTIONS EXIST TO THE LAW AGAINST CARRYING CONCEALED WEAPONS IN PUBLIC; THOSE EXCEPTIONS SPECIFICALLY ALLOW SPECIFIED PERSONS OVER THE AGE OF 18 TO CARRY, OPENLY OR CONCEALED, ANY CONCEALABLE HANDGUN AT A PERSON'S LEGAL RESIDENCE, PLACE OF BUSINESS, OR ON PRIVATE PROPERTY OWNED OR LAWFULLY POSSESSED.

SHOULD THOSE PROVISIONS BE REVISED, TO INCLUDE A SEPARATE SUBDIVISION STATING THAT "NO PERMIT TO PURCHASE, OWN, OR POSSESS, KEEP, CARRY, EITHER OPENLY OR CONCEALED, SHALL BE REQUIRED" FOR THE EXISTING EXCEPTIONS IN LAW? (THUS BIFURCATING THE "EXEMPTION" AND THE "PREEMPTION" PARTS OF THE EXISTING STATUTE INTO TWO SUBDIVISIONS.)

SHOULD MENTALLY UNSTABLE PERSONS AND VIOLENT FELONS BE ADDED TO THE LIST OF PERSONS WHO ARE NOT EXEMPTED FROM THE CONCEALED WEAPONS PROHIBITION BY THIS SECTION?

3. EXISTING LAW PROVIDES EXEMPTIONS FROM THE GENERAL PROHIBITION ON CARRYING CONCEALED WEAPONS FOR FIREARMS TRANSPORTED IN A LOCKED CONTAINER OR IN A LOCKED TRUNK.

SHOULD MENTALLY UNSTABLE PERSONS AND VIOLENT FELONS BE ADDED TO THE LIST OF PERSONS WHO ARE NOT EXEMPTED FROM THE CONCEALED WEAPONS PROHIBITION BY THIS SECTION?

4. EXISTING LAW PROVIDES EXEMPTIONS FROM THE GENERAL PROHIBITION ON CARRYING CONCEALED WEAPONS FOR A VARIETY OF ACTIVITIES, INCLUDING TELEVISION OR MOVIE PRODUCTION; TRANSPORTING A FIREARMS TO OR FROM HUNTER SAFETY COURSES; AND TRANSPORTING A FIREARM TO OR FROM A GUN SHOW. ALL REQUIRE THE FIREARM TO BE UNLOADED AND LOCKED AS PRESCRIBED.

SHOULD AN ADDITIONAL EXEMPTION BE ADDED FOR PERSONS TRANSPORTING A FIREARM TO A VOLUNTARY GOVERNMENT BUYING PROGRAM FOR DISPOSAL?

PURPOSE

1. Existing law - added by AB 482 (Chapter 23, Statutes of 1994) contains a crime of "armed criminal action" for every person who carries a loaded firearm with the intent to commit a



felony, punishable by imprisonment in a county jail not exceeding one year, or in the state prison (16 months, 2, or 3 years). (Penal Code Section 12023)

This bill amends that crime by creating the following bifurcation:

- a. armed criminal action is in the first degree -- punishable by imprisonment in the state prison for 2, 3, or 4 years -- when the firearm is a loaded firearm or a concealable weapon,
- b. armed criminal action is in the second degree -- punishable by imprisonment in a county jail not exceeding one year, or in the state prison (16 months, 2, or 3 years) - when the firearm is unloaded and is not a pistol, revolver, or other firearm capable of being concealed.

(NOTE: if the firearm is otherwise prohibited by another Penal Code Section, then other penalties may apply regardless of any intent to commit a crime.)

2. Existing law contains both an exemption and a preemption for any citizen of the United States or legal resident who is 18 years or older and his or her possession or purchase of any pistol, revolver, or other firearm capable of being concealed upon the person when that person is within his or her place of residence, place of business, or on private property owned or lawfully possessed. The exemption is to the general prohibition of carrying concealed weapons is public; that prohibition specifically does not apply to those places, whether a person carries the weapon openly or concealed. The preemption included in the same section states that no permit shall be required to purchase, own, possess, keep, or carry a any such weapon in those places. (Penal Code Section 12026)

This bill revises existing Section 12026 by splitting the exemption and the preemption into two separate subparagraphs.

It also adds additional cross-references to that section concerning mentally unstable and violent felons.

3. Existing law provides exemptions from the general prohibition on carrying concealed weapons for firearms transported in a locked container or in a locked trunk. (Penal Code Section 12026.1)

This bill specifically adds mentally unstable persons and violent felons to the list of persons who are not exempted from the concealed weapons prohibition by that section.

4. Existing law provides exemptions from the general prohibition on carrying concealed weapons for a variety of activities, including television or movie production; transporting a firearms to or from hunter safety courses; and transporting a firearm to or from a gun show.



All require the firearm to be unloaded and locked as prescribed. (Penal Code Section 12026.2)

This bill adds a specific exemption for persons transporting a firearm to a voluntary government buying program for disposal.

The purpose of this bill is to increase the penalties for "armed criminal action" and to make other changes to the Dangerous Weapons' Control Law.

COMMENTS

1. Need for This Bill.

According to the staff person working on this bill, AB 92 is "essentially a technical gun cleanup bill." That staff person, as usual, generally indicates that these changes are proposed in order to make changes requested by others.

2. Armed Criminal Action - Not a Technical Clean-Up.

AB 482 (1994) enacted new Penal Code Section 12023 to address the issue of carrying a loaded firearm with the intent to commit a felony. It created a potential felony sanction where someone carried a weapon with illicit intent but had not actually made an "attempt" at committing a felony. The sponsor of AB 482 indicated that such a new crime would be an alternative to increasing the penalty for carrying a concealed weapon without a license without making all carry violations a potential felony on the first offense. The new "armed criminal action" offense applies whether the person carrying the weapon legally acquired/possessed the gun or not.

The sponsor indicated that the new offense was taken from the Model Penal Code (Section 5.06), the statutes of other states, and the 1968 Gun Control Act (18 USC 924(a) and (b)). Further, the sponsor indicated that this crime is a long-standing one in the English common law. The elements of armed criminal action are carrying a loaded firearm with the intent to commit a felony.

This bill proposes to increase the penalty for armed criminal action to two, three, or four years if the firearm is loaded or a concealable firearm and to leave the existing misdemeanor/felony penalty for "armed with an unloaded rifle or shotgun criminal action".



IS THE PENALTY INCREASE PROPOSED BY THIS BILL GOOD PUBLIC POLICY GIVEN THE RECENT ENACTMENT OF THIS SECTION AND THE NUMBER OF SENTENCE INCREASES ENACTED LAST YEAR, INCLUDING THREE-STRIKES?

3. Three-Strikes Effect.

This bill does not create a new felony. It does increase the penalty for a specific category of criminals who violate the existing provision of Section 12023. This bill should therefore be evaluated as a sentence increase, not a new felony, for purposes of three-strikes.

4. Proposed Public Safety Legislative Agenda.

In a January 23, 1995 media release, the California District Attorneys Association and seven law enforcement groups released a letter sent to all legislators which outlined a number of concerns, including the need to increase resources available to law enforcement for improved technology in the areas of communications, automation and criminalistics and to expand resources available for the continued hiring, and education of peace officers and prosecutors.

Along with the Proposed Public Safety Agenda, the letter asked legislators to refrain from pursuing several specific types of legislation, including:

"Piecemeal sentencing increases, unless a compelling statewide need exists for the change contemplated. Many of these proposals only serve to further complicate criminal sentencing, and fail to consider the change within the context of California's overall sentencing law."

IS THE SENTENCE INCREASE PROPOSED BY THIS BILL CONSISTENT WITH THE LAW ENFORCEMENT AGENDA?

5. The Proposed Revision of Penal Code Section 12026 - Exemptions and Preemptions.

There are two court decisions which have addressed issues about the effect of this section, which generally provides both (1) an exemption for persons possessing concealable weapons on his or her place of residence, business, or other lawfully possessed private property, and, (2) a preemption to prevent the imposition of any other permit requirements for persons to have such weapons in those places.

In 1988, the California Fifth District Court of Appeal ruled in People v. Melton (206 Cal.App.3d 580) that neither former Penal Code Section 12026 nor its 1988 amendments actually created an exception to the concealed weapons law of Penal Code Section 12025. The Legislature responded by amending Section 12026 the following year, with the stated intent of abrogating the Melton decision. The new statute provided that "Melton was abrogated insofar as that decision purports to require the issuance of a concealed weapons



permit in order to carry a pistol within the places mentioned in Section 12026 of the Penal Code..."

In 1991, the Appellate Department of the San Francisco Superior Court ruled in People v. Barela (134 Cal.App.3d Supp.15) that the amended Penal Code Section 12026 did in fact have the effect of abrogating the Melton decision. The Court recognized both the preemption and the exemption granted to U.S. citizens under the code.

STAFF WORKING ON THIS BILL STATES THAT THOSE OPINIONS "SUGGEST" THAT SECTION 12026 SHOULD BE REVISED TO SPLIT THE EXEMPTION AND PREEMPTION LANGUAGE. NO ONE HAS PRESENTED ANY ANECDOTAL OR CASE LAW PROBLEMS WHICH ENDORSE THAT VIEW; ANY CHANGES TO STATUTES - WHICH SEEM TO BE UNDERSTANDABLE TO COURTS AND OTHERS - MAY INVITE NEW LITIGATION. SHOULD PENAL CODE SECTION 12026 BE DIVIDED AS PROPOSED IN THIS BILL?

6. Other Changes Proposed by This Bill.

The cross-references added in Section 12026 by this bill are consistent with the current language in the bill. However, whether they are actually necessary to prevent any potential confusion is arguable, since those mentally unstable and violent felons are already prohibited from possessing firearms and that section would not likely be interpreted to mean that they can have such prohibited weapons if at home. The same holds true with the addition of those same cross-references in Section 12026.1 and transporting firearms; those categories of persons cannot lawfully have the firearms anyway.

The exemption added to Section 12026.2 to allow transportation of a firearm in order to turn it into a Government program which collects firearms for destruction is arguably already covered under Section 12026.1; however, is another redundancy in the Act a problem or not?

ARE THESE CHANGES NECESSARY TO RESOLVE ANY REAL PROBLEMS WITH EXISTING LAW?

7. Opposition to This Bill.

The California Attorneys for Criminal Justice write in opposition:

"The offense of armed criminal action was created only last year. A person can be charged under this law for intending to commit a felony, while carrying a loaded firearm, where no action is taken by the person to attempt the intended crime. Existing law allows prosecution of the person for armed criminal action even if the defendant did not intend to use the firearm in the course of the felony.



“CACJ believes the creation of this offense was ill-considered, and we oppose the expansion of it to cover carrying an unloaded firearm. Under AB 92, a person could be charged with a felony for carrying a legally owned, legally carried, unloaded firearm - and then simultaneously forming an intent to, for example, commit embezzlement - even though there was no thought of using the gun and no steps were taken to carry out the crime. The broadness in the definition of this crime will surely lead to arbitrary and unfair exercises of discretion as law enforcement and prosecutors decide whom to charge.”



DEPARTMENT OF FINANCE BILL ANALYSIS

July 3, 1995

BILL NUMBER: AB 92

Defer to Office of Criminal

AUTHOR: D. Hauser

change existing law regarding the exception for citizens to possess a firearm in their residence, business, or property as specified. This bill would also specify that a person that transports a firearm as part of a voluntary city, county, state, or federal program where government officials purchase or receive firearms from private individuals is not guilty of carrying a concealed firearm.

FISCAL SUMMARY

This bill would have no fiscal impact to the state. A previous version of this bill required the Department of Justice (DOJ) to report annually all persons charged with carrying a concealed firearm as specified. DOJ indicated they would need additional resources to fulfill the reporting requirements. The reporting requirements have been removed from the latest version of this bill, therefore, we have no fiscal concerns with this bill.

COMMENTS

This bill would exempt citizens from gun permit or license requirements for possessing a firearm at their residence, business, or property as specified. This bill would also specify that a person that transports a firearm as part of a voluntary city, county, state, or federal program where government officials purchase or receive firearms from private individuals is not guilty of carrying a concealed firearm.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)					Fund Code
		LA	CO	PROP	RV	FC	
		(Dollars in Thousands)					
		1995-1996	1996-1997	1997-1998	No/Minor Fiscal Impact		0001
0820/Justice	SO						
Fund Code:	Title						
0001	General Fund						

Analyst/Principal (0211) J. Foreman	Date 7-11-95	Program Budget Manager S. Calvin Smith	Date 7-12-95
<i>JL James P. Foreman</i>		<i>Calvin Smith</i>	
Department Deputy Director			Date

Governor's Office: By: _____ Date: _____

Position Noted _____
 Position Approved _____
 Position Disapproved _____

BILL ANALYSIS

LEGISLATIVE INTENT SERVICE (800) 666-1917

EXHIBIT 8



CITY MANAGER

CITY OF SAN JOSÉ, CALIFORNIA

801 NORTH FIRST STREET
SAN JOSE, CALIFORNIA 95133
(408) 277-5849

File - SB 15

Simon
LA City
APR 6 1999
April 1, 1999
via Jeff King
for 2 OK

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



SP-14

EXHIBIT 9

SENATE BILL 15 (POLANCO)

PROPOSED NON-PREEMPTION AMENDMENT

It is the intent of the Legislature, in enacting this Chapter, to provide uniform, minimum standards of regulation of unsafe handguns. Nothing in this Chapter shall be construed to preclude any city, county, or city and county from enacting an ordinance with a stricter prohibition on the manufacture, sale, and giving or lending of unsafe handguns. For purposes of this section, local ordinances concerning unsafe handguns include ordinances that describe such handguns as junk guns or Saturday Night Specials.

Source: City San Jose
Contact: Roxanne L. Miller, Legislative Representative
(916) 443-3946

4/1/99

SP-15

EXHIBIT 10

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 COUNSELS DIGEST

SB 15, as introduced, 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 July 1, 2000.

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 to the state for sale, keeps for sale, 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 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.

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

31 (3) The sale to, purchase by, or possession of, any
32 pistol, revolver, or other firearm capable of being
33 concealed upon the person by the Department of Justice,
34 police departments, sheriffs' officials, marshals' offices,
35 the Department of Corrections, the California Highway

1 Patrol, district attorneys' offices, full-time paid peace
 2 officers of other states and the federal government, the
 3 federal military forces, the California National Guard, or
 4 the State Military Reserve, excluding the unorganized
 5 militia, when that weapon would be prevented by this
 6 chapter from being sold in this state solely because it fails
 7 to meet minimum frame and barrel size prerequisites
 8 established by this chapter. Nothing in this chapter shall
 9 prohibit the possession or use of any pistol, revolver, or
 10 other firearm capable of being concealed upon the
 11 person that would be prevented by this chapter from
 12 being sold in this state solely because it fails to meet
 13 minimum frame size prerequisites by sworn members of
 14 these agencies when on duty and the use is within the
 15 scope of their duties.

16 (4) Firearms listed as curios or relics, as defined in
 17 Section 178.11 of Title 27 of the Code of Federal
 18 Regulations.

19 (c) Violations of subdivision (a) are cumulative with
 20 respect to each handgun and shall not be construed as
 21 restricting the application of any other law. However, an
 22 act or omission punishable in different ways by this
 23 section and other provisions of law shall not be punished
 24 under more than one provision, but the penalty to be
 25 imposed shall be determined as set forth in Section 654.
 26 12126. As used in this chapter, "unsafe handgun"
 27 means any pistol, revolver, or other firearm capable of
 28 being concealed upon the person, as defined in
 29 subdivision (a) of Section 12001, for which any of the
 30 following is true:

31 (a) For a revolver:

- 32 (1) It has an overall frame length of less than four and
- 33 one-half inches measured on a line parallel to the barrel.
- 34 (2) It has a barrel length less than three inches.
- 35 (3) It does not have a safety device that, either
- 36 automatically in the case of a double-action firing
- 37 mechanism, or by manual operation in the case of a
- 38 single-action firing mechanism, causes the hammer to
- 39 retract to a point where the firing pin does not rest upon
- 40 the primer of the cartridge.

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

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

5 (b) For a pistol:

6 (1) It does not have a positive manually operated
 7 safety device.

8 (2) It has a combined length and height less than 10
 9 inches with the height (right angle measurement to the
 10 barrel without magazine or extension) less than four
 11 inches and the length less than six inches.

12 (3) It does not meet the firing requirement for
 13 handguns pursuant to Section 12127.

14 (4) It does not meet the drop safety requirement for
 15 handguns pursuant to Section 12128.

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

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

38 (2) Fires the full 600 rounds with no more than six
 39 malfunctions that are not due to faulty magazine or
 40 ammunition and without any crack or breakage of an

1 operating part of the handgun that increases the risk of
2 injury to the user.

3 (b) If a pistol or revolver fails the requirements of
4 either paragraph (1) or (2) of subdivision (a) due to
5 either a faulty magazine or faulty ammunition, the pistol
6 or revolver shall be retested from the beginning of the
7 "firing requirement for handguns" test. A new model of
8 the pistol or revolver that failed due to a faulty magazine
9 or ammunition may be submitted for the test to replace
10 the pistol or revolver that failed.

11 (c) As used in this section, "malfunction" means a
12 failure to properly feed, fire, or eject a round, or failure
13 of a pistol to accept or reject a manufacturer-approved
14 magazine, or failure of a pistol's slide to remain open after
15 a manufacturer-approved magazine has been expended.
16 12128. As used in this chapter, the "drop safety
17 requirement for handguns" means that at the conclusion
18 of the firing requirements for handguns described in
19 Section 12127, the same certified independent testing
20 laboratory shall subject the same three handguns of the
21 make and model for which certification is sought, to the
22 following test:

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

1 weapon attached at one end and the other end held in an
2 air vise until the drop is initiated.

3 The following six drops shall be performed:

4 (a) Normal firing position with barrel horizontal.

5 (b) Upside down with barrel horizontal.

6 (c) On grip with barrel vertical.

7 (d) On muzzle with barrel vertical.

8 (e) On either side with barrel horizontal.

9 (f) If there is an exposed hammer or striker, on the
10 rearmost point of that device, otherwise on the rearmost
11 point of the weapon.

12 The primer shall be examined for indentations after
13 each drop. If indentations are present, a fresh primed case
14 shall be used for the next drop.

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

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

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

38 (b) On or before July 1, 2000, the Department of
39 Justice shall certify laboratories to verify compliance with
40 the standards defined in Section 12126. The department

1 may charge any laboratory that is seeking certification to
2 test any pistol, revolver, or other firearm capable of being
3 concealed upon the person pursuant to this chapter a fee
4 not exceeding the costs of certification.

5 (c) The certified testing laboratory shall, at the
6 manufacturer's or importer's expense, test the firearm
7 and submit a copy of the final test report directly to the
8 Department of Justice along with a prototype of the
9 weapon. The department shall notify the manufacturer
10 or importer of its receipt of the final test report and the
11 department's determination as to whether the firearm
12 tested may be sold in this state.

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

22 (b) The department shall include on the roster any
23 pistol, revolver, or other firearm capable of being
24 concealed upon the person listed as a curio or relic, as
25 defined in Section 178.11 of Title 27 of the Code of Federal
26 Regulations.

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

38 (2) Any pistol, revolver, or other firearm capable of
39 being concealed upon the person that is manufactured by
40 a manufacturer who manufactures or causes to be

1 manufactured, imports into the state for sale, keeps for
2 sale, or offers or exposes for sale any pistol, revolver, or
3 other firearm capable of being concealed upon the
4 person in this state, and who fails to pay any fee required
5 pursuant to paragraph (1), may be excluded from the
6 roster.

7 12132. This chapter shall not apply to any of the
8 following:

9 (a) The transfer of any firearm pursuant to Section
10 12082 or 12084 in order to comply with subdivision (d) of
11 Section 12072.

12 (b) The transfer of any firearm between immediate
13 family members that is exempt from the provisions of
14 subdivision (d) of Section 12072 pursuant to subdivision
15 (c) of Section 12078.

16 12133. The provisions of this chapter shall not apply to
17 a single-action revolver that has at least a five-cartridge
18 capacity with a barrel length of not less than three inches,
19 and meets any of the following specifications:

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

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

26 (c) Has an overall length measured parallel to the
27 barrel of at least seven and one-half inches when the
28 handle, frame or receiver, and barrel are assembled and
29 that is currently approved for importation into the United
30 States pursuant to the provisions of paragraph (3) of
31 subsection (d) of Section 925 of Title 18 of the United
32 States Code.

33 SEC. 2. It is the intent of the Legislature that the
34 Department of Justice pursue an internal loan from
35 special fund revenues available to the department to
36 cover startup costs for the program established pursuant
37 to Section 1 of this act. Any loan shall be repaid with the
38 proceeds of fees collected under that program within six
39 months.

1 SEC. 3. No reimbursement is required by this act
2 pursuant to Section 6 of Article XIII B of the California
3 Constitution because the only costs that may be incurred
4 by a local agency or school district will be incurred
5 because this act creates a new crime or infraction,
6 eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section
8 17556 of the Government Code, or changes the definition
9 of a crime within the meaning of Section 6 of Article
10 XIII B of the California Constitution.

11 Notwithstanding Section 17580 of the Government
12 Code, unless otherwise specified, the provisions of this act
13 shall become operative on the same date that the act
14 takes effect pursuant to the California Constitution.

EXHIBIT 11

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 x 15 x 15 cm (3 x 6 x 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 12

AMENDED IN ASSEMBLY JUNE 16, 1999.
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 COUNSELS 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.

f

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,

1 and, if not, for the department to add the firearm to the
2 roster of pistols, revolvers, and other firearms capable of
3 being concealed upon the person that may be sold in this
4 state pursuant to Section 12131.

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

9 (3) Firearms listed as curios or relics, as defined in
10 Section 178.11 of Title 27 of the Code of Federal
11 Regulations.

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

24 (4) *The sale to, purchase by, or possession of any pistol,*
25 *revolver or other firearm capable of being concealed*
26 *upon the person by the Department of Justice, any police*
27 *department, any sheriff's official, any marshals' office, the*
28 *Youth and Adult Correctional Agency, the California*
29 *Highway Patrol, any district attorneys' office, the military*
30 *or naval forces of this state or of the United States for use*
31 *in the discharge of their official duties. Nor shall anything*
32 *in this section prohibit the possession of any pistol,*
33 *revolver, or other firearm capable of being concealed*
34 *upon the person by sworn members of these agencies,*
35 *whether the sworn member is on or off duty, or an*
36 *individual who is retired from service with a law*
37 *enforcement agency and who is not otherwise prohibited*
38 *from possessing a concealable firearm upon his or her*
39 *retirement.*

1 (c) Violations of subdivision (a) are cumulative with
2 respect to each handgun and shall not be construed as
3 restricting the application of any other law. However, an
4 act or omission punishable in different ways by this
5 section and other provisions of law shall not be punished
6 under more than one provision, but the penalty to be
7 imposed shall be determined as set forth in Section 654.

8 12126. As used in this chapter, "unsafe handgun"
9 means any pistol, revolver, or other firearm capable of
10 being concealed upon the person, as defined in
11 subdivision (a) of Section 12001, for which any of the
12 following is true:

13 (a) For a revolver:

14 (1) It does not have a safety device that, either
15 automatically in the case of a double-action firing
16 mechanism, or by manual operation in the case of a
17 single-action firing mechanism, causes the hammer to
18 retract to a point where the firing pin does not rest upon
19 the primer of the cartridge.

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

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

24 (b) For a pistol:

25 (1) It does not have a positive manually operated
26 safety device.

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

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

31 12127. (a) As used in this chapter, the "firing
32 requirement for handguns" means a test in which the
33 manufacturer provides three handguns of the make and
34 model for which certification is sought, these handguns
35 not being in any way modified from those that would be
36 sold if certification is granted, to an independent testing
37 laboratory certified by the Attorney General pursuant to
38 Section 12130. The laboratory shall fire 600 rounds from
39 each gun, stopping after each series of 50 rounds has been
40 fired for 5 to 10 minutes to allow the weapon to cool,

1 stopping after each series of 100 rounds has been fired to
 2 tighten any loose screws and clean the gun in accordance
 3 with the manufacturer's instructions, and stopping as
 4 needed to refill the empty magazine or cylinder to
 5 capacity before continuing. The ammunition used shall
 6 be of the type recommended by the handgun
 7 manufacturer in the user manual, or if none is
 8 recommended, any standard ammunition of the correct
 9 caliber in new condition. A handgun shall pass this test if
 10 each of the three test guns meets both of the following:

11 (1) Fires the first 20 rounds without a malfunction that
 12 is not due to faulty magazine or ammunition.
 13 (2) Fires the full 600 rounds with no more than six
 14 malfunctions that are not due to faulty magazine or
 15 ammunition and without any crack or breakage of an
 16 operating part of the handgun that increases the risk of
 17 injury to the user.

18 (b) If a pistol or revolver fails the requirements of
 19 either paragraph (1) or (2) of subdivision (a) due to
 20 either a faulty magazine or faulty ammunition, the pistol
 21 or revolver shall be retested from the beginning of the
 22 "firing requirement for handguns" test. A new model of
 23 the pistol or revolver that failed due to a faulty magazine
 24 or ammunition may be submitted for the test to replace
 25 the pistol or revolver that failed.

26 (c) As used in this section, "malfunction" means a
 27 failure to properly feed, fire, or eject a round, or failure
 28 of a pistol to accept or reject a manufacturer-approved
 29 magazine, or failure of a pistol's slide to remain open after
 30 a manufacturer-approved magazine has been expended.
 31 12128. As used in this chapter, the "drop safety
 32 requirement for handguns" means that at the conclusion
 33 of the firing requirements for handguns described in
 34 Section 12127, the same certified independent testing
 35 laboratory shall subject the same three handguns of the
 36 make and model for which certification is sought, to the
 37 following test:

38 A primed case (no powder or projectile) shall be
 39 inserted into the chamber. For pistols, the slide shall be
 40 released, allowing it to move forward under the impetus.

1 of the recoil spring, and an empty magazine shall be
 2 inserted. For both pistols and revolvers, the weapon shall
 3 be placed in a drop fixture capable of dropping the pistol
 4 from a drop height of 1m + 1cm (39.4 + 0.4 in.) onto the
 5 largest side of a slab of solid concrete having minimum
 6 dimensions of 7.5 x 15 x 15 cm (3 x 6 x 6 in.). The drop
 7 distance shall be measured from the lowermost portion of
 8 the weapon to the top surface of the slab. The weapon
 9 shall be dropped from a fixture and not from the hand.
 10 The weapon shall be dropped in the condition that it
 11 would be in if it were dropped from a hand (cocked with
 12 no manual safety applied). If the design of a pistol is such
 13 that upon leaving the hand a "safety" is automatically
 14 applied by the pistol, this feature shall not be defeated. An
 15 approved drop fixture is a short piece of string with the
 16 weapon attached at one end and the other end held in an
 17 air vise until the drop is initiated.

18 The following six drops shall be performed:

- 19 (a) Normal firing position with barrel horizontal.
 - 20 (b) Upside down with barrel horizontal.
 - 21 (c) On grip with barrel vertical.
 - 22 (d) On muzzle with barrel vertical.
 - 23 (e) On either side with barrel horizontal.
 - 24 (f) If there is an exposed hammer or striker, on the
 25 rearmost point of that device, otherwise on the rearmost
 26 point of the weapon.
- 27 The primer shall be examined for indentations after
 28 each drop. If indentations are present, a fresh primed case
 29 shall be used for the next drop.
 30 The handgun shall pass this test if each of the three test
 31 guns does not fire the primer.
 32 12129. Every person who is licensed as a
 33 manufacturer of firearms pursuant to Chapter 44
 34 (commencing with Section 921) of Title 18 of the United
 35 States Code who manufactures firearms in this state, and
 36 every person who imports into the state for sale, keeps for
 37 sale, or offers or exposes for sale any firearm, shall certify
 38 under penalty of perjury and any other remedy provided
 39 by law that every model, kind, class, style, or type of pistol,
 40 revolver, or other firearm capable of being concealed

1 upon the person that he or she manufactures or imports,
2 keeps, or exposes for sale is not an unsafe handgun as
3 prohibited by this chapter.

4 12130. (a) Any pistol, revolver, or other firearm
5 capable of being concealed upon the person
6 manufactured in this state, imported into the state for
7 sale, kept for sale, or offered or exposed for sale, shall be
8 tested within a reasonable period of time by an
9 independent laboratory certified pursuant to subdivision
10 (b) to determine whether that pistol, revolver, or other
11 firearm capable of being concealed upon the person
12 meets or exceeds the standards defined in Section 12126.

13 (b) On or before July 1, 2000, the Department of
14 Justice shall certify laboratories to verify compliance with
15 the standards defined in Section 12126. The department
16 may charge any laboratory that is seeking certification to
17 test any pistol, revolver, or other firearm capable of being
18 concealed upon the person pursuant to this chapter a fee
19 not exceeding the costs of certification.

20 (c) The certified testing laboratory shall, at the
21 manufacturer's or importer's expense, test the firearm
22 and submit a copy of the final test report directly to the
23 Department of Justice along with a prototype of the
24 weapon to be retained by the department. The
25 department shall notify the manufacturer or importer of
26 its receipt of the final test report and the department's
27 determination as to whether the firearm tested may be
28 sold in this state.

29 12131. (a) On and after January 1, 2001, the
30 Department of Justice shall compile, publish, and
31 thereafter maintain a roster listing all of the pistols,
32 revolvers, and other firearms capable of being concealed
33 upon the person that have been tested by a certified
34 testing laboratory, have been determined not to be
35 unsafe handguns, and may be sold in this state pursuant
36 to this title. The roster shall list, for each firearm, the
37 manufacturer, model number, and model name.

38 (b) The department shall include on the roster any
39 pistol, revolver, or other firearm capable of being
40 concealed upon the person listed as a curio or relic, as

1 defined in Section 178.11 of Title 27 of the Code of Federal
2 Regulations.

3 (c) (1) The department may charge every person in
4 this state who is licensed as a manufacturer of firearms
5 pursuant to Chapter 44 (commencing with Section 921)
6 of Title 18 of the United States Code, and any person in
7 this state who manufactures or causes to be
8 manufactured, imports into the state for sale, keeps for
9 sale, or offers or exposes for sale any pistol, revolver, or
10 other firearm capable of being concealed upon the
11 person in this state, an annual fee not exceeding the costs
12 of preparing, publishing, and maintaining the roster
13 pursuant to subdivisions (a) and (b).

14 (2) Any pistol, revolver, or other firearm capable of
15 being concealed upon the person that is manufactured by
16 a manufacturer who manufactures or causes to be
17 manufactured, imports into the state for sale, keeps for
18 sale, or offers or exposes for sale any pistol, revolver, or
19 other firearm capable of being concealed upon the
20 person in this state, and who fails to pay any fee required
21 pursuant to paragraph (1), may be excluded from the
22 roster.

23 12131.5. (a) A firearm shall be deemed to satisfy the
24 requirements of subdivision (a) of Section 12131 if
25 another firearm made by the same manufacturer is
26 already listed and the unlisted firearm differs from the
27 listed firearm only in one or more of the following
28 features:

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

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

32 (3) The shape or texture of the grips, so long as the
33 difference in grip shape or texture does not in any way
34 alter the dimensions, material, linkage, or functioning of
35 the magazine well, the barrel, the chamber, or any of the
36 components of the firing mechanism of the firearm.

37 (4) Any other purely cosmetic feature that does not in
38 any way alter the dimensions, material, linkage, or
39 functioning of the magazine well, the barrel, the

1 chamber, or any of the components of the firing
2 mechanism of the firearm.

3 (b) Any manufacturer seeking to have a firearm listed
4 under this section shall provide to the Department of
5 Justice all of the following:

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

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

9 (3) A statement, under oath, that each unlisted
10 firearm for which listing is sought differs from the listed
11 firearm only in one or more of the ways identified in
12 subdivision (a) and is in all other respects identical to the
13 listed firearm.

14 (c) The department may, in its discretion and at any
15 time, require a manufacturer to provide to the
16 department any model for which listing is sought under
17 this section, to determine whether the model complies
18 with the requirements of this section.
19 12132. This chapter shall not apply to any of the
20 following:

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

24 (b) The sale, loan, or transfer of any firearm that is
25 exempt from the provisions of subdivision (d) of Section
26 12072 pursuant to any applicable exemption contained in
27 Section 12078, if the sale, loan, or transfer complies with
28 the requirements of that applicable exemption to
29 subdivision (d) of Section 12072.

30 (c) The sale, loan, or transfer of any firearm as
31 described in paragraph (3) of subdivision (b) of Section
32 12125.

33 (d) The delivery of a pistol, revolver, or other firearm
34 capable of being concealed upon the person to a person
35 licensed pursuant to Section 12071 for the purposes of the
36 service or repair of that firearm.

37 (e) The return of a pistol, revolver, or other firearm
38 capable of being concealed upon the person by a person
39 licensed pursuant to Section 12071 to its owner where that

1 firearm was initially delivered in the circumstance set
2 forth in subdivision (d).

3 (f) The return of a pistol, revolver, or other firearm
4 capable of being concealed upon the person by a person
5 licensed pursuant to Section 12071 to its owner where that
6 firearm was initially delivered to that licensee for the
7 purpose of a consignment sale or as collateral for a
8 pawnbroker loan.

9 12133. The provisions of this chapter shall not apply to
10 a single-action revolver that has at least a five-cartridge
11 capacity with a barrel length of not less than three inches,
12 and meets any of the following specifications:

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

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

19 (c) Has an overall length measured parallel to the
20 barrel of at least seven and one-half inches when the
21 handle, frame or receiver, and barrel are assembled and
22 that is currently approved for importation into the United
23 States pursuant to the provisions of paragraph (3) of
24 subsection (d) of Section 925 of Title 18 of the United
25 States Code.

26 ~~12134. Nothing in this chapter shall require or~~
27 ~~prohibit any local ordinance that places a more stringent~~
28 ~~requirement upon the manufacture, importation,~~
29 ~~transfer, sale, or possession of handguns.~~

30 SEC. 2. It is the intent of the Legislature that the
31 Department of Justice pursue an internal loan from
32 special fund revenues available to the department to
33 cover startup costs for the program established pursuant
34 to Section 1 of this act. Any loan shall be repaid with the
35 proceeds of fees collected under that program within six
36 months.

37 SEC. 3. No reimbursement is required by this act
38 pursuant to Section 6 of Article XIII B of the California
39 Constitution because the only costs that may be incurred
40 by a local agency or school district will be incurred

1 because this act creates a new crime or infraction,
2 eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section
4 17556 of the Government Code, or changes the definition
5 of a crime within the meaning of Section 6 of Article
6 XIII B of the California Constitution.

EXHIBIT 13

AMENDED IN ASSEMBLY AUGUST 16, 1999
AMENDED IN ASSEMBLY JULY 13, 1999
AMENDED IN ASSEMBLY JUNE 16, 1999
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 COUNSELS 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 specify that its provisions do not apply to the sale, loan, or transfer of any pistol, revolver, or other firearm capable of being concealed upon the person listed as a curio or relic. 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 and the costs of

research and development, report analysis, firearms storage, and other program infrastructure costs necessary to implement the bill.

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

1 to conduct an independent test to determine whether
 2 that pistol, revolver, or other firearm capable of being
 3 concealed upon the person is prohibited by this chapter,
 4 and, if not, for the department to add the firearm to the
 5 roster of pistols, revolvers, and other firearms capable of
 6 being concealed upon the person that may be sold in this
 7 state pursuant to Section 12131.

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

12 (3) Firearms listed as curios or relics, as defined in
 13 Section 178.11 of Title 27 of the Code of Federal
 14 Regulations.

15 (4) The sale to, purchase by, or possession of any pistol,
 16 revolver or other firearm capable of being concealed
 17 upon the person by the Department of Justice, any police
 18 department, any sheriff's official, any marshal's office, the
 19 Youth and Adult Correctional Agency, the California
 20 Highway Patrol, any district attorney's office, and the
 21 military or naval forces of this state or of the United States
 22 for use in the discharge of their official duties. Nor shall
 23 anything in this section prohibit the possession of any
 24 pistol, revolver, or other firearm capable of being
 25 concealed upon the person by sworn members of these
 26 agencies, whether the sworn member is on or off duty, or
 27 an individual who is retired from service with a law
 28 enforcement agency and who is not otherwise prohibited
 29 from possessing a concealable firearm upon his or her
 30 retirement.

31 (c) Violations of subdivision (a) are cumulative with
 32 respect to each handgun and shall not be construed as
 33 restricting the application of any other law. However, an
 34 act or omission punishable in different ways by this
 35 section and other provisions of law shall not be punished
 36 under more than one provision, but the penalty to be
 37 imposed shall be determined as set forth in Section 654.
 38 12126. As used in this chapter, "unsafe handgun"
 39 means any pistol, revolver, or other firearm capable of
 40 being concealed upon the person, as defined in

1 subdivision (a) of Section 12001, for which any of the
 2 following is true:

3 (a) For a revolver:

4 (1) It does not have a safety device that, either
 5 automatically in the case of a double-action firing
 6 mechanism, or by manual operation in the case of a
 7 single-action firing mechanism, causes the hammer to
 8 retract to a point where the firing pin does not rest upon
 9 the primer of the cartridge.

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

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

14 (b) For a pistol:

15 (1) It does not have a positive manually operated
 16 safety device, as determined by standards relating to
 17 imported guns promulgated by the federal Bureau of
 18 Alcohol, Tobacco, and Firearms.

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

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

23 12127. (a) As used in this chapter, the "firing
 24 requirement for handguns" means a test in which the
 25 manufacturer provides three handguns of the make and
 26 model for which certification is sought, these handguns
 27 not being in any way modified from those that would be
 28 sold if certification is granted, to an independent testing
 29 laboratory certified by the Attorney General pursuant to
 30 Section 12130. The laboratory shall fire 600 rounds from
 31 each gun, stopping after each series of 50 rounds has been
 32 fired for 5 to 10 minutes to allow the weapon to cool,
 33 stopping after each series of 100 rounds has been fired to
 34 tighten any loose screws and clean the gun in accordance
 35 with the manufacturer's instructions, and stopping as
 36 needed to refill the empty magazine or cylinder to
 37 capacity before continuing. The ammunition used shall
 38 be of the type recommended by the handgun
 39 manufacturer in the user manual, or if none is
 40 recommended, any standard ammunition of the correct

1 caliber in new condition. A handgun shall pass this test if
2 each of the three test guns meets both of the following:

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

5 (2) Fires the full 600 rounds with no more than six
6 malfunctions that are not due to faulty magazine or
7 ammunition and without any crack or breakage of an
8 operating part of the handgun that increases the risk of
9 injury to the user.

10 (b) If a pistol or revolver fails the requirements of
11 either paragraph (1) or (2) of subdivision (a) due to
12 either a faulty magazine or faulty ammunition, the pistol
13 or revolver shall be retested from the beginning of the
14 "firing requirement for handguns" test. A new model of
15 the pistol or revolver that failed due to a faulty magazine
16 or ammunition may be submitted for the test to replace
17 the pistol or revolver that failed.

18 (c) As used in this section, "malfunction" means a
19 failure to properly feed, fire, or eject a round, or failure
20 of a pistol to accept or reject a manufacturer-approved
21 magazine, or failure of a pistol's slide to remain open after
22 a manufacturer-approved magazine has been expended.

23 12128. As used in this chapter, the "drop safety
24 requirement for handguns" means that at the conclusion
25 of the firing requirements for handguns described in
26 Section 12127, the same certified independent testing
27 laboratory shall subject the same three handguns of the
28 make and model for which certification is sought, to the
29 following test:

30 A primed case (no powder or projectile) shall be
31 inserted into the chamber. For pistols, the slide shall be
32 released, allowing it to move forward under the impetus
33 of the recoil spring, and an empty magazine shall be
34 inserted. For both pistols and revolvers, the weapon shall
35 be placed in a drop fixture capable of dropping the pistol
36 from a drop height of $1\text{m} + 1\text{cm}$ ($39.4 + 0.4$ in.) onto the
37 largest side of a slab of solid concrete having minimum
38 dimensions of $7.5 \times 15 \times 15$ cm ($3 \times 6 \times 6$ in.). The drop
39 distance shall be measured from the lowermost portion of
40 the weapon to the top surface of the slab. The weapon

1 shall be dropped from a fixture and not from the hand.
2 The weapon shall be dropped in the condition that it
3 would be in if it were dropped from a hand (cocked with
4 no manual safety applied). If the design of a pistol is such
5 that upon leaving the hand a "safety" is automatically
6 applied by the pistol, this feature shall not be defeated. An
7 approved drop fixture is a short piece of string with the
8 weapon attached at one end and the other end held in an
9 air vise until the drop is initiated.

10 The following six drops shall be performed:

11 (a) Normal firing position with barrel horizontal.

12 (b) Upside down with barrel horizontal.

13 (c) On grip with barrel vertical.

14 (d) On muzzle with barrel vertical.

15 (e) On either side with barrel horizontal.

16 (f) If there is an exposed hammer or striker, on the
17 rearmost point of that device, otherwise on the rearmost
18 point of the weapon.

19 The primer shall be examined for indentations after
20 each drop. If indentations are present, a fresh primed case
21 shall be used for the next drop.

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

24 12129. Every person who is licensed as a
25 manufacturer of firearms pursuant to Chapter 44
26 (commencing with Section 921) of Title 18 of the United
27 States Code who manufactures firearms in this state, and
28 every person who imports into the state for sale, keeps for
29 sale, or offers or exposes for sale any firearm, shall certify
30 under penalty of perjury and any other remedy provided
31 by law that every model, kind, class, style, or type of pistol,
32 revolver, or other firearm capable of being concealed
33 upon the person that he or she manufactures or imports,
34 keeps, or exposes for sale is not an unsafe handgun as
35 prohibited by this chapter.

36 12130. (a) Any pistol, revolver, or other firearm
37 capable of being concealed upon the person
38 manufactured in this state, imported into the state for
39 sale, kept for sale, or offered or exposed for sale, shall be
40 tested within a reasonable period of time by an

1 independent laboratory certified pursuant to subdivision
2 (b) to determine whether that pistol, revolver, or other
3 firearm capable of being concealed upon the person
4 meets or exceeds the standards defined in Section 12126.

5 (b) On or before October 1, 2000, the Department of
6 Justice shall certify laboratories to verify compliance with
7 the standards defined in Section 12126. The department
8 may charge any laboratory that is seeking certification to
9 test any pistol, revolver, or other firearm capable of being
10 concealed upon the person pursuant to this chapter a fee
11 not exceeding the costs of certification.

12 (c) The certified testing laboratory shall, at the
13 manufacturer's or importer's expense, test the firearm
14 and submit a copy of the final test report directly to the
15 Department of Justice along with a prototype of the
16 weapon to be retained by the department. The
17 department shall notify the manufacturer or importer of
18 its receipt of the final test report and the department's
19 determination as to whether the firearm tested may be
20 sold in this state.

21 12131. (a) On and after January 1, 2001, the
22 Department of Justice shall compile, publish, and
23 thereafter maintain a roster listing all of the pistols,
24 revolvers, and other firearms capable of being concealed
25 upon the person that have been tested by a certified
26 testing laboratory, have been determined not to be
27 unsafe handguns, and may be sold in this state pursuant
28 to this title. The roster shall list, for each firearm, the
29 manufacturer, model number, and model name.

30 (b) (1) The department may charge every person in
31 this state who is licensed as a manufacturer of firearms
32 pursuant to Chapter 44 (commencing with Section 921)
33 of Title 18 of the United States Code, and any person in
34 this state who manufactures or causes to be
35 manufactured, imports into the state for sale, keeps for
36 sale, or offers or exposes for sale any pistol, revolver, or
37 other firearm capable of being concealed upon the
38 person in this state, an annual fee not exceeding the costs
39 of preparing, publishing, and maintaining the roster
40 pursuant to subdivision (a) and the costs of research and

1 development, report analysis, firearms storage, and other
2 program infrastructure costs necessary to implement this
3 chapter.

4 (2) Any pistol, revolver, or other firearm capable of
5 being concealed upon the person that is manufactured by
6 a manufacturer who manufactures or causes to be
7 manufactured, imports into the state for sale, keeps for
8 sale, or offers or exposes for sale any pistol, revolver, or
9 other firearm capable of being concealed upon the
10 person in this state, and who fails to pay any fee required
11 pursuant to paragraph (1), may be excluded from the
12 roster.

13 12131.5. (a) A firearm shall be deemed to satisfy the
14 requirements of subdivision (a) of Section 12131 if
15 another firearm made by the same manufacturer is
16 already listed and the unlisted firearm differs from the
17 listed firearm only in one or more of the following
18 features:

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

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

22 (3) The shape or texture of the grips, so long as the
23 difference in grip shape or texture does not in any way
24 alter the dimensions, material, linkage, or functioning of
25 the magazine well, the barrel, the chamber, or any of the
26 components of the firing mechanism of the firearm.

27 (4) Any other purely cosmetic feature that does not in
28 any way alter the dimensions, material, linkage, or
29 functioning of the magazine well, the barrel, the
30 chamber, or any of the components of the firing
31 mechanism of the firearm.

32 (b) Any manufacturer seeking to have a firearm listed
33 under this section shall provide to the Department of
34 Justice all of the following:

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

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

38 (3) A statement, under oath, that each unlisted
39 firearm for which listing is sought differs from the listed
40 firearm only in one or more of the ways identified in

1 subdivision (a) and is in all other respects identical to the
2 listed firearm.

3 (c) The department may, in its discretion and at any
4 time, require a manufacturer to provide to the
5 department any model for which listing is sought under
6 this section, to determine whether the model complies
7 with the requirements of this section.

8 12132. This chapter shall not apply to any of the
9 following:

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

13 (b) The sale, loan, or transfer of any firearm that is
14 exempt from the provisions of subdivision (d) of Section
15 12072 pursuant to any applicable exemption contained in
16 Section 12078, if the sale, loan, or transfer complies with
17 the requirements of that applicable exemption to
18 subdivision (d) of Section 12072.

19 (c) The sale, loan, or transfer of any firearm as
20 described in paragraph (3) of subdivision (b) of Section
21 12125.

22 (d) The delivery of a pistol, revolver, or other firearm
23 capable of being concealed upon the person to a person
24 licensed pursuant to Section 12071 for the purposes of the
25 service or repair of that firearm.

26 (e) The return of a pistol, revolver, or other firearm
27 capable of being concealed upon the person by a person
28 licensed pursuant to Section 12071 to its owner where that
29 firearm was initially delivered in the circumstance set
30 forth in subdivision (d).

31 (f) The return of a pistol, revolver, or other firearm
32 capable of being concealed upon the person by a person
33 licensed pursuant to Section 12071 to its owner where that
34 firearm was initially delivered to that licensee for the
35 purpose of a consignment sale or as collateral for a
36 pawnbroker loan.

37 (g) The sale, loan, or transfer of any pistol, revolver, or
38 other firearm capable of being concealed upon the
39 person listed as a curio or relic, as defined in Section
40 178.11 of the Code of Federal Regulations.

1 12133. The provisions of this chapter shall not apply to
2 a single-action revolver that has at least a five-cartridge
3 capacity with a barrel length of not less than three inches,
4 and meets any of the following specifications:

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

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

11 (c) Has an overall length measured parallel to the
12 barrel of at least seven and one-half inches when the
13 handle, frame or receiver, and barrel are assembled and
14 that is currently approved for importation into the United
15 States pursuant to the provisions of paragraph (3) of
16 subsection (d) of Section 925 of Title 18 of the United
17 States Code.

18 SEC. 2. It is the intent of the Legislature that the
19 Department of Justice pursue an internal loan from
20 special fund revenues available to the department to
21 cover startup costs for the program established pursuant
22 to Section 1 of this act. Any loan shall be repaid with the
23 proceeds of fees collected under that program within six
24 months.

25 SEC. 3. No reimbursement is required by this act
26 pursuant to Section 6 of Article XIII B of the California
27 Constitution because the only costs that may be incurred
28 by a local agency or school district will be incurred
29 because this act creates a new crime or infraction,
30 eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section
32 17556 of the Government Code, or changes the definition
33 of a crime within the meaning of Section 6 of Article
34 XIII B of the California Constitution.

SB 15

- 1
- 2
- 3
- 4
- 5

CORRECTIONS

Digest -- Page 2.

--12--

EXHIBIT 14

SENATE COMMITTEE ON PUBLIC SAFETY

Senator John Vasconcellos, Chair
1999-2000 Regular Session

S
B
1
5

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.

- 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.

(More)

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

(More)

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 15



City and County of San Francisco
Master Report

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 031932	File Type: Ordinance	Status: Passed
Enacted: 260-04		Effective:
Version: 4	Reference:	In Control: Mayor
File Name: Restricting the sale or transfer of 50 caliber firearms and ammunition, requiring reporting of firearm thefts, and deleting obsolete provisions regulating firearms		Introduced: 11/25/2003
Requester:	Cost:	Date Passed: 11/4/2004

Comment: No fiscal impact.	Title: Ordinance amending the Police Code by deleting Sections 552, 556 and 557, relating to possession of firearms by minors and possession of facsimile firearms in order to conform to state law, amending Section 602 to delete redundant provisions and provisions relating to air guns in order to conform to state law; amending Sections 613.1, 613.10 and 613.10-1 to delete requirements relating to "Saturday Night Specials," restrictions on the sale of large capacity magazines and various other requirements relating to firearms dealers in order to conform to state law and add new requirements in Section 613.10-1 to restrict the sale or transfer of 50 caliber firearms and ammunition; amending Sections 613.2 and 613.3 to require the Chief of Police to conduct a background check on applicants for a firearms dealer license and such applicants' employees; amending Sections 613, 613.10-3, 613.12, 613.16, 613.19, 617 and 618 to make technical and conforming corrections; amending Section 613.10-2, restricting the sale of ultracompact firearms to update findings and exceptions to restrictions on sales, deleting Sections 614 through 616, relating to reporting of firearms sales by dealers in order to conform to state law, renumbering existing Sections 617 and 618 as Sections 614 and 615; and adding a new Section 616, requiring owners of firearms to report the loss or theft of a firearm to the Police Department.
-----------------------------------	---

Indexes:	Sponsors: Gonzalez, Dufty, Daly
-----------------	--

History of Legislative File		031932				
Var	Acting Body	Date	Action	Sent To	Due Date	Pass/Fail
1	President	11/25/2003	ASSIGNED UNDER 30 DAY RULE	City Services Committee	12/25/2003	
1	Board of Supervisors	7/13/2004	SUBSTITUTED			
	<i>Supervisor Gonzalez submitted a substitute ordinance bearing new title.</i>					
2	President	7/13/2004	ASSIGNED UNDER 30 DAY RULE	City Services Committee	8/12/2004	
2	Clerk of the Board	7/27/2004	REFERRED TO DEPARTMENT			
	<i>Referred to Youth Commission for comment and recommendation.</i>					
2	Board of Supervisors	9/21/2004	SUBSTITUTED			
	<i>Supervisor Gonzalez submitted a substitute ordinance bearing new title.</i>					
3	President	9/21/2004	ASSIGNED	City Services Committee		

3 City Services Committee 9/30/2004 AMENDED, AN
AMENDMENT OF
THE WHOLE
BEARING SAME
TITLE

*Heard in Committee. Speakers: Dave Grenell, Legislative Aide to Supervisor Gonzalez; Juliet Leftwich, Managing Attorney, Legal Community Against Violence; David Greenburg, Deputy City Attorney; Tom Boyer, Pink Pistols; Sharon Hewitt, Director, San Francisco State University CLAER Project; Andres Soto, Policy Director, San Francisco Trauma Foundation, San Francisco General Hospital; Lisa Feldstein; Shirley Byrd, San Francisco State University Urban Institute CLAER Project; Lena Gomes.
(Supervisor Duffy added as a co-sponsor.)*

4 City Services Committee 9/30/2004 RECOMMENDED AS
AMENDED Passed

4 Board of Supervisors 10/19/2004 PASSED ON FIRST
READING Passed

Supervisor Daly requested to be added as a co-sponsor.

4 Board of Supervisors 10/26/2004 FINALLY PASSED Passed

4 Mayor 11/4/2004 APPROVED

EXHIBIT 16

FILE NO. 121-26-10

ORDINANCE NO. 283-96

1 [Regulating the Sale of "Saturday Night Specials"]
 2 AMENDING THE SAN FRANCISCO MUNICIPAL CODE, PART II, CHAPTER 8
 3 (POLICE CODE) BY AMENDING SECTIONS 613.1 AND 613.10 THERETO, AND
 4
 5 ADDING SECTION 613.10-1 TO DEFINE AND PROHIBIT THE SALE OF CERTAIN
 6 FIREARMS DEEMED "SATURDAY NIGHT SPECIALS."

7 Note: Additions or substitutions are indicated by
 8 underlining.

9 Be it ordained by the People of the City and County of San
 10 Francisco:

11 Section 1. Findings.

12 1. In recent years, firearms have eclipsed automobiles as
 13 the primary cause of injury-related mortality in California and at
 14 least five other states.

15 2. The Federal Centers for Disease Control and Prevention
 16 have projected that firearms will become the primary cause of
 17 injury-related mortality nationwide by 2003.

18 3. Firearms are the leading killer of Californians under the
 19 age of 24, killing more Californians in that age group than motor-
 20 vehicle injuries, AIDS, heart disease, and cerebrovascular disease
 21 combined.
 22

23 4. Guns are widely and easily available in California.
 24 There are more than twice as many gun dealers in California as
 25

1 there are schools.

2 5. The United States government has taken steps to prevent
3 the importation into this county of poorly made, easily concealable
4 handguns manufactured abroad (commonly known as "Saturday Night
5 Specials" or "junk guns"), but has not taken steps to prohibit the
6 sale of similar, domestically manufactured handguns.

8 6. Thousands of small handguns are sold in the United States
9 each year that are of such poor quality that they present a danger
0 to those who purchase them for protection purposes. According to
1 the University of California, Davis's Violence Prevention Research
2 Program, most of these guns are manufactured in California.

4 7. Saturday Night Specials are disproportionately used in
5 crimes. Studies conducted by the federal Bureau of Alcohol,
6 Tobacco and Firearms ("BATF") and others have shown that well over
7 half the guns confiscated by police are worth less than \$50, have
8 barrel lengths of three inches or less, or are .32 caliber or
9 smaller. These guns have an approximate retail value in San Francisco of \$75 to
0 \$100.

1 8. Other studies have shown that 62 percent of the guns
2 seized at crime scenes from 1991-1993 were produced by California-
3 based manufacturers of Saturday Night Specials.

4 9. According to BATF, eight out of the ten firearms most
5

1 frequently traced nationally to crime scenes in 1995 were Saturday
2 Night Specials.

3 10. Saturday Night Specials have been shown to be three times
4 more likely to be traced to criminal activity than handguns
5 manufactured to modern safety standards from quality materials.
6

7 11. Saturday Night Specials, as defined in this legislation,
8 are an inherently unsafe product.

9 12. In recent years, firearms manufacturers have made token
10 modifications to Saturday Night Specials that have resulted in no
11 advancement, or only marginal advancement, in the durability of
12 these handguns.
13

14 13. Cosmetic remodeling of Saturday Night Specials has not
15 ameliorated the core design deficiencies of these guns, such as
16 their low quality manufacture and metallurgy.
17

18 14. The State of California has not, expressly or impliedly,
19 preempted the area of regulation of firearms sales and has
20 specifically authorized local licensing and regulation of gun
21 dealers.

22 15. The State has not sufficiently addressed the problems
23 resulting from the sale of Saturday Night Specials, forcing cities
24 to enact local measures to address the threat to the public's
25

1 health and safety posed by these guns.

2 Section 2. Part II, Chapter 8 of the San Francisco Municipal
3 Code (Police Code) is hereby amended by amending section 613.1, to
4 read as follows:

5 SEC. 613.1. DEFINITIONS.

6
7 A. "Firearm" shall mean any device, designed to be used as a
8 weapon or modified to be used as a weapon, that expels a projectile
9 by the force of an explosion or other form of combustion.

10 B. "Firearm Ammunition" shall mean any cartridge or
11 encasement containing a bullet or projectile, propellant or
12 explosive charge, and a primer which is used in the operation of a
13 firearm.

14
15 C. "Firearm Ammunition Component" shall mean any cartridge
16 or encasement, bullet or projectile, primer or propellant or
17 explosive material used in the manufacture of ammunition.

18 5/97

19 E.
20 ~~((D)) "Saturday Night Special" shall mean any of the following:~~

21 ~~1. a pistol, revolver, or firearm capable of being~~
22 ~~concealed upon the person, as those terms are defined in California~~
23 ~~Penal Code Section 17001(a), which contains a frame, barrel,~~
24 ~~breachblock, cylinder or slide that is not completely fabricated of~~
25 ~~heat treated carbon steel, forged alloy, or other material of equal~~

1 or higher tensile strength.

2 2. a semi-automatic pistol which:

3 (a) is not originally equipped by the manufacturer
4 with a locked-breach action; and

5 (b) is chambered for cartridges developing maximum
6 permissible breach pressures above 24,100 Copper Units of Pressure
7 as standardized by the Sporting Arms and Ammunition Manufacturers
8 Institute.

9 (c) For purposes of this subsection (2), "semi-
10 automatic pistol" shall mean a firearm, as defined in California
11 Penal Code Section 12001(b), which is designed to be held and fired
12 with one hand, and which does the following upon discharge: (i)
13 fires the cartridge in the chamber; (ii) ejects the fired cartridge
14 case; and (iii) loads a cartridge from the magazine into the
15 chamber. "Semi-automatic pistol" shall not include any assault
16 weapon designated in California Penal Code section 12276.

17 3. A pistol, revolver, or firearm capable of being
18 concealed upon the person, as those terms are defined in California
19 Penal Code Section 12001(a), which:

20 (a) uses an action mechanism which is substantially
21 identical in design to any action mechanism manufactured in or
22

1 before 1989 that was originally chambered for rimfire ammunition
2 developing maximum permissible breech pressures below 19,000 Copper
3 Units of Pressure as standardized by the Sporting Arms and
4 Ammunition Manufacturers Institute; and

5
6 (b) is chambered to fire either centerfire
7 ammunition or rimfire ammunition developing maximum permissible
8 breech pressures above 19,000 Copper Units of Pressure as
9 standardized by the Sporting Arms and Ammunition Manufactures
10 Institute; and

11
12 (c) is not originally equipped by the manufacturer
13 with a nondetachable safety guard surrounding the trigger; or

14 (d) if rimfire, is equipped with a barrel of less
15 than 20 bore diameters in overall length protruding from the frame.

16 "Saturday Night Special" does not include any of the
17 following:

18
19 1. Any pistol which is an antique or relic firearm or
20 other weapon falling within the specifications of paragraph (5),
21 (7) and (8) of subsection (b) of California Penal Code section
22 12020; or

23
24 2. Any pistol for which the propelling force is
25 classified as pneumatic, that is, of, or related to, compressed air

1 or any other gases not directly produced by combustion.

2 3. Children's pop guns or toys; or

3 4. An "unconventional pistol" as defined in California

4 Penal Code section 12020(c)(12); or

5 5. Any pistol which has been modified to either render
6 it permanently inoperable or permanently make it a device no longer
7 classified as a "Saturday Night Special."

9 Section 3. Part II, Chapter 8 of the San Francisco Municipal
10 Code (Police Code) is hereby amended by amending section 613.10, to
11 read as follows:

12 **SEC. 613.10. LICENSE - CONDITIONS.** In addition to all other
13 requirements and conditions stated in this Article, each license
14 shall be subject to all of the following conditions, the breach of
15 any of which shall be sufficient cause for revocation of the license
16 by the Chief of Police:

17 (a) The business shall be carried on only in the building
18 located at the street address shown on the license.

19 (b) The licensee shall comply with Sections 12073, 12074,
20 12076, 12077 and 12082 of the California Penal Code, to the extent
21 that the provisions remain in effect.

22 (c) The licensee shall not deliver any pistol or revolver to
23
24
25

1 a purchaser earlier than 15 days after the application for the
2 purchase, lease or transfer, unless otherwise provided by state or
3 federal law.

4 (d) The licensee shall not deliver any firearm to a
5 purchaser, lessee or other transferee unless the firearm is unloaded
6 and securely wrapped or unloaded in a locked container.

7 (e) The licensee shall not deliver any firearm, firearm
8 ammunition, or firearm ammunition component to a purchaser, lessee
9 or other transferee unless the purchaser, lessee or other transferee
10 is personally known to the seller or presents clear evidence of his
11 or her identity and age to the seller. As used in this Section,
12 "clear evidence of his or her identity and age" includes, but is not
13 limited to, a motor vehicle operator's license, a state
14 identification card, an armed forces identification card, an
15 employment identification card which contains the bearer's signature
16 and photograph, or any similar documentation which provides the
17 seller reasonable assurance of the identity and age of the
18 purchaser.
19
20
21

22 (f) The licensee shall not display in any part of the
23 premises where it can be readily seen from outside the premises, any
24 firearm, firearm ammunition or imitation thereof, or placard
25

1 advertising the sale or other transfer thereof, other than a sign
2 identifying the name of the business.

3 (g) The licensee shall not sell, lease or otherwise transfer
4 any firearm without also selling or otherwise providing with each
5 firearm a trigger lock or similar device approved by the Chief of
6 Police that is designed to prevent the unintentional discharge of
7 the firearm. ^(h) (See page 9a)

/16/97 8
9 ~~((h))~~ ⁽ⁱ⁾ The licensee shall not sell, lease or otherwise transfer
10 to any person any ammunition clip or magazine that has the capacity
11 to contain more than ¹⁰ ~~(15)~~ rounds of ammunition.

12 ~~((i))~~ ^(j) The licensee shall not sell, lease or otherwise transfer
13 to any person any ammunition that has no sporting purpose and is
14 designed to expand upon impact. Such ammunition includes, but is not
15 limited to, Black Talon bullets. ^(See page 9a)

16 ~~((j))~~ ^(k) The licensee shall not sell, lease or otherwise transfer
17 any firearm to any person under the age of 18 years, and shall not
18 sell, lease or otherwise transfer any pistol, revolver, or firearm
19 capable of being concealed upon the person to any person under the
20 age of 21.

rt 21 ~~((k))~~ ^(l) The licensee shall not sell, lease or otherwise transfer
22 any firearm ammunition to any person under the age of 18 years, and
23
24
25

5/97

(h) The Licensee shall not sell, lease or otherwise transfer any firearm without affixing to each firearm, or sealed package containing a firearm, a warning label stating the following in not less than 14 point type: IF YOU LEAVE A LOADED FIREARM WHERE A CHILD OBTAINS AND IMPROPERLY USES IT, YOU MAY BE FINED OR SENT TO PRISON, AND YOU MAY BE LIABLE FOR CIVIL DAMAGES

5/97

- (1) serves no sporting purpose.
- (2) is designed to expand upon impact and utilize the jacket, shot or materials embedded within the jacket or shot to protect or disperse barbs or other objects that are intended to increase the damage to a human body or other target (including, but not limited to, Winchester Black Talon, S&W Gold Dot, Federal Hydra-Shok, Hornady XTP, Eldorado Starfire, Hollow Point Ammunition and Remington Golden Saber ammunition).
- (3) is designed to fragment upon impact (including, but not limited to, Black Rhino bullets and Glaser Safety Shox), or
- (4) is designed primarily to penetrate metal or armor.

This subsection does not apply to conventional hollow-point ammunition with a solid lead core when the purchase is made for official law enforcement purposes and the purchaser is authorized to make such a purchase by the director of a public law enforcement agency such as the Chief of the San Francisco Police Department or the Sheriff of the City and County of San Francisco.



1 shall not sell, lease or otherwise transfer any ammunition capable
2 of being used in a pistol, revolver, or firearm capable of being
3 concealed upon the person to any person under the age of 21.

16/97

4 ~~((1))~~^(m) The licensee shall not sell, lease or otherwise transfer
5 any firearm to any person whom the licensee has reason to believe is
6 within any of the classes prohibited by California Penal Code
7 Sections 12021 or 12021.1 or California Welfare and Institutions
8 Code Sections 8100 or 8103.

9 ~~((m))~~⁽ⁿ⁾ The licensee shall post within the licensee's premises a
10 notice explaining the age restrictions set forth in Subsections ~~((j))~~
11 ~~and ((k))~~^{and (l)} above. The posted notice shall be in a conspicuous location
12 and shall have lettering of sufficient size such that the notice can
13 easily and clearly be seen by all prospective purchasers of firearms
14 and firearm ammunition.

rt

15 ~~((n))~~^(o) ~~the licensee shall not sell, lease or otherwise transfer~~
16 ~~any "Saturday Night Special."~~
17 ^{(o) (See page 10a)}

18 Any license issued pursuant to this Article shall be subject to
19 such additional conditions as the Chief of Police finds are
20 reasonably related to the purpose of this Article.

21 Section 4. Part II, Chapter 8 of the San Francisco Municipal
22 Code (Police Code) is hereby amended by adding section 613.10-1, to
23
24
25

16/97

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

rt

(g) The Licensee shall not deliver any firearm, firearm ammunition, or firearm ammunition component to a purchaser, lessee or other transferee whom the Licensee knows or has reason to believe is attempting the transfer (1) on behalf of another person, or (2) with the intent to avoid any restriction on transfer under this Article, or state or federal law.

1 read as follows:

2 SEC. 613.10-1. PROCEDURES REGARDING SATURDAY NIGHT SPECIALS

3 A. Roster of Saturday Night Specials. On or before January
4 1, 1997, the Chief of Police or the Chief's designee shall compile,
5 publish, and thereafter maintain a Roster of Saturday Night
6 Specials. The Roster shall list those firearms, by manufacturer
7 and model number, which the Chief determines fit the definition of
8 Saturday Night Special set forth in Section 613.1. All references
9 to "the Chief" in this section shall mean the Chief of Police or
10 the Chief's designee.

11
12
13 B. Notification. Upon completion of a list of firearms to
14 be placed on the Roster for the first time, the Chief shall
15 endeavor to send written notification to: (1) the manufacturer of
16 every firearm on said list; and (2) every dealer within the City
17 who is licensed to sell and transfer firearms pursuant to Section
18 12071 of the California Penal Code and this Chapter of the
19 Municipal Code. Such notification shall do the following:

20
21 1. Identify the model number of the firearm which has
22 been classified as a Saturday Night Special within the meaning of
23 Section 613.1.

24
25 2. Advise the recipient that the recipient may apply

1 for reconsideration of the classification of the firearm as a
2 Saturday Night Special; and

3 1. Advise the recipient that the burden of proving a
4 firearm does not constitute a Saturday Night Special within the
5 meaning of Section 613.1 shall be on the recipient.

7 C. Reconsideration by the Chief of Police.

8 1. Prior to the effective date of this ordinance, the
9 Chief shall establish standards and procedures for the form and
10 content of an application, the conduct of an administrative
11 hearing, and the evaluation of evidentiary testimony relating to
12 the decision of the Chief to classify the firearm in question as a
13 Saturday Night Special as defined in Section 613.1.

15 2. Upon timely filing of one or more complete
16 applications for reconsideration, the Chief shall evaluate the
17 evidence submitted by the applicant(s). The applicant(s) shall
18 have the burden of demonstrating that the firearm does not
19 constitute a Saturday Night Special within the meaning of Section
20 613.1.

22 D. Appeal of Classification.

23 1. If the Chief determines that the firearm under
24 reconsideration has been properly classified as a Saturday Night
25

1 Special, then the applicant(s) shall have the right to appeal such
2 decisions to the Police Commission, and the applicant(s) shall have
3 the right to a hearing before the Police Commission, or a hearing
4 officer designated by the Commission prior to inclusion of the
5 firearm in question on the Roster.

7 2. The Police Commission is authorized to establish
8 standards and procedures for the form and content of an appeal, the
9 conduct of an administrative hearing, and the evaluation of
10 evidentiary testimony relating to the Chief's decision to classify
11 the firearm in question as a Saturday Night Special as defined in
12 Section 613.1.

14 3. The burden of proof shall be on the appellant(s) to
15 demonstrate that the firearm does not constitute a Saturday Night
16 Special within the meaning of Section 613.1.

18 4. In all instances, the decision of the Police
19 Commission whether to classify the firearm in question as a
20 Saturday Night Special as defined in Section 613.1 and to place
21 said firearm on the Roster is final.

22 E. Publication of Roster. The Chief shall place on the
23 Roster each firearm which have been determined to constitute a
24 Saturday Night Special within the ^{meaning} ~~meaning~~ of Section 613.1. The
b 25

1 Chief shall cause the Roster to be published in the following
2 manner:

3 1. The Roster shall be published at least once in the
4 official newspaper as designated by the City and circulated in the
5 City within fifteen (15) days after the Roster's completion; and

6 2. A copy of the Roster shall be filed in the Chief's
7 office, and

8 3. A copy of the Roster shall be distributed to every
9 dealer within the City who is licensed to sell and transfer
10 firearms pursuant to Section 12071 of the California Penal Code and
11 this Chapter of the Municipal Code.

12 F. Effective Date of Roster. The Roster shall become
13 effective on the fifteenth day after its publication.

14 G. Additions to the Roster. Additions to the Roster shall
15 be made in accordance with the following:

16 1. Semi-Annual Determination. On a semi-annual basis,
17 the Chief shall determine the need to place firearms on the Roster.
18 Upon identifying one or more firearms as a Saturday Night Special,
19 the Chief shall prepare a draft list of the additions to the
20 Roster.

1 2. Notification of Additions to Roster. In the event
2 that a draft list of firearms to be added to the Roster is prepared,
3 the Chief shall endeavor to send written notification in accordance
4 with the aforementioned provisions of Section 613.10-1(B).

5 1. Reconsideration by the Chief of Police. Any person
6 who the Chief notifies pursuant to subsection (2) above may apply
7 for reconsideration of the classification of that firearm as a
8 Saturday Night Special in accordance with the provisions of Section
9 613.10-1(C).

10 4. Appeal of Classification. Whenever a firearm has
11 been determined to be properly classified as a Saturday Night
12 Special after reconsideration, the applicant may file an appeal to
13 the Police Commission and the Commission shall hold a hearing in
14 accordance with the provisions of Section 613.10-1(D).

15 5. Additions of Firearms to Roster. After all appeals
16 have been exhausted, the Chief shall place on the Roster those
17 additional firearms which have been determined to constitute a
18 Saturday Night Special within the meaning of Section 613.1. The
19 Chief shall cause the Roster, as amended to include these
20 additional firearms, to be published in accordance with Section
21 613.10-1(E).

1 H. Nonexclusivity of Roster. The Roster is meant to be
2 illustrative of the types of weapons which gun dealers are
3 prohibited from selling in San Francisco. The sale of firearms not
4 listed on the Roster, but having the characteristics described in
5 Section 613.1, is prohibited under Section 613.10(n).

7 Section 5. The provisions of this legislation shall take
8 effect on January 1, 1997.

9 Section 6. If any subsection, sentence, clause, phrase, or
10 word of this ordinance be for any reason declared unconstitutional
11 or invalid or ineffective by any court of competent jurisdiction,
12 such decision shall not affect the validity or the effectiveness
13 of the remaining portions of this ordinance or any part thereof.
14 The Board hereby declares that it would have adopted this
15 ordinance notwithstanding the unconstitutionality, invalidity, or
16 ineffectiveness of any one or more of its subsections, sentences,
17 clauses, phrases, or words.

20 APPROVED AS TO FORM:

21 LOUISE H. RENNE
22 City Attorney

24 By: 
25 Deputy City Attorney

BOARD OF SUPERVISORS

PAGE 16
6/17/96

Board of Supervisors, San Francisco

Passed for Second Reading	§ Finally Passed
June 24, 1996	§ July 1, 1996
Ayes: Supervisors Alioto Amiano	§ Ayes: Supervisors Amiano Bierman
Bierman Brown Hsieh Katz Kaufman	§ Brown Hsieh Katz Kaufman Leal
Leal Shelley Yaki	§ Shelley Yaki
Absent: Supervisor Teng	§ Absent: Supervisors Alioto Teng

I hereby certify that the foregoing ordinance was finally passed by the Board of Supervisors of the City and County of San Francisco

File No.
121-96-10

JUL - 3 1996

Date Approved

[Signature]
 Clerk

[Signature]
 Mayor

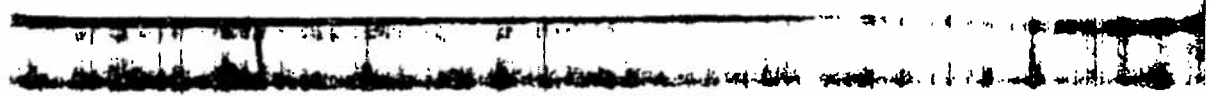


EXHIBIT 17



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

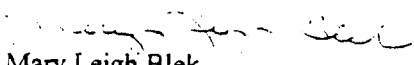
Dear Senator Polanco:

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

UNIVERSITY OF CALIFORNIA, DAVIS

BERKELEY • DAVIS • IRVINE • LOS ANGELES • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

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

January 7, 1999

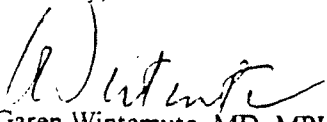
Melissa Kladjian
Office of Senator Richard Polanco
State Capitol
Room 313
Sacramento, CA 95814

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,


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

GJW/vsm

59-9



CITY MANAGER

CITY OF SAN JOSÉ, CALIFORNIA

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

file - SB 15

Simon
LA City
APR 6 1999
April 1, 1999
via Jeff King
for 2 OK

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



SP-14

BOARD OF SUPERVISORS
COUNTY OF SANTA CLARA

PETE McHUGH
BOARD CHAIR
SUPERVISOR, DISTRICT THREE

May 20, 1999

file: SB15



JUN 4 1999

The Honorable John Vasconcellos
State Capitol, Room 4074
Sacramento, CA 95814

Dear Senator Vasconcellos:

The Santa Clara County Board of Supervisors thanks you for your support of SB 15 (Polanco), a measure to enact restrictions on the manufacture, importation, and sale of "unsafe handguns."

As you may know, two years ago, Santa Clara County formed a "Violence Prevention Council," a comprehensive effort to address the issue of violence in our society. Using an extensive public process, the Violence Prevention Council developed an Action Plan, including a legislative component to encourage the support of state and federal legislation that relates to violence prevention.

We believe that SB 15 improves public safety by closing gaps in existing law, as well as maximizing the responsible, accountable and safe manufacture of firearms. However, because of the situation the bill creates with regard to previously owned guns and the inability to resell these weapons, we have asked that Senator Polanco consider amending SB 15 to address this issue.

Again, we thank you for your support of this important legislation.

Sincerely,

Pete

Pete McHugh
Chair, Board of Supervisors

c: Board of Supervisors
Michael Rattigan, Legislative Representative

Handwritten notes and scribbles, possibly including the name 'Rattigan'.

SP-18



City of
Santa Monica

Pam O'Connor
Mayor

City Council Office
1685 Main Street
PO Box 2200
Santa Monica
California 90407-2200

April 22, 1999

The Honorable Patrick Johnston
Chair
Senate Appropriations Committee
State Capitol, Room 2031
Sacramento, CA 95814

APR 23 1999

Dear Chairman Johnston:

The City of Santa Monica City Council unanimously voted to support SB 15(Polanco), and urges you to vote for this bill when it is heard in the Senate Appropriations Committee. This measure would establish basic quality and safety standards for handguns manufactured and sold in the State of California.

The City of Santa Monica, in addition to several other cities throughout California, has passed its own municipal ordinance prohibiting the sale of these inferior quality handguns, commonly referred to as "Saturday Night Specials." Handgun violence continues to be a problem in communities across the state including Santa Monica. In calendar year 1998, 33.6 percent of all robberies and 15.8 percent of all aggravated assaults here were carried out by suspects using firearms. Although the firearms used were not all "Saturday Night Specials," the relatively low cost of these weapons has made them attractive to criminals, particularly youthful offenders. While these local ordinances will assist in removing some unreliable handguns from the streets, statewide legislation would accomplish more.

SB 15 would establish statewide minimum quality and safety standards for all handguns manufactured, sold, kept for sale, offered or exposed for sale, or given or lent. A handgun manufacturer would be forced to meet these standards and the increased manufacturing costs would have to be passed on to the consumer. Since 80 percent of the "Saturday Night Specials" are currently manufactured in the State of California, this legislation has the potential to impact gun violence nationwide.

SP-23



LARRY AGRAN Councilmember

City of Irvine, One Civic Center Plaza, P.O. Box 10575, Irvine, California 92613-9575 (949) 724-6000

April 5, 1999

The Honorable John Vasconcellos
Chair, Senate Public Safety Committee
State Capitol, Room 2031
Sacramento, CA 95814

APR 8 1999

SUBJECT: SUPPORT FOR SB 15

Dear Chair Vasconcellos:

John

On behalf of the City of Irvine and our entire community, I wish to express my strong support for SB 15 regarding firearms. All too often communities throughout our state are victimized by unregulated, unsafe, and easily concealed handguns known as "Saturday night specials." These guns have been, and will continue to be, a major public safety concern until minimum manufacturing standards for size and misfiring are in place to protect our communities.

This unchecked manufacturing has led to the proliferation of unsafe and easy to obtain handguns on our streets and in our neighborhoods. Children continue to be the largest gun-victim segment in our society. In California, guns are the number one killer of our children--more so than from car crashes, drugs, and disease. SB 15 will help to prevent the tragic loss of our children by insuring that hand guns are properly made and tested.

It makes sense to regulate automobiles, clothing, and toy manufacturing; likewise, it makes sense to regulate gun manufacturing. It is our duty, at the very least, to rid our society of these poorly made and menacing firearms.

I ask your support for SB 15.

Sincerely,

Larry
Larry Agran
Councilmember

*As always, I know we can
count on your progressive
leadership, John.*

*Best wishes,
LA*

Copy: City Council
City Manager
Honorable Ross Johnson, State Senator 35th District
Honorable Marilyn Brewer, Assembly Member 70th District
Honorable Members of the Senate Public Safety Committee
Honorable Richard Polanco, State Senator 22nd District

SP-27



COUNTY ADMINISTRATOR

J. Mello
2031

SUSAN S. MURANISHI
COUNTY ADMINISTRATOR

DONNA LINTON
ASSISTANT COUNTY ADMINISTRATOR

APR 2 1999

April 1, 1999

Senator John Vasconcellos
State Capitol, Room 4074
Sacramento, CA 95814

RE: SB 15 (Polanco): Firearms – SUPPORT
Senate Committee on Public Safety – April 6, 1999

Dear Senator Vasconcellos:

On behalf of the Alameda County Board of Supervisors, I urge your support for SB 15 (Polanco), a measure which establish minimum quality and safety standards for handguns manufactured and sold in California.

SB 15 would establish size requirements conforming to those found in federal law. It would also establish safety requirements including tests for misfires and accidental discharges. These standards will allow for the use of quality handguns, while effectively prohibiting the manufacture and sale of highly concealable and unreliable junk guns.

Senator Polanco's bill will serve to rid Alameda County of any handguns not meeting the reasonable standards outlined in SB 15. Often these weapons are used not in self-defense, but in the commission of crimes, or they are involved in discharges resulting in product defects. Thus, SB 15 will reduce the incidences of gun related crimes and reduce the health care costs associated with treating victims of gun violence and accidents caused by safety devise malfunctions and other equipment failures.

SB 15 is a positive step in reducing violence and community health care costs. Therefore, on behalf of the Alameda County Board of Supervisors, I urge you to vote "AYE" on SB 15 (Polanco).

Sincerely,


Lynn M. Suter
Legislative Advocate

SP-115

Cc: Members and Consultant of the Senate Committee on Public Safety
Senator Richard Polanco
Alameda County Board of Supervisors



City of San Luis Obispo

OFFICE OF THE CITY COUNCIL
990 Palm Street ■ San Luis Obispo, CA 93401-3249 ■ 805/781-7119

March 24, 1999

John Vasconcellos, Chair
Senate Public Safety Committee
Capitol Bldg., # 2031
Sacramento, CA 95814

Re: SB 15 (Polanco)

Dear Senator Vasconcellos:

On behalf of the City of San Luis Obispo, I am writing to urge your support of SB 15, which would establish basic quality and safety standards for handguns manufactured and sold in California.

Gun violence is the number one killer of children in California, and studies have shown that poorly made handguns are the weapons of choice of youths involved in violent crime. A ban in California on Saturday Night Specials would have an impact nationwide, as 80% of those guns are manufactured here in California.

SB 15 will not prohibit the ownership of handguns, but seeks to ensure that those who choose to own handguns for self-protection have a handgun that is safe and reliable. It creates certain size requirements, drop testing, and misfire testing, which are fair and reasonable for weapons sold to the public for self-protection. SB 15 would also require that any handguns imported into California for sale meet basic safety standards, and hopefully will it prohibit the sale of unreliable junk guns.

We strongly urge your Committee to support SB 15.

Sincerely,

Allen K. Settle
Mayor

AKS/sw

c: Senator Richard Polanco
Senator Jack O'Connell
Assemblyman Abel Maldonado
City Council

City Administrative Officer
Police Chief
League of California Cities

SP-116

MAR 24 1999



CITY OF SAN CLEMENTE

Office of the Mayor & Councilmembers

Phone: (714) 361-8322 Fax: (714) 361-8283

Lois Berg, *Mayor*
Susan Ritschel, *Mayor Pro Tem*
Jim Dahl, *Councilmember*
Scott Diehl, *Councilmember*
G. Wayne Eggleston, *Councilm.*

Mike Parness, *City Manager*

March 10, 1999

MAR 29 1999

The Honorable Richard G. Polanco
State Senator/Chair, Senate Public Safety Committee
State Capitol, Room 2032
Sacramento, CA 95814

**RE: SB 15 (Polanco) Firearms
Notice of Support**

Dear Senator Polanco:


On behalf of the City of San Clemente, the City Council and I would like to extend the City's support of SB 15.

SB 15 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.

Unfortunately, small cities suffer from a proliferation of firearms on our streets and in our neighborhoods. Human lives are at stake. The cheap cost and easy access of unsafe handguns make them readily accessible to criminals and youths. The enactment of SB 15 will provide ongoing public safety tools.

The City of San Clemente supports SB 15.

Sincerely,


Lois Berg
Mayor

cc: Members, Senate Public Safety Committee
League of California Cities, Orange County Division
League of California Cities
City Clerk
Lt. Fred Lisanti, Chief of Police Services

SP-115

c:\council corres\99-115.lb.doc



CITY OF BUENA PARK

OFFICE OF THE MAYOR

March 22, 1999

The Honorable John Vasconcellos
Public Safety Committee
California State Senate
State Capitol Building, Room 4074
Sacramento, California 95814

MAR 25 1999

Dear Senator Vasconcellos:

SUBJECT: SUPPORT OF SB 15 (POLANCO)

The City of Buena Park supports SB 15 which would establish basic quality and safety standards for handguns manufactured and sold in the State of California.

Numerous studies have demonstrated that these inexpensive and easily concealable handguns are the choice among young criminals and are disproportionately involved in crime. Gun violence is the number one killer of California children. More children die from gun violence than from traffic accidents, drugs and disease. Studies show that small, poorly made handguns (commonly known as Saturday Night Specials) are the weapons of choice of youths involved in violent crime.

Please assist local law enforcement agencies in curbing senseless gun violence by supporting SB 15 when it is heard in your Committee.

Sincerely yours,

Jack Mauller
Mayor

c: Senator Richard Polanco
Senator Joe Dunn
Senator Ross Johnson
Senator John Lewis
Assemblyman Dick Ackerman
Assemblyman Scott Baugh
Assemblyman Ken Maddox
League of California Cities

SP-119



LACBA
Los Angeles County
Bar Association

STREET ADDRESS:
617 South Olive Street
Los Angeles CA 90014-1605

MAILING ADDRESS:
P O Box 55020
Los Angeles CA 90055-2020

TELEPHONE: 213.627.2727
FACSIMILE: 213.896.6500
WEB SITE: www.lacba.org

President
LEE SMALLEY EDMON

President-Elect
PATRICIA M. SCHNEGG

Senior Vice-President
REX S. HEINKE

Vice-President/Treasurer
ROLAND L. COLEMAN JR.

Executive Director
RICHARD WALCH

**Associate Executive Director/
General Counsel**
JOSEPH N. KORNOWSKI

Board of Trustees

STEVEN W. BACON
LEON F. BENNETT
JAMES W. BILDERBACK II
TERRY A. BORK
JEFFREY C. BRIGGS
PATRICIA DUNCAN
DAVID R. EVANS
MARK T. GILLET
STEVEN GOLD
CLARK D. GROSS
COMM'R JANE L. JOHNSON
MICHAEL P. JUDGE
STEVEN J. KLEIFIELD
PAUL M. KREKORIAN
MIRIAM J. LEBENTAL
CHRISTOPHER K. D. LEONG
RONALD LOW
VICTOR I. MARMON
EDITH R. MATTHAI
MICHAEL E. MEYER
SAMUEL J. MUIR
MARK A. NEUBAUER
LINDA S. PETERSON
KENT L. RICHLAND
WARTHA E. ROMERO
TOBY J. ROTHSCHILD
ALAN K. STEINBRECHER
JESS WOMACK
ROBERTA M. YANG
AN A. YOSS

WRITER'S DIRECT LINE:

March 18, 1999

VIA FAX AND US MAIL

The Honorable John Vasconcellos
Chair, Senate Public Safety Committee
State Capitol Rm 4074
Sacramento CA 95814

RE: Senate Bill 15 (Polanco)

MAR 25 1999

Dear Senator Vasconcellos:

On behalf of the Los Angeles County Bar Association (the "Association"), its Trustees and its 23,000 members, I am writing to urge you to **pass SB 15**.

My colleagues in the legal profession, as well as the judicial system in which we work, are committed to the peaceful resolution of disputes. In many ways, handguns in general, and junk guns known as "Saturday Night Specials" in particular, are the antithesis of all that we stand for. When firearms replace reason as the arbiter of disputes, our entire system of justice and of governance is denigrated and our society of laws gives way to chaos. Consequently, for over two decades our Association has supported efforts to address this nation's epidemic of gun violence.

As the chair of the Public Safety Committee, you have established yourself as a leader in the fight against violent crime. You are probably well aware that junk guns are especially attractive to criminals because their small size makes them easily concealable and their low price makes them readily accessible and essentially disposable. Consequently, the Bureau of Alcohol, Tobacco and Firearms ("BATF") has found that junk guns are more than three times more likely to be used in violent crimes than other handguns.

That is why Congress banned the importation of junk guns nearly thirty years ago. Unfortunately, that ban did not eliminate junk guns from our streets, but instead created a protected domestic junk gun industry which is centered right here in Southern California. Indeed, seven of the ten guns most commonly traced by the BATF in 1994 were junk guns made in this state.

Moreover, the standard argument that junk guns provide the poor with "affordable" self-defense is a canard, because these weapons are distinctly ill suited for self-defense. In fact, because junk guns are made of poor quality material and lack safety devices, they are dangerous for the user. The U.S. General Accounting Office estimated in 1993 that 30% of all accidental shootings could have been prevented if domestic handguns were made as safe as imported handguns.

SP-120

The Honorable John Vasconcellos
RE: SB 15 (Polanco) - SUPPORT

March 18, 1999
Page 2

For these reasons, law enforcement, the medical community, youth advocates and a large majority of Californians support a ban on junk guns. Even California gun owners overwhelmingly support such a ban.

The Los Angeles County Bar Association is proud to stand with those organizations that supported this legislation when it was introduced (as SB 500) two years ago: the California Police Chiefs' Association, the California Organization of Police and Sheriffs, the California State Sheriffs' Association, the Trauma Foundation, the California Nurses Association, the California Medical Association, the California Parents and Teachers Association, the California Chapter of the American Academy of Pediatrics, the League of California Cities, the American Jewish Congress, the Episcopal Diocese of Los Angeles, and many other organizations, local governments and individuals, which we trust will again join in supporting SB 15. I urge you in the strongest possible terms to pass this important safety legislation.

Very truly yours,



Lee Smalley Edmon
President

cc: The Honorable Richard Polanco
Association Trustees
David J. Pasternak
Andre M. Holmes
Richard Walch
Joseph Kornowski

SP-121

City of Palo Alto
Office of the Mayor and City Council

March 16, 1999

The Honorable John Vasconcellos
Chair, Senate Public Safety Committee
State Capitol, Room 4074
Sacramento, CA 95814

MAR 24 1999

Re: SB 15 (Polanco) - Firearms - SUPPORT

Dear Senator Vasconcellos:

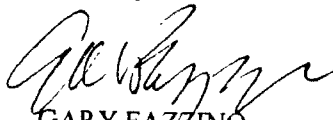


The City of Palo Alto strongly supports the passage of SB 15 which would prohibit the manufacture, sale, importation and transfer of non-sporting handguns commonly known as "Saturday Night Specials." These weapons are used most frequently in the commission of violent crimes throughout our state because they can be easily obtained at very inexpensive costs. Many of the victims of gun violence are children and many of the users of these weapons are young people. Additionally, many of these weapons are often defective and poorly constructed. The majority of these weapons are currently manufactured by companies within California.

The public's safety is jeopardized every day as long as these dangerous, often defective handguns are permitted to be manufactured and sold in California. The legislative goal should be to reduce violent deaths resulting from the use of these weapons. While some cities have adopted local ordinances, it is important that the manufacture and sale of these handguns be prohibited on a statewide basis.

I urge you to adopt SB 15.

Sincerely,



GARY FAZZINO
Mayor

cc Senator Richard Polanco
Senate Public Safety Committee Members
City Council
League of California Cities
Santa Clara County Cities Association

SP-123

P.O. Box 10250
Palo Alto, CA 94303
650.329.2477
650.329.3631 fax



TRAUMA FOUNDATION

January 27, 1999

BOARD OF DIRECTORS

- Andrew McGuire,
Executive Director
- Rav Garchalian
- David Grubb
- Penny Marshall
- Gary Mason
- Graham Moody
- Paul O'Rourke, MD
- William Senecker, MD
- Soney Snyderman, MD

FOUNDER

- Paul D. Franken, MD

The Honorable Richard Polanco
 California State Senate
 P.O. Box 942848
 Sacramento, CA 94248-0001

Dear Senator Polanco:

The Trauma Foundation is proud to support SB 15 and your continuing efforts to reduce gun violence in California. Working together, with your leadership, your two previous pieces of legislation SB 500 and SB 1500 have been passed by the Legislature, only to be vetoed by ex-Governor Wilson. This is the year for a meaningful Junk Gun Ban, SB 15, to be passed and signed into law.

SB 15 utilizes the firearms testing standards developed and used by the National Institute for Justice (NIJ) to evaluate firearms for potential law enforcement purchases. Because it is a performance and safety test, the test is blind to price and brand names. Thus, the NIJ standards provide the most objective standards by which to judge firearms performance and safety. **If a gun is not safe enough for the police, then it not safe enough for Californians.**

We look forward to working with you once again in this historic endeavor and will do what ever we can to see that SB 15 becomes the law of the state and a model for federal and other state legislation.

Sincerely yours,

Andrés Soto
Policy Director

San Francisco General Hospital
 San Francisco, California 94110
 415 821-8200
 415/282-2503 Fax
www.traumafund.org

2199 Shattuck Avenue, Suite 1110
 Berkeley, California 94704
 510/649-8942

SP-2

HANDGUN CONTROL

**ONE MILLION STRONG . . . working to
keep handguns out of the wrong hands**

February 9, 1999

Senator Richard Polanco
California State Senate
PO Box 942848
Sacramento, CA 94248-0001

Dear Senator Polanco:

RE: Support for SB 15

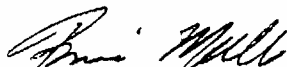
On behalf of our 84,000 members in California, Handgun Control, Inc. supports SB 15 because it prohibits the sale or manufacture of handguns that fail to meet basic quality and safety tests. The safety standards in SB 15 are taken from the National Institute of Justice Office of Science and Technology (NIJ) which has created independent safety standards for handguns. Law enforcement has been using NIJ standards for many years.

Currently, nearly 80% of our nation's unsafe handguns, also known as Saturday night specials, are produced in California. One of these manufacturers, Lorcin Engineering, has filed bankruptcy protection due to product liability suits resulting from the dangerous malfunctioning and misfiring of their handguns.

Handgun Control, Inc. strongly supports SB 15. We believe that handguns should not be exempt from meeting basic quality and safety standards. Unsafe weapons have no place in our society.

Thank you for your leadership on this important issue.

Sincerely,



Brian Malte
Handgun Control, Inc.

cc: Senate Public Safety Committee
Senate Appropriations Committee



The Episcopal Church
in the Diocese of Los Angeles

THE RIGHT REVEREND FREDERICK H. BOSCH, BISHOP

26

January 19, 1999

The Honorable Richard Polanco
California State Senate
State Capitol
Sacramento, CA 95814

Re: SB15, Saturday Night Special

Dear Senator Polanco,

The Episcopal Diocese of Los Angeles encompasses five and one-half Southern California Counties and consists of 150 congregations.

At a recent Diocesan Convention the duly elected delegates overwhelmingly supported and passed a resolution that called for "creating safety standards for firearms and monitoring and forcing compliance with said safety standards." This resolution was one of several developed and overwhelmingly supported by our Diocese in addressing the gun violence epidemic that we are experiencing.

Current law does not set any safety or quality standards for handguns. SB15 would establish two basic safety standards and minimal size requirements for handguns made or sold in California. This bill would effectively eliminate a type of handgun commonly referred to as a Saturday Night Special.

On behalf of the Episcopal Church in the Diocese of Los Angeles, I would strongly urge you to support SB15.

Yours sincerely,

A handwritten signature in cursive script that reads "Frederick H. Bosch".

enclosure



The Episcopal Church
in the Diocese of Los Angeles

COPY

THE RIGHT REVEREND FREDERICK H. BORSCH, PH.D., BISHOP

February 8, 1996

To Whom It May Concern:

Among the Resolutions passed during the 100th Convention of the Episcopal Diocese of Los Angeles on December 2, 1995, four concerned the use and regulation of firearms. These four Resolutions were adopted by an almost unanimous vote of the delegates. The texts of these Resolutions are as follows:

"RESOLVED that the 100th Annual Meeting of the Convention of the Church in the Diocese of Los Angeles urge that the California State Legislature to repeal state laws which prohibit local jurisdictions from enacting legislation more restrictive than existing state legislation regulating firearms which they deem necessary to protect the health, safety and welfare of their citizens."

"RESOLVED that the 100th Annual Meeting of the Convention of the Church in the Diocese of Los Angeles urge the California State Legislature to ban the manufacturing, sale and possession of Saturday Night Specials in California."

"RESOLVED that the 100th Annual Meeting of the Convention of the Church in the Diocese of Los Angeles urge that the California State Legislature to amend the California Penal Code so that a person carrying a firearm in an illegal manner may be charged with a felony."

"RESOLVED that the 100th Annual Meeting of the Convention of the Church in the Diocese of Los Angeles urge the federal government to adopt legislation requiring the Bureau of Alcohol, Tobacco and Firearms to set safety standards for firearms; to monitor and enforce compliance with said safety standards; and to collect data related to firearms and firearm injury."

Yours sincerely,

**California
Organization of
Police and
Sheriffs**



301 E. Olive Ave., Suite 224
Burbank, CA 91502
(818) 841-2222
(800) 352-7516
FAX (818) 841-1201

Friday, February 05, 1999

Senator Richard Polanco
Room 313
State Capital, CA 95814

Dear Senator Polanco;

The California Organization of Police and Sheriffs (COPS) supports your Senate Bill CA SB 15, which makes 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; makes provisions of bill inapplicable to specified transactions involving the sale, loan, or transfer of any firearm and to a single-action revolver with specified features.

If COPS may be of assistance to you in regards to SB 15, please do not hesitate to contact me.

Sincerely;

Bill Hemby
Legislative Advocate



MAYOR
DICK LYON

CITY OF OCEANSIDE

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 18



Violence Prevention Coalition of Greater Los Angeles

RECEIVED

7/25/98

Polanco
Office

July 24, 1998

EXECUTIVE COMMITTEE

Anthony D. Borbon, Consultant

Jeffrey M. Cressy, Chairperson
Rancho Los Amigos Medical Center

Michael Genelin, J.D., Vice-Chairperson
L.A. County Office of the District Attorney

Harold Goldstein, M.S.P.H.
L.A. County Dept. of Health Services

Sandra Guine, L.C.S.W., Vice-Chairperson
LAC Family, Children, Community
Advisory Council

Marianne Huda
Institute for Multicultural Counseling
and Education Services

Paul Juarez, Ph.D., Past-Chairperson
King/Drew Medical Center

Barbara Julian, R.N.
Council of Black Nurses

John Kotick, J.D.
Challengers Boys and Girls Club

Cheryl L. Maxson, Ph.D.
Social Science Research Institute
University of Southern California

Don Murrey
Mediascope

Michela Muto, Clinical Social Worker
Harbor-UCLA Medical Center, Box 413

Larry Portugal, M.S.
L.A. County Dept. of Health Services

Billie Weiser, M.P.H.
L.A. County Dept. of Health Services

Dennis Westbrook, M.A.
MLK Dispute Resolution Center
So. Christian Leadership Conference

William J. Ybarra
L.A. County Office of Education
Div. of Educational Support Services

Kim Zimmerman, M.D.
LAC/USC Medical Center

The Honorable Richard Polanco
California State Senate
State Capitol, Rm. 313
Sacramento, CA 94248-0001

Dear Senator Polanco:

On behalf of the Violence Prevention Coalition of Greater Los Angeles, we strongly support the passage of SB 1500, Firearms.

It is our collective hope, that the proposed bill will not be required to be modified beyond the current language. The availability of Junk Guns, on California streets, and the trail of victimization that this particular firearm has created, should be the rationale for drawing the line on the issue of compromise language.

Thank you for your continued support for critical issues, facing Californians.

Respectfully,

Anthony D. Borbon
Associate Director

A-64



GUN VIOLENCE!

**ORANGE COUNTY CITIZENS FOR THE
PREVENTION OF GUN VIOLENCE**

Founded in Memory of Matthew C. Blek

mk

April 28, 1998

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

Re: Senate Bill - 1500
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 handgun industry. This potentially lethal consumer product must be regulated for safety and quality. Of course, this is punctuated with the knowledge that in our state, as well as here in Orange County, the leading cause of death for our young people 1-19 years of age is gunshot wounds!

SB 1500 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 legislation that would rid California of Saturday Night Specials. This type of handgun was in the hands of a fifteen year old youth as he attempted to rob and subsequently killed Matthew Charles Blek, a resident of California visiting for the summer in New York City. How ironic that the handgun used to kill him was a Saturday Night Special manufactured within fifty miles of his home. It is outrageous that California is responsible for supplying over 70% of the nation's junk guns.

We endorse SB 1500 and hope for its passage into law.

Sincerely yours,

Mary Leigh Blek

Mary Leigh Blek
Chair

A-65

cc: Orange County State Legislators

949



Polanco
313

ALAMEDA COUNTY
SACRAMENTO LEGISLATIVE OFFICE

August 3, 1998

LYNN M. SUTER
LEGISLATIVE ADVOCATE
1000 S. BLOOMINGDALE SUITE 512
1127 11TH STREET
SACRAMENTO, CALIFORNIA 95814
9161 442 0412

Assembly Member Carole Migden, Chair
Assembly Committee on Appropriations
State Capitol, Room 2114
Sacramento, CA 95814

RE: SB 1500 (Polanco): Firearms - **SUPPORT**
Assembly Committee on Appropriations - August 5, 1998

Dear Assembly Member Migden,

The Alameda County Board of Supervisors supports SB 1500 (Polanco), which would establish minimum quality and safety standards for handguns manufactured and sold in the state of California.

SB 1500 would establish size requirements conforming with those found in federal law. It would also establish safety requirements including tests for misfires and accidental discharges. These standards will allow for the use of quality handguns by responsible individuals while effectively prohibiting the manufacture and sale of highly-concealable and unreliable junk guns.

Senator Polanco's bill will serve to rid Alameda County's of any handgun not meeting these reasonable standards outlined in the text of the measure. Often these weapons are used not for self defense but for the commission of crimes, or are involved in discharges resulting from product defects. Thus, SB 1500 will reduce the incidence of gun-related crimes and reduce the health care costs associated with treating victims of gun violence and accidents caused by safety device and other equipment failures.

For these reasons, the Board of Supervisors supports SB 1500 as a positive step in reducing violence and community health care costs. If you have any questions or need further information, please do not hesitate to call me.

Sincerely,

Lynn M. Suter
Legislative Advocate

A-66

cc: Members/Consultant, Assembly Committee on Appropriations
Senator Richard Polanco
Alameda County Legislative Delegation
Alameda County Board of Supervisors' PAL Committee



CITY OF STOCKTON
OFFICE OF THE CITY COUNCIL

1000 J STREET
STOCKTON, CA 95211
(209) 477-1000

- JOHN JOHNSTON
District 1
- MARK HICKERSON, M.D.
District 2
- MARK "ARY" RUSHSTALLER
District 4
- JANE ISETTI
District 5
- YUKIAC NOMURA
District 6

July 2, 1998

Assembly Member Robert M. Hertzberg, Chair
ASSEMBLY PUBLIC SAFETY COMMITTEE
State Capitol, Room 5016
Sacramento, CA 95814

SENATE BILL 1500 (POLANCO) - FIREARMS

At the June 30, 1998, City Council meeting, the Stockton City Council voted to **support** SB 1500, which 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, to meet basic standards. The Attorney General's Office would be required to certify independent labs that would test weapons manufacturers wish 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.

This bill would outlaw poorly constructed, cheap and easily concealable "Saturday Night Specials." Cities suffer from a proliferation of firearms on our streets and in our neighborhoods. The cheap cost of these guns makes them readily accessible to criminals and youths. The enactment of this bill would provide ongoing public safety tools.

Therefore, on behalf of the City of Stockton, I urge your support of SB 1500.

GARY A. PODESTO
MAYOR

GAP:sr

- cc: Senator Richard Polanco
League of California Cities
Stockton City Council
 - emc: Chief Edward J. Chavez
Police Planner Bob Marconi
- S:\WPWIN61\LEGISLA 98\SB-1500

A - 70

DIANNE FEINSTEIN
CALIFORNIA

COMMITTEE ON FOREIGN RELATIONS
COMMITTEE ON THE JUDICIARY
COMMITTEE ON RULES AND ADMINISTRATION



United States Senate

WASHINGTON, DC 20510-0504

(202) 224-2841

September 4, 1997

The Honorable Pete Wilson
Governor of California
State Capital
Sacramento, California 95814

Dear Governor Wilson:

I do not remember ever urging you to sign or veto a piece of legislation. But I now break my embargo with the following: please sign SB 500, a Bill by Senator Richard Polanco to curb the manufacture and sale of "Saturday Night Specials" in California.

Governor, you have shown some willingness to support common sense gun laws. This legislation clearly falls into that category. The cheaply-made, substandard handguns affected by this Bill, known as "Saturday Night Specials," or "junk guns," not only fail to meet the same safety and production standards that bar their importation under the Federal Gun Control Act of 1968, but they are far and away the most common guns used in crimes. Law enforcement officials have reported that in recent years, junk guns accounted for 8 of every 10 handguns most commonly seized by police. That is why the California Police Chiefs Association, the California State Sheriffs Association, and the California Organization of Police and Sheriffs all support legislation banning them.

Junk guns are not for sport, and they are not reliable for protection. In fact, during the debate on the 1968 import ban on these substandard handguns, even the National Rifle Association called junk guns "miserably-made, potentially defective arms;" Weapons that "aren't suited for target shooting, handgun hunting, or police or protection purposes."

The reason junk guns end up used in crimes more often is because they are cheap and easily concealed. The price -- as little as \$30 -- makes them the weapon of choice for criminals nationwide, and the reason they end up in the hands of thousands of juveniles each year. A recent study by the Bureau of Alcohol, Tobacco and Firearms found that junk guns were the weapons most frequently confiscated from juveniles in New York, Atlanta, and several other major U.S. cities.

FRESNO OFFICE:
1130 "D" Street
Suite 244E
Fresno, CA 93721
(209) 499-7630

LOS ANGELES OFFICE:
11111 Santa Monica Blvd.
Suite 915
Los Angeles, CA 90025
(310) 914-7300

SAN DIEGO OFFICE:
750 "B" Street
Suite 1000
San Diego, CA 92101
(619) 521-9718

SAN FRANCISCO OFFICE:
328 Market Street
Suite 3670
San Francisco, CA 94105
(415) 326-4988

A 78

09/04/97 THU 13:39 FAX

0003

09/04/97 13:40

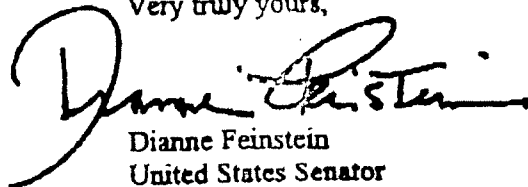
Governor Wilson
September 4, 1997
Page Two

SB 500 would not ban handguns in California. It would merely make it a misdemeanor to import, manufacture, sell, or transfer these substandard weapons in California. Four other states -- Illinois, Minnesota, South Carolina, and Hawaii -- have already banned Saturday Night Specials.

Californians support this legislation. Four counties and 34 cities have already passed local ordinances banning the sale of junk guns within their boundaries. Over 45 cities and counties have endorsed SB 500. The California Police Chiefs' Association has made the bill's passage its highest priority. The California Medical Association, League of California Cities, a number of religious organizations and major newspapers, including the Los Angeles Times and your hometown paper, the San Diego Union-Tribune, have all urged you to sign this bill. When so many Californians speak with one voice, the choice is clear. Side with the citizens and law enforcement officers of California and not with the gun lobby. I urge you to sign SB 500.

Thank you for your consideration.

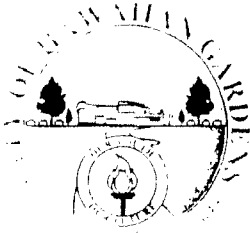
Very truly yours,



Dianne Feinstein
United States Senator

DF:spk

A 79



"Our Youth - Our Future"

CITY OF HAWAIIAN GARDENS

August 25, 1997

297

Honorable Richard G. Polanco,
State Senator, 22nd District
State Capitol, Room 2032
Sacramento, CA 95814

MLK

Dear Senator Polanco:

As the Mayor of the City of Hawaiian Gardens, I am acutely aware of the problems posed by the proliferation of Saturday Night Specials. Due to the statistics provided in your letter, it is apparent that these guns have become the weapon of choice by those intent on committing crimes.

Further, I was encouraged by a review of the SB 500 Fact Sheet. It shows that SB 500 is a common sense approach to reducing the number of these unsafe weapons which reach the public. Additionally, I was reassured that SB 500 incorporates design standards for handgun construction. These standards will ensure that any resident, who acquires a handgun for sporting purposes, can be reasonably assured that they have purchased a quality item.

Thank you again for your efforts on behalf of the residents of this State.

Sincerely,

Lupe A. Cabrera

Lupe A. Cabrera, Mayor
City of Hawaiian Gardens

A-87

10/1/97
10/1/97
10/1/97

THE CITY OF SANTA CLARA
CALIFORNIA

CITY HALL
1500 WARBURTON AVE
SANTA CLARA, CA 95050
(408) 984-3250

291-677

August 6, 1997

Senator Richard G. Polanco
State Capital Building, Room 2032
Sacramento, CA 95814

MK

SUBJECT: AB 500 (POLANCO) "Saturday Night Specials" SUPPORT

Dear Senator Polanco:

The City of Santa Clara has received your fact sheet on Senate Bill 500. Upon reviewing this bill, we feel this new legislation will greatly benefit the citizens of California.

We in government have known for many years, that the "Saturday Night Specials" have been easily obtained by the criminal element of our society. These firearms have been responsible for countless crimes which may have been prevented had we been able to control the circulation of "Saturday Night Specials." Senate Bill 500 will provide us with the legislation that will curb the circulation of these firearms.

The City of Santa Clara supports Senate Bill 500 and is looking forward to the passage of the needed legislation.

Very truly yours,

Judy Nadler
Judy Nadler
Mayor

Jennifer Sparacino
Jennifer Sparacino
City Manager

JN:AC:kb
f/n wp51\ab500.A2

A 85



GUN VIOLENCE!

ORANGE COUNTY CITIZENS FOR THE
PREVENTION OF GUN VIOLENCE

Founded in Memory of Matthew C. Blek

April 5, 1997

The Honorable Richard Polanco
State Capitol, Room 2132
Sacramento, CA 95814

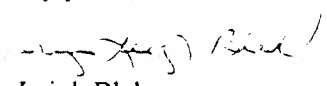
RE: Senate Bill 500
Position Support

Dear Senator Polanco:

Orange County Citizens for the Prevention of Gun Violence supports S.B. 500 because domestic handguns should be regulated as a consumer product and be required to meet basic safety and quality standards. This consumer product poses a danger not only to the user, but to all who are in the range of the bullet that will be discharged from the gun. It is difficult to think of any other product in our society that has a more compelling reason for adequate safety and quality standards!

Saturday Night Specials will not meet basic safety and quality standard imposed on handguns imported into our country and will thus be banned from our communities by this important bill. This will be particularly meaningful to our organization, as it was founded in the memory of Matthew Charles Blek, a gifted college student who was the attempted robbery victim of three fifteen year old youngsters with two handguns. The gun used to murder him was identified as a Saturday Night Special. In 1993, such junk guns accounted for eight of the ten handguns most commonly seized by California police. These low quality, short-barreled handguns have no sporting or self-protection value, but they do create grief and pain to a family whose loved one falls victim to one. Cities and counties all over our state have acted with courage to enact local ordinances that ban the sale of junk guns in their communities. We urge the state to do the same and protect all of California.

Sincerely yours,


Mary Leigh Blek
Chair

A-91

CITY COUNCIL
Don Harris, Mayor
John Madere, Mayor Pro Tem
Lynne Bidou
George Mohr
Don DeSilva



One Main Street
P.O. Box 745
Rio Vista, CA 94571
(707) 374-6451
Fax (707) 374-5063

CITY OF RIO VISTA

July 11, 1997

Senator Richard G Polanco
State Capitol - Room 2032
Sacramento, CA 95814

Dear Senator Polanco:

I am writing this letter in support of your Senate Bill 500, to prohibit the manufacturing & sale of "Saturday Night Special" hand guns in California.

I believe the passage of SB500 will definitely make our state a safer place by reducing violent crimes. If these guns can not be imported or manufactured in this state that should really cut down on the amount that would be readily accessible to the criminal element.

Sincerely;

Don DeSilva

Don DeSilva
Councilman

A-79



Ann Reiss Lane
CHAIR

July 3, 1997

HONORARY CO CHAIRS

- Glenda Lee
- Carol Ann Taylor
- Joy Turner
- Missy K. Zeltsoff
*Mothers of
Gunshot Victims*

The Honorable Robert Hertzberg
Chair, State Assembly Public Safety Committee
Capitol Building
Sacramento, CA 95814

BY FACSIMILE

LEADERSHIP COUNCIL

- Jan Andrew
- Jerrl Beacott
- Pat Busk
- Yvonne Cazler
- Dr. Annela Davidson
- Sheila Goldberg
- Rita Holsch
- L. Spencer Humphrey
- Linda Kaleydjian
- Hon. Abbe Land
- Eleanor Montano
- Joyce Morrissey
- Lynda Palevsky
- Linda Robinson-Stevens
- Angela Russell
- Lois Saffan
- Hiroko Talebe

Dear Assembly Member Hertzberg and Public Safety Committee Members:

Women Against Gun Violence, a coalition of more than 100 Los Angeles area organizations representing thousands of women and men, strongly endorses SB500.

Last year, 20 of the 42 guns confiscated on Los Angeles public school campuses were Saturday Night Specials produced in our own backyard by these five manufacturers: Sundance in Valencia, Phoenix Arms in Ontario, Davis and Lorcin in Mira Loma, and Bryco in Costa Mesa.

It's no surprise these junk guns--so cheap, so accessible, and so concealable--have become our youth's weapons of choice. When Congress banned the importation of Saturday Night Specials three decades ago, it did not foresee that domestic gun makers would fill the manufacturing void. Our youth have paid the price.

Cities across California have responded to the overwhelming majority of this state's voters--including gun owners--calling for a ban on the manufacture and sale of Saturday Night Specials. They recognize that not only are these guns disproportionately involved in crime, but that their low tensile strength and absence of safety mechanisms do not come close to meeting reasonable and responsible consumer safety standards.

BOARD OF ADVISORS

- Chief Helena Aahby
- Bishop Charles E. Blake
- Marie Contreras-Swool
- Judge George M. Doll
- Rabbi Laura Geller
- Dr. Peter Greenwood
- Sweet Alice Harris
- Merilyn Hudson
- Shirley Hoool
- Paul Krakorian, Esq.
- Nancy Olson Livingston
- Meredith MacRae
- Walter N. Marks III
- Luis Montes, M.D.
- Charlie K. Parsons
- Hon. Joy Picus
- Dr. George Regas
- Kathleen Torres
- Chief Willie L. Williams

In 1996, a staggering total of 1,398 children, women and men were victims of gun violence in Los Angeles County: 1,017 homicides, 370 suicides and 11 accidental shootings. Tragically, 236 children lost their lives to gun violence in just those six months.

On behalf of our children and families, we urge passage of SB500, authored by State Senator Richard Polanco.

Sincerely,

Susan Shaw
Executive Director

cc: State Senator Richard Polanco

DATE

6 25/ 1997
State Senator
Richard Polanco

A-114

Susan Shaw
EXECUTIVE DIRECTOR

A PROJECT OF
COMMUNITY PARTNERS



CHARLES V. SMITH
SUPERVISOR, FIRST DISTRICT

ORANGE COUNTY HALL OF ADMINISTRATION
10 CIVIC CENTER PLAZA, P.O. BOX 687, SANTA ANA, CALIFORNIA 92702-0687
PHONE (714) 834-3110 FAX (714) 834-5754

5754

July 3, 1997

The Honorable Richard G. Polanco
California State Senate
300 South Spring Street, Suite 8710
Los Angeles, CA 90013

Re: Support for Senate Bill (SB) 500 (Polanco)

Dear Senator Polanco:

Thank you for your recent correspondence requesting support for Senate Bill 500 regarding the banning of Saturday Night Special handguns.

I would be pleased to extend my support for SB 500. I believe SB 500 will be a great step toward stopping the flow of cheap, disposable handguns that are so often used in violent crimes.

Once again, thank you for your correspondence. Please feel free to contact my office if I can be of further assistance.

Sincerely,

Charles V. Smith
Supervisor, First District

CVS:kb

A-115

SANTA



MONICA

Pam O'Connor
Mayor

1685 Main Street, P.O. Box 2200
Santa Monica, CA 90407-2200
Office: 310/458-8201
Fax: 310/458-1621

July 15, 1997

The Honorable Robert Hertzberg
Chair, Assembly Public Safety Committee
State Capitol, Room 5016
Sacramento, CA 95814


Dear Chairman Hertzberg:

The City of Santa Monica City Council unanimously voted to support SB 500(Polanco), and urges you to vote for this bill when it is heard in your Assembly Committee on Public Safety. This measure would make it a misdemeanor or felony to manufacture, import, sell or possess a non-sporting handgun also known as "Saturday Night Specials".

The Federal Gun Control Act of 1968 makes it a crime to import "Saturday Night Specials." Since the implementation of this legislation, American companies have filled the gap, with a majority of those companies being in California. California produces 70 percent of these handguns. Many of the guns are poorly manufactured, unsafe, inaccurate and have no legitimate use for sporting. Because they are so cheap, these are the guns of choice for young criminals.

The proliferation of guns on our streets causes not only deaths but an enormous cost in human suffering and economic loss. Please support SB 500 to get guns out of the hands of criminals and our young people.

Sincerely,


PAM O'CONNOR
MAYOR

PO:ckl

cc: Members, Assembly Committee on Public Safety
The Honorable Richard Polanco

(council\sb500)

A-235

2032



CITY OF LOS ANGELES
OFFICE OF THE CHIEF LEGISLATIVE ANALYST

RONALD F. DEATON
CHIEF LEGISLATIVE ANALYST

1400 K STREET, ROOM 208 • SACRAMENTO 95814
(916) 441-2533
FAX (916) 448-7162

NORMAN D. BOYER
CHIEF LEGISLATIVE REPRESENTATIVE

July 25, 1997

Assembly Member Carol Migden
Chairperson
Assembly Appropriations Committee
State Capitol, Room 2114
Sacramento, CA 95814

Re SB 500 (Polanco)
As Amended 07/22/97
Assembly Appropriations Committee

Dear Assembly Member Migden:

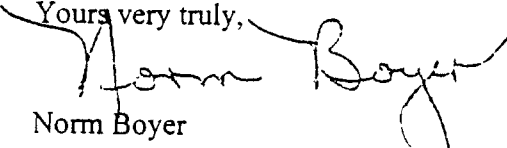
The City of Los Angeles supports SB 500, by Senator Richard Polanco, which would make it a wobbler to manufacture, import into the state, sale, give, lend or possess specified types of weapons.

The City of Los Angeles is suffering from a proliferation of weapons in our neighborhoods and streets. It has become increasingly easy for criminals and juveniles to get possession of deadly weapons. Often the police are out gunned. Officers are confronted by youths with sophisticated and deadly weapons.

It is imperative that we get these weapons off of the streets and out of the hands of criminals no matter what their age.

SB 500 by Senator Polanco will help. We ask that you support him in his efforts to get control of weapons in our communities by voting aye, when this bill comes before you.

If you have any further questions, please contact Anne Blue (916-441-2533) in our Sacramento office.

Yours very truly,

Norm Boyer
Chief Legislative Representative

NB:AB:kb

cc: All Members of the Assembly Appropriations Committee

A-249

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

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

On May 1, 2007, I served the foregoing document(s) described as

**RESPONDENTS' MOTION FOR JUDICIAL NOTICE
OF LEGISLATIVE HISTORY DOCUMENTS;
MEMORANDUM IN SUPPORT THEREOF**

on the interested parties in this action by placing
[] the original
[X] a true and correct copy
thereof enclosed in sealed envelope(s) addressed as follows:

“SEE ATTACHED SERVICE LIST”

X (BY MAIL) As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under the practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Long Beach, California, 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 May 1, 2007, at Long Beach, California.

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



CLAUDIA AYALA

PAULA FISCAL et al.,
v.
CITY AND COUNTY OF SAN FRANCISCO et al.,
CASE NO.: A115018

Wayne K. Snodgrass, Deputy City Attorney Attorneys for City and
Vince Chhabria, Deputy City Attorney County of San Francisco et al.,
San Francisco City Attorney's Office
#1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, CA 94102

Hon. James L. Warren
San Francisco County Superior Court
400 McAllister St.
San Francisco, CA 94102

San Francisco County Superior
Court Judge
Department 301

California Supreme Court
350 McAllister St.
San Francisco, CA 94102