

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2013 MAR -7 PM 3:37
Date: March 21, 2013

CITY OF OAKLAND
BILL ANALYSIS



Bill Number: SB 374

Bill Author: Stelngberg

DEPARTMENT INFORMATION

Contact: Claudia Burgos, District 5, 510-238-7051
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RECOMMENDED POSITION: SUPPORT

Summary of the Bill:

Existing law defines a semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and other specified features and a semiautomatic weapon that has a fixed magazine with a capacity to accept 10 or more rounds as an assault weapon (emphasis added.)

Senate Bill 374 would (1) Classify a semiautomatic, rimfire or centerfire rifle that does not have a fixed magazine with the capacity to accept 10 rounds or fewer as an assault weapon (emphasis added) (2) Require a person who, between January 1, 2001, and prior to January 1, 2014, lawfully possessed an assault weapon that does not have a fixed magazine, including those weapons with an ammunition feeding device that can be removed readily from the firearm with the use of a tool, to register the firearm by July 1, 2014.

This bill further applies the following definitions:

- (1) *"Detachable magazine" means an ammunition feeding device that can be removed readily from the firearm without disassembly of the firearm action.*
- (2) *"Fixed magazine" means an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action.*

Positive Factors for Oakland

As of March 7, 2013, we have had 16 homicides in the City of Oakland, the majority by way of firearms. According to our crime statistics, so far this year, we've had:

- 86 Aggravated Assaults involving a firearm
- 2 Assaults on a police officer involving a firearm
- 442 Robberies involving a firearm

Item: _____
Rules & Legislation Comte.
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Additionally, on February 5, 2013, OPD conducted a search warrant on the 7800 block of Weld Street and confiscated two assault rifles, including a concealable weapon and nearly 500 rounds of ammunition were recovered.

The next day, on February 6, 2013 OPD served several narcotics and firearms related search warrants in the 1200 block of 30th Street and they recovered one assault rifle.

And in January, officers arrested a suspect and recovered a Colt DPMS Assault Rifle with a magazine that holds up to 100 rounds capable of piercing a bulletproof vest.

Given the level of gun violence in our City and the presence of assault weapons in our community, it is in the City's best interest to support this Senate Bill to further refine the definition of an assault weapon and to require registration of such weapons.

Negative Factors for Oakland
NONE

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

- Critical (top priority for City lobbyist, city position required ASAP)
- Very Important (priority for City lobbyist, city position necessary)
- Somewhat Important (City position desirable if time and resources are available)
- Minimal or None (do not review with City Council, position not required)

Respectfully Submitted,



Councilmember Noel Gallo

SB 374 FACT SHEET

Senator Darrell Steinberg (D - 06)

Fixed Magazines on Long Guns and Firearm Ownership Record

PURPOSE

SB 374 will prohibit the future sale, purchase, manufacture, importation, or transfer in California of semi-automatic rifles that can accept detachable magazines. Specifically, this bill will amend the current definition of illegal "assault weapon" to include a semiautomatic, rimfire, or centerfire rifle that does not have a fixed magazine with the capacity to accept ten or fewer rounds.

This bill will also require on or after July 1, 2014, California gun owners submit a Firearm Ownership Record to the Department of Justice for handguns purchased prior to 1991 and rifles with a detachable magazine purchased prior to January 1, 2014.

BACKGROUND

The Sandy Hook Elementary School is only one of many tragedies depicting the devastating lethality of military-style, rapid-rate-of-fire weapons. On July 20, 2012, twelve people were killed and 58 others were injured within a few minutes of an assailant entering a movie theater in Aurora, Colorado. That shooter was armed with a .223-caliber Smith & Wesson M&P15 (an AR-15 assault rifle variant), a .40 caliber Glock semiautomatic pistol, and a Remington 12 gauge shotgun. He had fitted his Smith & Wesson assault rifle with a drum magazine capable of holding 100 rounds of ammunition in a single loading. On July 22, 2011, a shooter armed with a Ruger Mini-14 and a Glock 34 pistol shot and killed 69 people and wounded 110 others at a children's summer camp in Norway. Both of the weapons used in Norway currently are legal in California. The common characteristic of

the firearms used in these mass shootings is the ability to detach a magazine and rapidly reload.

In 1989, California passed the Roberti-Roos Act, the first statewide law in the nation designed to ban assault weapons. Soon after its passage, however, the firearms industry made minor cosmetic changes to many banned assault weapons evading the intent of the law and allowing their continued sale. In 1999, California moved to update the law to address the industry's actions again.

California's assault weapons laws have long been regarded as the toughest in the country. But, even these laws have loopholes and gaps that the gun manufacturers have exploited.

As these horrific tragedies demonstrate, rifles with detachable magazines pose an utterly unacceptable risk to the public health and well-being. Any rifle designed or modified to accept a detachable magazine can be converted into rapid-rate-of-fire weaponry that belongs on the battlefield, not in our streets and neighborhoods.

Rifles with detachable magazines have a virtually unlimited capacity to kill. It is this specific feature that this bill targets: the ability to shoot unchecked semiautomatic gunfire. By focusing on the function of these weapons and not just their form, this bill is aimed at the commercialization of mass killing machines, not the rights of sporting gun and hunting enthusiasts.

FOR MORE INFORMATION

Office of Senator Darrell Steinberg: 916-651-4017.

Introduced by Senators Steinberg, Hancock, and Yee

February 20, 2013

An act to amend Sections 30515 and 30900 of, and to add Section 27566 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 374, as introduced, Steinberg. Firearms: assault weapons.

Existing law regulates the sale, carrying, and control of firearms, including assault weapons, and requires assault weapons to be registered with the Department of Justice. Violation of these provisions is a crime. Existing law defines a semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and other specified features and a semiautomatic weapon that has a fixed magazine with a capacity to accept 10 or more rounds as an assault weapon.

This bill would, instead, classify a semiautomatic, rimfire or centerfire rifle that does not have a fixed magazine with the capacity to accept 10 rounds or fewer as an assault weapon. The bill would require a person who, between January 1, 2001, and prior to January 1, 2014, lawfully possessed an assault weapon that does not have a fixed magazine, including those weapons with an ammunition feeding device that can be removed readily from the firearm with the use of a tool, to register the firearm by July 1, 2014. By expanding the definition of a crime, this bill would impose a state-mandated local program.

This bill would require, on and after July 1, 2014, a Firearm Ownership Record to be submitted, as specified, to the Department of Justice for every firearm an individual owns, with prescribed exceptions, including firearms purchased from a licensed firearms dealer and documented by a Dealers' Record of Sale transaction and assault weapons registered with the department. The bill would authorize the

department to charge a fee of up to \$19 per transaction for the submission of the Firearm Ownership Record.

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 27566 is added to the Penal Code, to
2 read:

3 27566. (a) On and after July 1, 2014, a Firearm Ownership
4 Record shall be submitted by prepaid mail or delivered in person
5 to the Department of Justice for every firearm an individual owns
6 or possesses.

7 (b) The following firearms are exempt from subdivision (a):

8 (1) Handguns purchased from a licensed firearms dealer and
9 documented by a Dealers' Record of Sale (DRoS) transaction on
10 and after January 1, 1991.

11 (2) Rifles without detachable magazines and shotguns purchased
12 prior to January 1, 2014.

13 (3) Assault weapons registered with the department pursuant
14 to Section 30900.

15 (4) Firearms for which a Firearm Ownership Record has been
16 previously filed by the current owner.

17 (c) The department may charge a fee in an amount sufficient to
18 reimburse the department for the reasonable costs of maintaining
19 the Firearm Ownership Record program, but in no case more than
20 nineteen dollars (\$19) per transaction to process the Firearm
21 Ownership Record. After the department establishes the fee
22 amount, the department may adjust the fee amount annually as
23 necessary to cover the reasonable costs of administering the
24 program. The fees shall be deposited into the Dealers' Record of
25 Sale Special Account.

26 SEC. 2. Section 30515 of the Penal Code is amended to read:

27 30515. (a) Notwithstanding Section 30510, "assault weapon"
28 also means any of the following:

- 1 ~~(1) A semiautomatic, centerfire rifle that has the capacity to~~
2 ~~accept a detachable magazine and any one of the following:~~
3 ~~(A) A pistol grip that protrudes conspicuously beneath the action~~
4 ~~of the weapon:~~
5 ~~(D) A thumbhole stock.~~
6 ~~(C) A folding or telescoping stock.~~
7 ~~(D) A grenade launcher or flare launcher.~~
8 ~~(E) A flash suppressor.~~
9 ~~(F) A forward pistol grip.~~
10 ~~(2) A semiautomatic, centerfire rifle that has a fixed magazine~~
11 ~~with the capacity to accept more than 10 rounds:~~
12 ~~(1) A semiautomatic, rimfire or centerfire rifle that does not~~
13 ~~have a fixed magazine with the capacity to accept 10 rounds or~~
14 ~~fewer.~~
15 ~~(3)~~
16 ~~(2) A semiautomatic, centerfire rifle that has an overall length~~
17 ~~of less than 30 inches.~~
18 ~~(4)~~
19 ~~(3) A semiautomatic pistol that has the capacity to accept a~~
20 ~~detachable magazine and any one of the following:~~
21 ~~(A) A threaded barrel, capable of accepting a flash suppressor,~~
22 ~~forward handgrip, or silencer.~~
23 ~~(B) A second handgrip.~~
24 ~~(C) A shroud that is attached to, or partially or completely~~
25 ~~encircles, the barrel that allows the bearer to fire the weapon~~
26 ~~without burning the bearer's hand, except a slide that encloses the~~
27 ~~barrel.~~
28 ~~(D) The capacity to accept a detachable magazine at some~~
29 ~~location outside of the pistol grip.~~
30 ~~(5)~~
31 ~~(4) A semiautomatic pistol with a fixed magazine that has the~~
32 ~~capacity to accept more than 10 rounds.~~
33 ~~(6)~~
34 ~~(5) A semiautomatic shotgun that has both of the following:~~
35 ~~(A) A folding or telescoping stock.~~
36 ~~(B) A pistol grip that protrudes conspicuously beneath the action~~
37 ~~of the weapon, thumbhole stock, or vertical handgrip.~~
38 ~~(7)~~
39 ~~(6) A semiautomatic shotgun that has the ability to accept a~~
40 ~~detachable magazine.~~

1 (8)

2 (7) Any shotgun with a revolving cylinder.

3 (b) The Legislature finds a significant public purpose in
4 exempting from the definition of "assault weapon" pistols that are
5 designed expressly for use in Olympic target shooting events.
6 Therefore, those pistols that are sanctioned by the International
7 Olympic Committee and by USA Shooting, the national governing
8 body for international shooting competition in the United States,
9 and that were used for Olympic target shooting purposes as of
10 January 1, 2001, and that would otherwise fall within the definition
11 of "assault weapon" pursuant to this section are exempt, as
12 provided in subdivision (c).

13 (c) "Assault weapon" does not include either of the following:

14 (1) Any antique firearm.

15 (2) Any of the following pistols, because they are consistent
16 with the significant public purpose expressed in subdivision (b):
17

18	MANUFACTURER	MODEL	CALIBER
19			
20	BENELLI	MP90	.22LR
21	BENELLI	MP90	.32 S&W LONG
22	BENELLI	MP95	.22LR
23	BENELLI	MP95	.32 S&W LONG
24	HAMMERLI	280	.22LR
25	HAMMERLI	280	.32 S&W LONG
26	HAMMERLI	SP20	.22LR
27	HAMMERLI	SP20	.32 S&W LONG
28	PARDINI	GPO	.22 SHORT
29	PARDINI	GP-SCHUMANN	.22 SHORT
30	PARDINI	HP	.32 S&W LONG
31	PARDINI	MP	.32 S&W LONG
32	PARDINI	SP	.22LR
33	PARDINI	SPE	.22LR
34	WALTHER	GSP	.22LR
35	WALTHER	GSP	.32 S&W LONG
36	WALTHER	OSP	.22 SHORT
37	WALTHER	OSP-2000	.22 SHORT

38

39 (3) The Department of Justice shall create a program that is
40 consistent with the purposes stated in subdivision (b) to exempt

1 new models of competitive pistols that would otherwise fall within
2 the definition of "assault weapon" pursuant to this section from
3 being classified as an assault weapon. The exempt competitive
4 pistols may be based on recommendations by USA Shooting
5 consistent with the regulations contained in the USA Shooting
6 Official Rules or may be based on the recommendation or rules
7 of any other organization that the department deems relevant.

8 (d) *For purposes of this section, the following definitions shall*
9 *apply:*

10 (1) *"Detachable magazine" means an ammunition feeding*
11 *device that can be removed readily from the firearm without*
12 *disassembly of the firearm action.*

13 (2) *"Fixed magazine" means an ammunition feeding device*
14 *contained in, or permanently attached to, a firearm in such a*
15 *manner that the device cannot be removed without disassembly of*
16 *the firearm action.*

17 SEC. 3. Section 30900 of the Penal Code is amended to read:

18 30900. (a) ~~Any~~ *A* person who, prior to June 1, 1989, lawfully
19 possessed an assault weapon, as defined in former Section 12276,
20 as added by Section 3 of Chapter 19 of the Statutes of 1989, shall
21 register the firearm by January 1, 1991, and any person who
22 lawfully possessed an assault weapon prior to the date it was
23 specified as an assault weapon pursuant to former Section 12276.5,
24 as added by Section 3 of Chapter 19 of the Statutes of 1989 or as
25 amended by Section 1 of Chapter 874 of the Statutes of 1990 or
26 Section 3 of Chapter 954 of the Statutes of 1991, shall register the
27 firearm within 90 days with the Department of Justice pursuant to
28 those procedures that the department may establish.

29 (b) Except as provided in Section 30600, any person who
30 lawfully possessed an assault weapon prior to the date it was
31 defined as an assault weapon pursuant to former Section 12276.1,
32 as it read in Section 7 of Chapter 129 of the Statutes of 1999, and
33 which was not specified as an assault weapon under former Section
34 12276, as added by Section 3 of Chapter 19 of the Statutes of 1989
35 or as amended at any time before January 1, 2001, or former
36 Section 12276.5, as added by Section 3 of Chapter 19 of the
37 Statutes of 1989 or as amended at any time before January 1, 2001,
38 shall register the firearm by January 1, 2001, with the department
39 pursuant to those procedures that the department may establish.

1 (c) A person who, between January 1, 2001, and prior to
2 January 1, 2014, lawfully possessed an assault weapon that does
3 not have a fixed magazine, as defined in Section 30515 and
4 including those weapons with an ammunition/feeding device that
5 can be removed readily from the firearm with the use of a tool,
6 shall register the firearm by July 1, 2014, with the department
7 pursuant to procedures determined by the department.

8 (e)

9 (d) The registration shall contain a description of the firearm
10 that identifies it uniquely, including all identification marks, the
11 full name, address, date of birth, and thumbprint of the owner, and
12 any other information that the department may deem appropriate.

13 (d)

14 (e) The department may charge a fee for registration of up to
15 twenty dollars (\$20) per person but not to exceed the actual
16 processing costs of the department. After the department establishes
17 fees sufficient to reimburse the department for processing costs,
18 fees charged shall increase at a rate not to exceed the legislatively
19 approved annual cost-of-living adjustment for the department's
20 budget or as otherwise increased through the Budget Act
21 department's actual processing costs. The fees shall be deposited
22 into the Dealers' Record of Sale Special Account.

23 SEC. 4. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

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DRAFT

Approved as to Form and Legality

City Attorney's
Office

OAKLAND CITY COUNCIL
RESOLUTION No. _____ C.M.S.

Introduced by Councilmember Noel Gallo

RESOLUTION IN SUPPORT OF SENATE BILL 374 (STEINBERG) WHICH AMENDS THE CURRENT DEFINITION OF ILLEGAL "ASSAULT WEAPON" TO INCLUDE A SEMIAUTOMATIC, RIMFIRE, OR CENTERFIRE RIFLE THAT DOES NOT HAVE A FIXED MAGAZINE WITH THE CAPACITY TO ACCEPT TEN OR FEWER ROUNDS.

WHEREAS, existing law defines a semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and other specified features and a semiautomatic weapon that has a fixed magazine with a capacity to accept 10 or more rounds as an assault weapon; and

WHEREAS, SB 374 would classify a semiautomatic, rimfire or centerfire rifle that does not have a fixed magazine with the capacity to accept 10 rounds or fewer as an assault weapon; and

WHEREAS, SB 374 would require a person who, between January 1, 2001, and prior to January 1, 2014, lawfully possessed an assault weapon that does not have a fixed magazine, including those weapons with an ammunition feeding device that can be removed readily from the firearm with the use of a tool, to register the firearm by July 1, 2014; and

WHEREAS, SB 374 defines "detachable magazine" as an ammunition feeding device that can be removed readily from the firearm without disassembly of the firearm action; and

WHEREAS, SB 374 defines "fixed magazine" as an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action; and

WHEREAS, as of March 7, 2013, we have had 16 homicides in the City of Oakland, the majority by way of firearms; and

WHEREAS, so far this year Oakland has had 86 Aggravated Assaults involving a firearm, 2 Assaults on a police officer involving a firearm, 442 Robberies involving a firearm; and

WHEREAS, given the level of gun violence in our City and the presence of assault weapons in our community, it is in the City's best interest to support Senate Bill 374 to further refine the definition of an assault weapon and to require registration of such weapons; now therefore be it

RESOLVED that the Oakland City Council supports California Senate Bill 374 and encourages the California Legislature to accept it; and be it

FURTHER RESOLVED: That the City Council hereby directs the City Administrator and the City's legislative lobbyist to advocate for the above position in the California State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2013

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAFF and PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST:
LATONDA SIMMONS
City Clerk and Clerk
of the Council of the City of
Oakland, California