

City of Sacramento
State Legislature

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B I L L R E F E R R A L

DATE: JAN 11 1990 COMMITTEE ACTION: _____

TO: Chief Kearns, Police DATE: _____

FROM: KENNETH EMANUELS, LEGISLATIVE ADVOCATE

REPLY NO LATER THAN: JAN 15 1990

A.B. 2046, As Amended 1/3/90 * Author Murray

S.B. _____, As Amended _____ * Author _____

*Date of introduction or latest amendment

Please review the attached measure to determine its effect upon the City of Sacramento and complete the following questions as appropriate. During your analysis of this measure, if questions arise, please feel free to contact Ken Emanuels at 444-6789, FAX 444-0303, (1400 K Street, Suite 306, Sacramento, CA 95814.) This questionnaire should be returned to the City Attorney's Office for presentation to the Council Committee on Law and Legislation. PLEASE LEAVE THE BILL ATTACHED TO THIS FORM.

NO RECOMMENDATION. If you think no Committee action on this bill should be taken, either because the bill is not of sufficient importance to the City or for any other reason, please mark here, do not fill out the rest of the form, and return this form to the City Attorney's Office. _____.

PLEASE TYPE YOUR RESPONSE

- Briefly describe the provisions of the bill (attach additional sheets if necessary).
This bill adds machine guns to the list of weapons that are illegal to advertise for sale. It changes the law to make mere possession of a machine gun illegal. Currently, there must be a sale or an attempt to sell. A severe sentence is also added for those convicted of altering weapons to make them machine guns.
- This measure should be: (Please circle desired position)

<u>Supported</u>	Opposed	Supported if Amended
Placed on Watch List	Other (explain)	
- Please explain your reasons for the above determination, including how this measure effects your Department and the fiscal impact of this measure on the City. Please make your comments in a format that can be used in a letter to state officials. (Continue on next page or attach additional sheets if necessary.)

(Continue answer to Question No. 3 here)

The use of automatic weapons by the criminal element is becoming more and more evident. Drive-by shootings, snipings and gun battles are becoming more common and we must do whatever we can to stop the use of these weapons. This bill is not the final answer, but it is a start in the right direction.

4. Specify the City's legislative policy guideline(s) applicable to this measure (if any).

5. If this measure could be amended to either improve its favorable aspects or to minimize its adverse aspects, which amendments would you propose?

6. List known support or opposition to this measure by groups with which you are familiar and include addresses and phone numbers, if known. League of California Cities position:

The National Rifle Association has been against all anti-gun legislation.

7. Does this bill involve a State-mandated local program? If so, does the bill contain a State-mandated waiver, or an appropriation for allocation and disbursement to local agencies pursuant to Revenue and Taxation Code Section 2231?

No reimbursement is required under this bill. There is no state mandated program.

8. Using a rating scale of 1 to 10 (with 10 as the most important), how important do you think this bill is to the City of Sacramento? 6

FORM COMPLETED BY: Lt. Gail C. Hamilton

DATE: 1/25/90

AMENDED IN ASSEMBLY JANUARY 3, 1990

AMENDED IN ASSEMBLY JUNE 7, 1989

CALIFORNIA LEGISLATURE—1989-90 REGULAR SESSION

ASSEMBLY BILL

No. 2046

Introduced by Assembly Member Murray

March 10, 1989

An act to amend Section 3046 of the Penal Code, relating to parole. An act to amend Sections 12020.5, 12220, 12230, and 12520 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2046, as amended, Murray. *Parole Firearms.*

(1) *Existing law prohibits the advertising for sale of certain weapons or devices whose possession is prohibited by law, as specified.*

This bill would prohibit the advertising for sale of machineguns, as specified.

(2) *Under existing law, except as specified, the sale, offer for sale, possession, or knowing transportation of a machinegun, as defined, is a felony punishable by imprisonment in the state prison or by a fine not to exceed \$10,000, or both the fine and imprisonment.*

Existing law also specifies that when no fine is prescribed for a crime punishable by imprisonment in state prison, the court may impose a fine of \$10,000 in addition to the punishment prescribed.

This bill would revise the penalties for sale or offer for sale of a machinegun by deleting the specified fine and increasing the term of imprisonment to 4, 6, or 8 years in state prison.

The bill also would make it a crime to intentionally convert a firearm into a machinegun or to knowingly manufacture a machinegun, punishable by imprisonment in the state prison

for 4, 6, or 8 years. The bill also would make related technical changes. The bill would impose a state-mandated local program by creating a new crime.

(3) Existing law provides that the Department of Justice may issue permits for the possession and transportation, or possession or transportation, of machineguns, as specified.

This bill, instead, would provide that the department may issue permits for the possession, manufacture, and transportation or possession, manufacture, or transportation of machineguns, as specified.

(4) Existing law makes it a felony to possess a silencer, as defined.

This bill would make a technical, nonsubstantive change to that provision.

(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.

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

Under existing law, after judgment in a criminal case is pronounced, the judge, the district attorney, the attorney for the defendant, and the law enforcement agency that investigated the case may file with the clerk of the court statements of their views respecting the defendant and the crime of which he or she was convicted.

Under other provisions of existing law, the Board of Prison Terms, in considering parole for prisoners imprisoned under a life sentence, shall consider, among other things, all statements and recommendations which may have been submitted by the judge, district attorney, and sheriff pursuant to the provisions set forth in the first paragraph.

This bill would revise these latter provisions to provide that the Board of Prison Terms, in considering parole for those prisoners, shall consider, among other things, all statements and recommendations which have been submitted by the judge, district attorney, and law enforcement agency, rather than by the judge, district attorney, and sheriff.

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

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

1 SECTION 1. Section 2046 of the Penal Code is
2 SECTION 1. Section 12020.5 of the Penal Code is
3 amended to read:

4 12020.5. It shall be unlawful for any person, as defined
5 in Section 12277, in any newspaper, magazine, circular,
6 form letter, or open publication, published, distributed,
7 or circulated in this state, or on any billboard, card, label,
8 or other advertising medium, or by means of any other
9 advertising device, to advertise the sale of any weapon or
10 device whose possession is prohibited by Section 12020,
11 12220, or 12280.

12 SEC. 2. Section 12220 of the Penal Code is amended
13 to read:

14 12220. (a) Any person, firm, or corporation, who
15 within this state ~~sells, offers for sale,~~ possesses or
16 knowingly transports a machinegun, except as ~~provided~~
17 authorized by this chapter, is guilty of a public offense
18 and upon conviction thereof shall be punished by
19 imprisonment in the state prison, or by a fine not to
20 exceed ten thousand dollars (\$10,000), or by both such
21 fine and imprisonment.

22 (b) Any person, firm, or corporation who within this
23 state intentionally converts a firearm into a machinegun,
24 or who sells, or offers for sale, or knowingly manufactures
25 a machinegun, except as authorized by this chapter, is
26 punishable by imprisonment in the state prison for four,
27 six, or eight years.

28 SEC. 3. Section 12230 of the Penal Code is amended
29 to read:

30 12230. The Department of Justice may issue permits
31 for the possession, *manufacture*, and transportation or
32 possession, *manufacture*, or transportation of ~~such~~
33 machineguns, upon a satisfactory showing that good
34 cause exists for the issuance thereof to the applicant for
35 ~~such~~ the permit, but no permit shall be issued to a person
36 who is under 18 years of age.

37 SEC. 4. Section 12520 of the Penal Code is amended
38 to read:

1 12520. Any person, firm, or corporation who within
2 this state possesses a silencer for firearms is guilty of a
3 felony and upon conviction thereof shall be punished by
4 imprisonment in the state prison, or by a fine not to
5 exceed ten thousand dollars (\$10,000) or by both.

6 *SEC. 5. No reimbursement is required by this act*
7 *pursuant to Section 6 of Article XIII B of the California*
8 *Constitution because the only costs which may be*
9 *incurred by a local agency or school district will be*
10 *incurred because this act creates a new crime or*
11 *infraction, changes the definition of a crime or infraction,*
12 *changes the penalty for a crime or infraction, or*
13 *eliminates a crime or infraction. Notwithstanding Section*
14 *17580 of the Government Code, unless otherwise*
15 *specified in this act, the provisions of this act shall become*
16 *operative on the same date that the act takes effect*
17 *pursuant to the California Constitution.*

18 amended to read:

19 3046. No prisoner imprisoned under a life sentence
20 may be paroled until he or she has served at least seven
21 calendar years or has served a term as established
22 pursuant to any other section of law that establishes a
23 minimum period of confinement under a life sentence
24 before eligibility for parole, whichever is greater. Where
25 two or more life sentences are ordered to run
26 consecutively to each other pursuant to Section 669, no
27 prisoner so imprisoned may be paroled until he or she has
28 served at least seven calendar years, or has served a term
29 as established pursuant to any other section of law that
30 establishes a minimum period of confinement under a life
31 sentence before eligibility for parole, on each of the life
32 sentences which are ordered to run consecutively,
33 whichever is greater. The Board of Prison Terms shall, in
34 considering a parole for a prisoner, consider all
35 statements and recommendations which may have been
36 submitted by the judge, district attorney, and law
37 enforcement agency, pursuant to Section 1203.01, or in
38 response to notices given under Section 3042, and
39 recommendations of other persons interested in the
40 granting or denying of the parole. The board shall enter

- 1 on its order granting or denying parole to these prisoners
- 2 the fact that the statements and recommendations have
- 3 been considered by it.

(CO)

(M)