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CITY OF OAKLAND

Councilmembers Desley Brooks, and Rebecca Kaplan

CITY HALL - ONE FRANK H. OGAWA PLAZA, 2ND FLOOR - OAKLAND - CALIFORNIA 94612

Agenda Memorandum

To: Rules & Legislation Committee

From: Councilmembers Desley Brooks, and Rebecca Kaplan

Date: March 24, 2016

Subject: Resolution of Support for Support for SB 880: Closes the Bullet Button Loophole

Colleagues on the City Council and Members of the Public,

With our Resolution of Support for SB 880 (Hall/Glazer), we are submitting the attached Fact Sheet, and text of the bill.

Respectfully submitted,

Desley Brooks, Councilmember

Rebecca Kaplan, Councilmember

SENATOR ISADORE HALL, III
35TH SENATE DISTRICT
STATE CAPITOL, ROOM 4085 ★ SACRAMENTO, CA 95814
WWW.SENATE.CA.GOV/HALL

**SB 880 (Hall/Glazer) Assault Weapons
FACT SHEET**

Sponsors: Senator Isadore Hall, III
Staff Contact: Brian Duke, (916) 651-4035

ISSUE

Studies show that states with the toughest gun laws have the lowest rates of gun-related deaths. While California has led the nation in prohibiting the ownership of military-style assault weapons with detachable ammunition magazines, gun manufacturers are exploiting the “bullet button loophole” to create “California compliant” assault weapons.

For years, gun owners have been able to circumvent California’s assault weapon laws by using a small tool to quickly eject and reload ammunition magazines. Bullet button-equipped weapons are functionally the same as illegal assault weapons, but are not included in the prohibition because a tool is required to release the ammunition magazine, and it cannot technically be released by hand.

These types of modifications have no legitimate use for sport hunters or competitive shooters. Bullet button-equipped weapons are designed only to facilitate the maximum destruction of human life. Such weapons have been used in a number of recent gun attacks including the recent terrorist attack in San Bernardino that left 14 Californians dead and 21 injured.

SOLUTION

SB 880 (Hall/Glazer) closes the bullet button loophole by redefining assault weapons to include military-style semi-automatic firearms with the capacity to accept a detachable ammunition magazine, requiring such weapons to be registered with the Department of Justice (DOJ), and prohibiting the future sale, purchase or possession of such weapons in California.

This bill clarifies the definition of assault weapons and provides the DOJ the authority to bring existing regulations into conformity with the original intent of California’s Assault Weapon Ban. Absent this bill, the assault weapon ban is severely weakened, and these types of military-style firearms will continue to proliferate on our streets and in our neighborhoods.

SUPPORT

Introduced by Senators Hall and Glazer

January 15, 2016

An act to amend Sections 30515 and 30900 of, and to add Section 30680 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 880, as introduced, Hall. Firearms: assault weapons.

(1) Existing law generally prohibits the possession or transfer of assault weapons, except for the sale, purchase, importation, or possession of assault weapons by specified individuals, including law enforcement officers. Under existing law, "assault weapon" means, among other things, a semiautomatic centerfire rifle or a semiautomatic pistol that has the capacity to accept a detachable magazine and has any one of specified attributes, including, for rifles, a thumbhole stock, and for pistols, a second handgrip.

This bill would revise this definition of "assault weapon" to mean a semiautomatic centerfire rifle, or a semiautomatic pistol that does not have a fixed magazine but has any one of those specified attributes. The bill would also define "fixed magazine" to mean 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.

By expanding the definition of an existing crime, the bill would impose a state-mandated local program.

(2) Existing law requires that any person who, within this state, possesses an assault weapon, except as otherwise provided, be punished as a felony or for a period not to exceed one year in a county jail.

This bill would exempt from punishment under that provision a person who possessed an assault weapon since prior to January 1, 2017, if specified requirements are met.

(3) Existing law requires that, with specified exceptions, any person who, prior to January 1, 2001, lawfully possessed an assault weapon prior to the date it was defined as an assault weapon, and which was not specified as an assault weapon at the time of lawful possession, register the firearm with the Department of Justice. Existing law permits the Department of Justice to charge a fee for registration of up to \$20 per person but not to exceed the actual processing costs of the department. Existing law, after the department establishes fees sufficient to reimburse the department for processing costs, requires fees charged to increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act. Existing law requires those fees to be deposited into the Dealers' Record of Sale Special Account. Existing law, the Administrative Procedure Act, establishes the requirements for the adoption, publication, review, and implementation of regulations by state agencies.

This bill would require that any person who, from January 1, 2001, to December 31, 2016, inclusive, lawfully possessed an assault weapon that does not have a fixed magazine, as defined, and including those weapons with an ammunition feeding device that can be removed readily from the firearm with the use of a tool, register the firearm with the Department of Justice before July 1, 2017, but not before the effective date of specified regulations. The bill would permit the department to increase the \$20 registration fee as long as it does not exceed the reasonable processing costs of the department. The bill would also require registrations to be submitted electronically via the Internet utilizing a public-facing application made available by the department. The bill would require the registration to contain specified information, including, but not limited to, a description of the firearm that identifies it uniquely and specified information about the registrant. The bill would permit the department to charge a fee of up to \$15 per person for registration through the Internet, not to exceed the reasonable processing costs of the department to be paid and deposited, as specified, for purposes of the registration program. The bill would require the department to adopt regulations for the purpose of implementing those provisions and would exempt those regulations from the Administrative

Procedure Act. The bill would also make technical and conforming changes.

(4) 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 30515 of the Penal Code is amended to
2 read:

3 30515. (a) Notwithstanding Section 30510, "assault weapon"
4 also means any of the following:

5 (1) A semiautomatic, centerfire rifle that ~~has the capacity to~~
6 ~~accept a detachable magazine and~~ *does not have a fixed magazine*
7 *but has* any one of the following:

8 (A) A pistol grip that protrudes conspicuously beneath the action
9 of the weapon.

10 (B) A thumbhole stock.

11 (C) A folding or telescoping stock.

12 (D) A grenade launcher or flare launcher.

13 (E) A flash suppressor.

14 (F) A forward pistol grip.

15 (2) A semiautomatic, centerfire rifle that has a fixed magazine
16 with the capacity to accept more than 10 rounds.

17 (3) A semiautomatic, centerfire rifle that has an overall length
18 of less than 30 inches.

19 (4) A semiautomatic pistol that ~~has the capacity to accept a~~
20 ~~detachable magazine and~~ *does not have a fixed magazine but has*
21 any one of the following:

22 (A) A threaded barrel, capable of accepting a flash suppressor,
23 forward handgrip, or silencer.

24 (B) A second handgrip.

25 (C) A shroud that is attached to, or partially or completely
26 encircles, the barrel that allows the bearer to fire the weapon
27 without burning the bearer's hand, except a slide that encloses the
28 barrel.

1 (D) The capacity to accept a detachable magazine at some
 2 location outside of the pistol grip.

3 (5) A semiautomatic pistol with a fixed magazine that has the
 4 capacity to accept more than 10 rounds.

5 (6) A semiautomatic shotgun that has both of the following:

6 (A) A folding or telescoping stock.

7 (B) A pistol grip that protrudes conspicuously beneath the action
 8 of the weapon, thumbhole stock, or vertical handgrip.

9 (7) A semiautomatic shotgun that has the ability to accept a
 10 detachable magazine.

11 (8) Any shotgun with a revolving cylinder.

12 (b) *For purposes of this section, "fixed magazine" means an*
 13 *ammunition feeding device contained in, or permanently attached*
 14 *to, a firearm in such a manner that the device cannot be removed*
 15 *without disassembly of the firearm action.*

16 (b)

17 (c) The Legislature finds a significant public purpose in
 18 exempting from the definition of "assault weapon" pistols that are
 19 designed expressly for use in Olympic target shooting events.
 20 Therefore, those pistols that are sanctioned by the International
 21 Olympic Committee and by USA Shooting, the national governing
 22 body for international shooting competition in the United States,
 23 and that were used for Olympic target shooting purposes as of
 24 January 1, 2001, and that would otherwise fall within the definition
 25 of "assault weapon" pursuant to this section are exempt, as
 26 provided in subdivision ~~(e)~~ (d).

27 (e)

28 (d) "Assault weapon" does not include either of the following:

29 (1) Any antique firearm.

30 (2) Any of the following pistols, because they are consistent
 31 with the significant public purpose expressed in subdivision ~~(b)~~
 32 (c):

34 MANUFACTURER	MODEL	CALIBER
36 BENELLI	MP90	.22LR
37 BENELLI	MP90	.32 S&W LONG
38 BENELLI	MP95	.22LR
39 BENELLI	MP95	.32 S&W LONG
40 HAMMERLI	280	.22LR

1	HAMMERLI	280	.32 S&W LONG
2	HAMMERLI	SP20	.22LR
3	HAMMERLI	SP20	.32 S&W LONG
4	PARDINI	GPO	.22 SHORT
5	PARDINI	GP-SCHUMANN	.22 SHORT
6	PARDINI	HP	.32 S&W LONG
7	PARDINI	MP	.32 S&W LONG
8	PARDINI	SP	.22LR
9	PARDINI	SPE	.22LR
10	WALTHER	GSP	.22LR
11	WALTHER	GSP	.32 S&W LONG
12	WALTHER	OSP	.22 SHORT
13	WALTHER	OSP-2000	.22 SHORT

14

15 (3) The Department of Justice shall create a program that is
 16 consistent with the purposes stated in subdivision ~~(b)~~ (c) to exempt
 17 new models of competitive pistols that would otherwise fall within
 18 the definition of “assault weapon” pursuant to this section from
 19 being classified as an assault weapon. The exempt competitive
 20 pistols may be based on recommendations by USA Shooting
 21 consistent with the regulations contained in the USA Shooting
 22 Official Rules or may be based on the recommendation or rules
 23 of any other organization that the department deems relevant.

24 SEC. 2. Section 30680 is added to the Penal Code, to read:

25 30680. Notwithstanding the meaning of “assault weapon” under
 26 Section 30515, as amended by the act that added this section,
 27 Section 30605 does not apply to the possession of an assault
 28 weapon by a person who has possessed the assault weapon prior
 29 to January 1, 2017, if all of the following are applicable:

30 (a) Prior to January 1, 2017, the person was eligible to register
 31 that assault weapon pursuant to subdivision (c) of Section 30900.

32 (b) The person lawfully possessed that assault weapon prior to
 33 January 1, 2017.

34 (c) The person registers the assault weapon by July 1, 2017, in
 35 accordance with subdivision (c) of Section 30900.

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

37 30900. (a) (1) Any person who, prior to June 1, 1989, lawfully
 38 possessed an assault weapon, as defined in former Section 12276,
 39 as added by Section 3 of Chapter 19 of the Statutes of 1989, shall
 40 register the firearm by January 1, 1991, and any person who

1 lawfully possessed an assault weapon prior to the date it was
2 specified as an assault weapon pursuant to former Section 12276.5,
3 as added by Section 3 of Chapter 19 of the Statutes of 1989 or as
4 amended by Section 1 of Chapter 874 of the Statutes of 1990 or
5 Section 3 of Chapter 954 of the Statutes of 1991, shall register the
6 firearm within 90 days with the Department of Justice pursuant to
7 those procedures that the department may establish.

8 (b)

9 (2) Except as provided in Section 30600, any person who
10 lawfully possessed an assault weapon prior to the date it was
11 defined as an assault weapon pursuant to former Section 12276.1,
12 as it read in Section 7 of Chapter 129 of the Statutes of 1999, and
13 which was not specified as an assault weapon under former Section
14 12276, as added by Section 3 of Chapter 19 of the Statutes of 1989
15 or as amended at any time before January 1, 2001, or former
16 Section 12276.5, as added by Section 3 of Chapter 19 of the
17 Statutes of 1989 or as amended at any time before January 1, 2001,
18 shall register the firearm by January 1, 2001, with the department
19 pursuant to those procedures that the department may establish.

20 (c)

21 (3) The registration shall contain a description of the firearm
22 that identifies it uniquely, including all identification marks, the
23 full name, address, date of birth, and thumbprint of the owner, and
24 any other information that the department may deem appropriate.

25 (d)

26 (4) The department may charge a fee for registration of up to
27 twenty dollars (\$20) per person but not to exceed the ~~actual~~
28 *reasonable* processing costs of the department. After the
29 department establishes fees sufficient to reimburse the department
30 for processing costs, fees charged shall increase at a rate not to
31 exceed the legislatively approved annual cost-of-living adjustment
32 for the department's budget or as otherwise increased through the
33 ~~Budget Act. Act but not to exceed the reasonable costs of the~~
34 *department*. The fees shall be deposited into the Dealers' Record
35 of Sale Special Account.

36 (b) (1) *Any person who, from January 1, 2001, to December*
37 *31, 2016, inclusive, lawfully possessed an assault weapon that*
38 *does not have a fixed magazine, as defined in Section 30515,*
39 *including those weapons with an ammunition feeding device that*
40 *can be readily removed from the firearm with the use of a tool,*

1 shall register the firearm before July 1, 2017, but not before the
2 effective date of the regulations adopted pursuant to paragraph
3 (5), with the department pursuant to those procedures that the
4 department may establish by regulation pursuant to paragraph
5 (5).

6 (2) Registrations shall be submitted electronically via the
7 Internet utilizing a public-facing application made available by
8 the department.

9 (3) The registration shall contain a description of the firearm
10 that identifies it uniquely, including all identification marks, the
11 date the firearm was acquired, the name and address of the
12 individual from whom, or business from which, the firearm was
13 acquired, as well as the registrant's full name, address, telephone
14 number, date of birth, sex, height, weight, eye color, hair color,
15 and California driver's license number or California identification
16 card number.

17 (4) The department may charge a fee in an amount of up to
18 fifteen dollars (\$15) per person but not to exceed the reasonable
19 processing costs of the department. The fee shall be paid by debit
20 or credit card at the time that the electronic registration is
21 submitted to the department. The fee shall be deposited in the
22 Dealers' Record of Sale Special Account to be used for purposes
23 of this section.

24 (5) The department shall adopt regulations for the purpose of
25 implementing this subdivision. These regulations are exempt from
26 the Administrative Procedure Act (Chapter 3.5 (commencing with
27 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
28 Code).

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

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City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBERS DESLEY BROOKS, AND REBECCA KAPLAN

RESOLUTION IN SUPPORT OF SB 880 (HALL/GLAZER) THAT WOULD CLARIFY THE DEFINITION OF ASSAULT WEAPONS AND PROVIDE THE DEPARTMENT OF JUSTICE THE AUTHORITY TO BRING EXISTING REGULATIONS INTO CONFORMITY WITH THE ORIGINAL INTENT OF CALIFORNIA'S ASSAULT WEAPON BAN.

WHEREAS, The City of Oakland has been identified as one of the top cities in the state of California in terms of crimes involving firearms; and

WHEREAS, Although California has led the nation in prohibiting the ownership of military-style assault weapons with detachable ammunition magazines, gun manufacturers are utilizing the button loophole to create California compliant assault weapons; and

WHEREAS, Bullet button-equipped weapons are functionally the same as illegal assault weapons, but are not included in the prohibition because a tool is required to release the ammunition magazine, and it cannot technically be released by hand; and

WHEREAS, Modifications like the bucket button have no legitimate use for sport hunters or competitive shooter, and have been used in a number of recent gun attacks including the terrorist attack in San Bernardino that left 14 Californians dead and 21 injured; and

WHEREAS, Senate Bill (SB) 880 (Hall, Glazer) would redefine assault weapon to mean a semiautomatic centerfire rifle, or a semiautomatic pistol that does not have a fixed magazine but has any one of those specified attributes, and furthermore requires such weapons to be registered with the Department of Justice and prohibits the future sale, purchase or possession of such weapons in California; and

RESOLVED: That the Oakland City Council hereby endorses SB 880 and urges the California State Legislature and Governor Jerry Brown to support its enactment into law.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, AND
PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

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