

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

3

DATE: April 7, 1989

COMMITTEE ACTION: _____

TO: Sam Jackson, Dep. City Attorney

DATE: _____

John P. Kearns, Chief of Police

FROM: **KENNETH EMANUELS, LEGISLATIVE REPRESENTATIVE**

REPLY NO LATER THAN: _____

A.B. 376

S.B. _____

Relating to

STATUS:

Weapons - Magazine Ban

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 Kenneth Emanuels at 442-0412. 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.

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

1. Briefly describe the provisions of the bill (attach additional sheets if necessary). Prohibits the manufacture, import, sale, or possession for sale of any detachable magazine having a capacity greater than 10 cartridges. More specifically prohibits detachable magazines which meet all of the following criteria: 1) designed or redesigned to hold more than 10 centerfire cartridges; 2) designed or redesigned to be attached to a rifle; 3) designed or redesigned, when attached to the firearm, to feed ammunition into the firearm each time a cartridge is discharged from the firearm. (excludes handguns and pistols)

Allows for possession of a magazine with a capacity greater than 10 centerfire cartridges by permit obtained through the Department of Justice.

2. Should this measure be: (Please circle desired position)

Supported

Opposed

Supported if Amended

Placed on Watch List

Other (explain)

3. Please explain your reasons for the above determination, including how this measure effects your Department and the fiscal impact of this measure to 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.)

Current law on regulating firearms is riddled with exceptions and loopholes that its value is greatly diminished. This bill compliments other gun control bills before the legislature by adding to the intended effectiveness of the respective bills. No anticipated financial impact to the City.

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?

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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:

California Peace Officers Association; California Police Chief's Association;
California State Sheriff's Association; Board of Supervisors, Los Angeles County;
City of San Diego

7. Does this bill involve a State-mandated local program? If so, does the bill contain an S.B. 90 waiver, or an appropriation for allocation and disbursement to local agencies pursuant to Revenue and Taxation Code Section 2231?

No

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?

10

ASSEMBLY BILL

No. 376

Introduced by Assembly Member Klehs

January 30, 1989

An act to amend Sections 12200, 12220, and 12230 of the Penal Code, relating to weapons.

LEGISLATIVE COUNSEL'S DIGEST

AB 376, as introduced, Klehs. Weapons: machineguns.

Existing law defines "machinegun" and sets forth provisions governing the sale, possession, or transportation of those weapons.

This bill would add to that definition, with limited exceptions, any firearm, other than a pistol or revolver as specified, which is designed or redesigned to fire centerfire ammunition and which is automatically fed after each discharge from or by means of a clip, disk, drum, belt, or other separable mechanical device having a capacity greater than 9 cartridges, or is automatically fed after each discharge from a self-contained magazine within the firearm that holds more than 9 cartridges.

Under existing law, the sale, offer for sale, possession, or knowing transportation of a machinegun, except as specified, is a felony.

This bill would revise the law to provide that the manufacture of a machinegun is also a felony, thus creating a state-mandated local program by expanding the scope of an existing crime.

Existing law authorizes the Department of Justice to issue permits for the possession and transportation or possession or transportation of machineguns, as specified.

This bill, instead, would authorize the department to issue permits for the manufacture, possession, and transportation,

or for the manufacture, sale, or transportation of machineguns.

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. Section 12200 of the Penal Code is
2 amended to read:

3 12200. ~~The term "machinegun" as used in this~~
4 ~~chapter~~ (a) As used in this chapter, "machinegun"
5 means any weapon which shoots, or is designed to shoot,
6 automatically, more than one shot, without manual
7 reloading, by a single function of the trigger, and includes
8 any frame or receiver which can only be used with that
9 weapon. The term also includes any part or combination
10 of parts designed and intended for use in converting a
11 weapon into a machinegun. The term also includes any
12 weapon deemed by the federal Bureau of Alcohol,
13 Tobacco, and Firearms as readily convertible to a
14 machinegun under Chapter 53 (commencing with
15 Section 5801) of Title 26 of the United States Code.

16 (b) As used in this chapter, "machinegun" also means
17 any firearm, other than a pistol or revolver, as defined in
18 Section 12001, which is designed or redesigned to fire
19 centerfire ammunition and which meets one of the
20 following conditions:

21 (1) The firearm is automatically fed after each
22 discharge from or by means of a clip, disk, drum, belt, or
23 other separable mechanical device having a capacity
24 greater than nine cartridges.

25 (2) The firearm is automatically fed after each
26 discharge from a self-contained magazine within the
27 firearm that holds more than nine cartridges.

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

3 12220. Any person, firm or corporation, who within
4 this state *manufactures*, sells, offers for sale, possesses or
5 knowingly transports a machinegun, except as provided
6 by this chapter, is guilty of a public offense and upon
7 conviction thereof shall be punished by imprisonment in
8 the state prison, or by a fine not to exceed ten thousand
9 dollars (\$10,000), or by both such fine and imprisonment.

10 SEC. 3. Section 12230 of the Penal Code is amended
11 to read:

12 12230. The Department of Justice may issue permits
13 for the *manufacture*, possession, and transportation or
14 *for the manufacture*, possession, or transportation of ~~such~~
15 machineguns, upon a satisfactory showing that good
16 cause exists for the issuance thereof to the applicant for
17 ~~such~~ a permit but no permit shall be issued to a person
18 who is under 18 years of age.

19 SEC. 4. No reimbursement is required by this act
20 pursuant to Section 6 of Article XIII B of the California
21 Constitution because the only costs which may be
22 incurred by a local agency or school district will be
23 incurred because this act creates a new crime or
24 infraction, changes the definition of a crime or infraction,
25 changes the penalty for a crime or infraction, or
26 eliminates a crime or infraction. Notwithstanding Section
27 17580 of the Government Code, unless otherwise
28 specified in this act, the provisions of this act shall become
29 operative on the same date that the act takes effect
30 pursuant to the California Constitution.

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Substantive

AMENDMENTS TO ASSEMBLY BILL NO. 376

Amendment 1

Below the heading insert:

(Principal coauthor: Assembly Member
Vasconcellos)
(Coauthor: Assembly Member Eastin)

Amendment 2

Strike out the title and insert:

An act to amend Sections 12200, 12220, and 12230 of, and to add Section 12234 to, the Penal Code, relating to weapons.

Amendment 3

On page 2, line 1, after "SECTION 1." insert:

Section 12200 of the Penal Code is amended to read:

12200. The term "machinegun" as used in this chapter (a) As used in this chapter, "machinegun" means any weapon which shoots, or is designed to shoot, automatically, more than one shot, without manual reloading, by a single function of the trigger, and includes any frame or receiver which can only be used with that weapon. The term also includes any part or combination of parts designed and intended for use in converting a weapon into a machinegun. The term also includes any weapon deemed by the federal Bureau of Alcohol, Tobacco, and Firearms as readily convertible to a machinegun under Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code.

(b) As used in this chapter, "machinegun" also means a "detachable magazine" which meets all of the following criteria:

(1) It is designed or redesigned to hold more than 10 centerfire cartridges.

(2) It is designed or redesigned to be attached to, and to be detached from, a rifle, as defined in the federal Gun Control Act of 1968 (18 U.S.C. Sec. 921 et seq.).

(3) It is designed or redesigned, when attached to that firearm, to feed ammunition into the firearm each time a cartridge is discharged from the firearm.

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

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

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

12230. (a) The Department of Justice may issue permits for the manufacture, possession, and transportation, or for the manufacture, possession, or transportation, of such machineguns and for the possession and transportation, or for the possession or transportation, of detachable magazines, upon a satisfactory showing that good cause exists for the issuance thereof to the applicant for such a permit, but no permit shall be issued to a person who is under 18 years of age and no permit shall be issued for any machinegun or detachable magazine unless the machinegun or detachable magazine bears a unique identifying number assigned by the Department of Justice in accordance with rules and regulations adopted by the department.

(b) Permits to possess and transport, or to possess or transport, detachable magazines shall be limited to the following conditions:

(1) While at the permittee's residence, while in a place of business, or while on property owned or lawfully possessed.

(2) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(3) While on a target range that holds a regulatory or business license for the purpose of shooting at targets at that target range.

(4) While on the premises of a shooting club which is licensed pursuant to the Fish and Game Code.

(5) While attending an exhibition, display, or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or is approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or education about, firearms.

(6) While transporting the device or devices directly between any of the places mentioned in this

subdivision, if the transportation is done in accordance with Section 12026.1 or 12026.2.

SEC. 4. Section 12234 is added to the Penal Code, to read:

12234. (a) Any person who obtains ownership of a detachable magazine by bequest or by intestate succession, but who does not have a license issued pursuant to Section 12230, may retain ownership, but shall not have possession or control, of the device and shall comply with one of the following requirements. Within one year, the person either shall obtain a permit to possess the detachable magazine pursuant to Section 12230, transfer ownership and possession to a person who has a permit pursuant to Section 12230 or to an entity described in Section 12201, or remove it from the state. Any person who violates this subdivision is punishable as prescribed in Section 12220.

(b) The Department of Justice shall adopt regulations and procedures enabling any person in lawful possession of a detachable magazine prior to January 1, 1990, to retain the device if that person so chooses, or to transfer ownership and possession to another person licensed under this chapter or to an entity described in Section 12201, or to remove it from this state. The department also shall adopt regulations and procedures to enable the transfer of the device from a parent to an adult child who is otherwise qualified to possess it.

All persons in possession of a detachable magazine prior to January 1, 1990, shall apply to the Department of Justice prior to July 1, 1990, for a permit to retain possession of the device. The only information required for this purpose shall be the name, address, date of birth, and a set of legible fingerprints of the applicant. No information required to be submitted or retained by a person in order to register a detachable magazine under this subdivision shall be used directly or indirectly against the person in any criminal proceedings.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act,

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

DATE: 4/7/89

COMMITTEE ACTION: _____

TO: Sam Jackson, Dep. City Attorney
John P. Kearns, Chief of Police.

DATE: _____

FROM: KENNETH EMANUELS, LEGISLATIVE REPRESENTATIVE

REPLY NO LATER THAN: _____

A.B. 565 S.B. _____

Relating to Weapons -
Multiburst Trigger Activator and
Unconventional Shotgun Ban

STATUS:

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 Kenneth Emanuels at 442-0412. 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.

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

1. Briefly describe the provisions of the bill (attach additional sheets if necessary). The multiburst trigger activator is a device that can be attached to the trigger of a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device. This device allows a semiautomatic weapon to fire more rapidly, similar to a fully automatic weapon. AB 565 makes these trigger activators illegal. Additionally, the bill bans unconventional shotguns, any rotary cylinder shotgun (Streetsweeper or Striker), and any detachable shotgun magazine in excess of six rounds.

2. Should this measure be: (Please circle desired position)

- | | | |
|--|---------------------------------------|--|
| <input checked="" type="radio"/> Supported | <input type="radio"/> Opposed | <input type="radio"/> Supported if Amended |
| <input type="radio"/> Placed on Watch List | <input type="radio"/> Other (explain) | |

3. Please explain your reasons for the above determination, including how this measure effects your Department and the fiscal impact of this measure to 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.)

Current on regulating firearms is riddled with exceptions and loopholes that its value is greatly diminished. This bill compliments other gun control bill before the legislature by adding to the effectiveness of the respective bills.

No anticipated financial impact to the City.

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?

-0-

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:

California Peace Officers Association; California Police Chief's Association; California State Sheriff's Association; Board of Supervisors, County of Los Angeles; City of San Diego.

7. Does this bill involve a State-mandated local program? If so, does the bill contain an S.B. 90 waiver, or an appropriation for allocation and disbursement to local agencies pursuant to Revenue and Taxation Code Section 2231?

No

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?

10