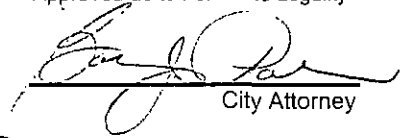


# OAKLAND CITY COUNCIL

  
City Attorney

RESOLUTION NO. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
APR 10 PM 5:40

**RESOLUTION IN SUPPORT OF AB 2566 (HANCOCK) – “FIREARMS: PROHIBITIONS” WHICH MAKES CHANGES TO EXISTING LAW, PERMITTING CITIES, COUNTIES AND CITY AND COUNTIES TO REGULATE THE POSSESSION OF HANDGUNS WITHOUT PREEMPTION BY STATE LAW**

**WHEREAS**, each year a majority of Oakland homicides are the result of gun violence;  
and

**WHEREAS**, the City of Oakland fully supports the ability of local governments to enact enforcement regulation that will increase the safety of the people of the City of Oakland; and

**WHEREAS**, AB 2566 (Hancock) will contribute to a safer Oakland by, respectively, permitting cities, counties, and city and counties, to regulate the possession of handguns without preemption by state law; now, therefore be it

**RESOLVED**: that the City of Oakland declares its support for AB 2566 (Hancock); 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 positions in the California State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

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Date of Hearing: April 8, 2008  
 Counsel: Kimberly A. Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY  
 Jose Solorio, Chair

AB 2566 (Hancock) - As Amended: April 2, 2008

SUMMARY : Provides that no provision of law shall limit the authority of any city, county, or city and county to regulate or prohibit the purchase, sale, ownership, possession, keeping, carrying, manufacture, transfer, or distribution of handguns within the jurisdiction limits of that city, county, or city and county. Specifically, this bill :

- 1)Exempts handguns, as defined, from existing provisions of law related to the declared legislative intent to occupy the whole field of firearms regulation, as specified.
- 2)States any local jurisdiction authorized to regulate or prohibit the purchase or sale of handguns, as specified under the provisions of this bill, must exempt the transportation of handguns in compliance with state law through the local jurisdiction and any local regulation must exempt peace officers from the application of the local regulation.

EXISTING LAW :

- 1)States provisions that criminalize possession of a firearm in public 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 California, and who is not within the excepted classes prescribed by existing law, 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. [Penal Code Section 12026(a).]
- 2)Provides that 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

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age of 18 years who resides or is temporarily within California, and who is not within the excepted classes prescribed by existing law, 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. [Penal Code Section 12026(b).]

- 3)Provides a person is guilty of carrying a concealed firearm when he or she does any of the following: carries concealed within any vehicle which is under his or her control or direction any pistol, revolver, or other firearm capable of being concealed upon the person; carries concealed upon his or her person any pistol, revolver, or other firearm capable of being concealed upon the person, and causes to be carried concealed within any vehicle in which he or she is an occupant any pistol, revolver, or other firearm capable of being concealed upon the person. [Penal Code Section 12025(a)(1).]

FISCAL EFFECT : Unknown

COMMENTS :

1) Author's Statement : According to the author, "In January, a stray bullet hit 10 year old Christopher Rodriguez in the abdomen while he attended piano lesson at his music school in Oakland. Chris was hit by a bullet shot by a robbery suspect at a gas station across the street. This week, a gunman shot into a small Church during services in Richmond killing one man in front of church and wounding four others. These are just a few examples of the gun violence in East Bay communities. It is imperative because of the gun violence that is destroying these communities to address the issue of gun violence by direct action by the local communities themselves. To achieve the goal of empowering local communities to address gun violence, I introduced AB 2566 which would allow localities to establish new standards on handguns to deal directly with the number of handguns available in impacted communities.

"Local communities are organizing to address gun violence in their communities. However, local communities are severely hampered by restrictions in law to prohibit them from

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establishing standards on gun ownership for their communities. AB 2566 will address this deficiency in law.

The Heller Case

"Some legal issues have been raised regarding guns and I would like to address some of the potential concerns. In March the U.S. Supreme Court heard oral arguments in District of Columbia v. Heller, a Second Amendment challenge to the District of Columbia's 32-year-old handgun possession ban. The D.C. Circuit Court of Appeals decision held that the law violated the Second Amendment, interpreting the Amendment as guaranteeing a private right to possess firearms that is unrelated to service in a well-regulated militia.

"The Supreme Court has not ruled in the Heller case. However, the Heller case is not relevant to the Legislature's consideration of AB 2566 for several reasons.

"First, AB 2566 does not impose any new restrictions on the possession, sale, purchase, ownership, or use of handguns. Nor does AB 2566 alter any existing legal constraint on handguns. AB 2566 recognizes that local governments can exercise regulatory authority concerning handguns, but does not compel them to do so, or compel the adoption of any particular local regulation. AB 2566 concerns only the allocation of regulatory authority in this area as between a state and its political subdivisions, and Heller is irrelevant to that issue.

"Second, because the Heller Court will only decide whether the District of Columbia's law violates the Second Amendment, its ruling should have no immediate impact on state and local laws or on legislation pending before the California Legislature. In addition, the U.S. Supreme Court and numerous lower appellate courts (including the Ninth Circuit) have held that the Second Amendment only restrains the federal government and has no application to state or local gun laws. Because the District of Columbia is not a state or locality but a federal district, the Supreme Court should have no occasion to directly rule on this issue in the Heller case. However, any Supreme Court ruling that finds a private right to bear firearms under the Second Amendment can reasonably be expected to spawn legal challenges to for further clarification on the legal questions in the future. In short, a ruling in the



states, "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed". (U.S. Const., 2nd Amend.)

For many years, courts have wrestled with the question of whether the Second Amendment protects the individual's right to own a weapon. However, after the seminal United States Supreme Court ruling in *U.S. v. Miller* (1939) 307 U.S. 178, it seemed relatively settled that the operative term in the Second Amendment is "militia" and that must be considered in interpreting and applying the Second Amendment; most scholars on the issue agreed. "In *United States vs. Cruikshank* (1875) [92 U.S. 542], the Supreme Court held that the Second Amendment guaranteed states the right to maintain militias but did not guarantee to individuals the right to possess guns. Subsequently, in *United States vs. Miller* (1939), the Court upheld a federal law banning the interstate transportation of certain firearms. *Miller*, who had been arrested for transporting a double-barreled sawed-off shotgun from Oklahoma to Arkansas, sought the protection of the Second Amendment. The Court rejected *Miller's* argument, asserting that 'we cannot say that the Second Amendment guarantees the right to keep and bear such an instrument. . . . As currently interpreted, the Second Amendment does not pose a significant constitutional barrier to the enactment or enforcement of gun control laws, whether passed by Congress, state legislatures or local governments.'" [Stephens & Scheb, *American Constitutional Law*, Vol. II; *Civil Rights and Liberties*

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(hereinafter *American Constitutional Law*) 2008, pg. 10.] "For many years following the Supreme Court's decision in *United States vs. Miller*, the orthodox opinion among academics and federal appeals courts alike was that the Second Amendment to the United States Constitution did not protect possession of firearms unrelated to service in the lawfully established militia." [Merkel, *Parker v. District of Columbia and the Hollowness of the Originalist Claims to Principled Neutrality* (hereinafter *Merkel*) 18 *Geo. Mason U. Civil Right L. Journal* 251, 251.]

However, in the last few years, various circuit courts have held that the Second Amendment does in fact guarantee an individual right to own a firearm. The Fifth Circuit ruled in *United States v. Emerson* (hereinafter *Emerson*) (2001) 270 F. 3rd 203 that although various provisions of federal law prohibiting handgun possession under certain circumstances were not invalid in this case, the Court recognized an individual Second Amendment right. The *Emerson* Court stated:

"The plain meaning of the right of the people to keep arms is that it is an individual, rather than a collective, right and is not limited to keeping arms while engaged in active military service or as a member of a select militia such as the National Guard.

"The Second Amendment's substantive guarantee, read as guaranteeing individual rights, may as so read reasonably be understood as being a guarantee which tends to enable, promote or further the existence, continuation or effectiveness of that 'well-regulated Militia' which is 'necessary to the security of a free State.' Accordingly, the preamble does not support an interpretation of the amendment's substantive guarantee in accordance with the collective rights or sophisticated collective rights model, as such an interpretation is contrary to the plain meaning of the text of the guarantee, its placement within the Bill of Rights and the wording of the other articles thereof and of the original Constitution as a whole.

"Although the Second Amendment does protect individual rights, it does not mean that those rights may never be made subject to any limited, narrowly tailored specific exceptions or restrictions for particular cases that are reasonable and not inconsistent with the right of Americans generally to

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individually keep and bear their private arms as historically understood in this country. It is clear that felons, infants and those of unsound mind may be prohibited from possessing firearms. Furthermore, where a court's order contains an express finding, on the basis of adequate evidence, that a person actually poses a credible threat to the physical safety of another person, and that has been a genuinely contested matter at a hearing, with the parties and the court aware of [the relevant federal law], then that person could, consistent with the Second Amendment, be precluded from possessing a firearm while he remained subject to the order. [Emerson at 257-261; But see *Silveira v. Lockyer* (hereinafter *Silveira*) (2003) 328 F. 3rd 567 maintaining the "militia" specific reading of the Second Amendment).]

One scholar characterized the Second Amendment debate this way: "If the Second Amendment were a weather system we would not know whether we are wet or dry. Imagine that the answer to the question, 'Does the Constitution prohibit warrantless searches and seizures within some range?' was 'Well, we just don't know.' On the question, 'Do individual Americans have a right to keep and bear arms?', the Court's efforts leave neutral observers not knowing whether it is night or day." (Johnson, *A Second Amendment Moment: The Constitutional Politics of Gun Control*, 71 Brooklyn L. Rev. 715, 718.) However, this year may provide some answers. The United States Supreme Court will rule in *Heller v. District of Columbia* (previously *Parker v. District of Columbia*) as to whether the Second Amendment guarantees an individual right to own a firearm.

4)Parker v. District of Columbia : As eluded above, currently there remains a tension between the different circuits of appeal in interpreting and applying the Second Amendment. In 2004, D.C. amended existing firearms codes to have the affect of prohibiting the possession of a pistol in the home. (See D.C. Code section 22-4504.) Plaintiff Shelly Parker, among others, sought declaratory judgment under federal law, arguing the provision violated her right under the Second Amendment. Her claim was dismissed in the District Court of the District of Columbia and she appealed to the United States Court of Appeals for the District of Columbia. [*Parker v. District of Columbia* (2004) 311 F. Supp. 2nd 103.] The Court of Appeals reversed the holding of the lower court and the District appealed to the United States Supreme Court. The United Stated Supreme Court granted certiorari to resolve the

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conflicts between the Circuits on whether the Second Amendment bestows an individual right to possess a firearm. The case of *Heller v. District of Columbia* (formerly *Parker v. District of Columbia*), 2007 U.S. LEXIS 12324 was heard on March 18, 2008 and a ruling is expected in late June 2008.

*Parker v. District of Columbia* first confronts the issue of standing, meaning the right of the named plaintiff to bring a cause of action. The plaintiffs, including Mr. Heller, the named respondent in the Supreme Court case, sought declaratory and injunctive relief under 28 U.S.C. Section 2201 and 2202. Although the plaintiffs were not facing any criminal charges, they argued there was "injury in fact" because they could not lawfully keep a gun in their home. The Court of Appeals agreed, finding the plaintiffs, and Heller specifically, did have standing to challenge the D.C. statute. [*Parker v.*



exclude all pistols . . . is not a regulation, but a prohibition, of . . . 'arms' which the people are entitled to

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bear.'). Indeed, the pistol is the most preferred firearm in the nation to "keep" and use for protection of one's home and family. See Gary Kleck & Marc Gertz, Armed Resistance to Crime: The Prevalence and Nature of Self-Defense with a Gun, 86 J. CRIM. L. & CRIMINOLOGY 150, 182-83 (1995). And, as we have noted, the Second Amendment's premise is that guns would be kept by citizens for self-protection (and hunting)." (Parker at 400.)

As explained above, the District of Columbia appealed this ruling to the United States Supreme Court, oral arguments have been heard and a ruling will be forthcoming. One Second Amendment scholar predicted the outcome of this case as follows: "The High Court is very likely to embrace the private rights reading of the right to arms by a 5-4 majority, and justify the decision on grounds of fidelity to the original understanding of the Second Amendment." (Merkel at 252.)

While no person can know how the Court will rule until it actually rules, if the Court does read the Second Amendment as conferring an individual right, it may invalidate any local or state statute. Although this bill is nothing like the D.C. statute, this bill does allow local governments to pass a law similar to the D.C. statute. Two questions remain: with a United States Supreme Court decision looming on the very issue implicated by this bill, is it advisable to enact a bill that will authorize local governments to pass what may be unconstitutional ordinances, and are the specifications in this bill enough to argue it does not implicate any direct Second Amendment issue and, as such, will not be precluded by an Supreme Court ruling?

5) Incorporation : Even assuming the Supreme Court finds in favor of an individual Second Amendment right, the issue of incorporation or "nationalization" remains unclear. "Incorporation" means the application of an amendment in the Bill of Rights to the states. However, the passage of the Fourteenth Amendment has been interpreted to "nationalize" the bill of rights.

"One of the most important impacts of the Fourteenth Amendment has been the effective 'nationalization' of the Bill of Rights. There is little doubt that, at the time of its ratification in 1791, the Bill of Rights was widely perceived

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as imposing limitations only on the powers and actions of the national government. This is suggested by the first clause of the First Amendment, which begins, 'Congress shall make no law . . . .'. The Court held as much in Barron vs. Baltimore, when it refused to permit a citizen to sue a local government for violating his property rights under the Just Compensation clause of the 5th Amendment. The ratification of the Fourteenth Amendment in 1868 provided an opportunity for the Supreme Court to reconsider the relationship between the Bill of Rights and state and local governments. . . . More to the point, the Fourteenth Amendment enjoined the states from depriving persons of these basic rights [life, liberty and property] 'without due process of law'. Although there is no conclusive evidence that the authors of the Fourteenth



Amendment intended for it to 'incorporate' the Bill of Rights and thus make the latter applicable to actions of state and local governments, plaintiffs in federal case began to make this argument fairly soon after the amendment was ratified. (American Constitutional Law at 22-23.)

However, the Supreme Court's decision in *Hurtado v. California* (1884) 110 U.S. 516 seems to favor the idea of "selective incorporation" meaning the Fourteenth Amendment was not intended to incorporate the entire Bill of Rights solely by its enactment, but rather allowed selected amendments to be applied through various court rulings. The Court has explicitly incorporated the following provisions: just compensation, speech, press, assembly and petition, free exercise of religion, separation of church and state, public trial, unreasonable search and seizures, cruel and unusual punishment, right to counsel, compulsory self-incrimination, confrontation of hostile witnesses, impartial jury, confrontation of favorable witnesses, speedy trial, jury trial in non-petty criminal cases and double jeopardy. (American Constitutional Law at 25.)

The discussion of incorporation is relevant because the Second Amendment has never been explicitly applied to the states. *Heller* (formerly *Parker*) involves a statute in the District of Columbia, which is solely under federal control. It is possible the Court could find the Second Amendment confers an individual right and affirm the relief as to these plaintiffs and never rule on whether the same law applies to the states. This ruling would mean the states are free to infringe on the Second Amendment until the Court rules otherwise. At the very

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least, it is an open question.

6) Preemption & Fiscal vs. City & County of San Francisco :

Although the issue in *Parker/Heller* is entirely one of interpreting the Second Amendment, California has also expressly ruled on banning handguns as it relates to preemption. In 2005, the voters for the City and County of San Francisco passed Proposition "H" prohibiting almost all city residents from possessing, selling or otherwise transferring a handgun. Upon passage, several retired law enforcement officers, among others, sought a writ of mandate declaring Proposition H (hereinafter proposition) invalid on grounds of preemption. The trial court agreed finding the proposition was pre-empted by existing state law. An appeal to the California Appellate Court for the First District followed. The Court of Appeals ruled on the issue of preemption and not the Second Amendment in *Fiscal v. City and County of San Francisco* (hereinafter *Fiscal*) (2008) 158 Cal.App.4th 895. The Court interpreted Penal Code Section 12026(b), which is explained above, as prohibiting localities from restricting handgun possession in an individual's home, business, or private property and various provisions of the Government Code express the intent of the California Government Code to occupy the whole field of firearms licensing and registration. (*Fiscal* at 904; See also Government Code Section 53071).

The Court held, "Therefore, insofar as section 3 of the ordinance operates to prohibit and punish handgun possession by City residents on private property, e.g., in their homes and businesses, it is impliedly preempted by Penal Code Section 12026(b)". (*Fiscal* at 909.) It appears this bill squarely confronts the pre-emption argument by amending Penal Code Section 12026(b) to explicitly grant local governments the authority to pass an ordinance which may be different than the law expressed in that Penal Code section.

Additionally, this bill's language authorizes local jurisdictions to regulate or prohibit the purchase, sale, ownership, possession, keeping, carrying, manufacture, transfer or distribution of handguns. Since this bill exempts

this ability from existing law that requires only the state regulate firearms, is it possible local jurisdictions could pass less restrictive requirements than state law. For example, Penal Code Section 12072(c)(1) requires that no

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dealer shall deliver a firearm within the 10 days required by the Department of Justice (DOJ) to process the application of purchase. Penal Code Section 12072(c)(6) states a person may not purchase more than one firearm per month. Under this bill's language, it possible cities could legislate contrary to these requirements and allow people to buy as many handguns as they like and with no waiting period. Should this bill contain language that protects existing firearms regulations?

7) Equal Protection Clause & *Silveira v. Lockyer* : If the United States Supreme Court rules the Second Amendment is an individual right, this bill may conclude it is a "fundamental right". When the government erects a barrier that makes it more difficult for members of one group to obtain a benefit than it is for members of another group, members of the former group may allege a violation of the Equal Protection Clause of the Fourteenth Amendment. The Equal Protection Clause states in relevant part, "No state shall make or enforce any law which shall abridge the privileges or immunities or citizens of the United States; no shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law. (U.S. Const., Amend. XIV, sec. 1.) This claim was raised against specified provisions of California's Assault Weapons Control Act in 2002. When California amended the Assault Weapons Control Act (ACWA) in 1999, it created a provision to exempt off-duty and retired peace officers, as specified. (See Penal Code Section 12275 et seq.) The plaintiffs filed suit alleging the amendments were in violation of the Equal Protection Clause in its exemption for these specified individuals.

In *Silveira v. Lockyer* (hereinafter *Silveira*) (2002) 312 F.3rd 1052, the 9th Circuit ruled the amendment related to retired peace officers were in violation of the Equal Protection Clause. In this case, the 9th Circuit determined the Second Amendment did grant an individual right to own a handgun. (*Silveira* at 1086.) This conclusion meant the right plaintiffs claim was violated was not a "fundamental right" within the meaning of the law and hence applied a "rational basis" analysis. [*Silveira* at 1088; See also *City of Cleburne v. Cleburne Living Center* (hereinafter *Cleburne*) (1986) 473 U.S. 432.] "Rational basis" means the Court will ask if the classification drawn by the statute is rationally related to a legitimate state interest. (*Cleburne* at 439.) The Court, in

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applying this test, found the provision of the act related to retired peace officers did not satisfy the relaxed standard in the rational basis test. (*Silveira* at 1092.)

This case is relevant for two reasons: this bill exempts peace officers from the authorization of local governments to pass handgun prohibitions, and this bill may implicate the Second Amendment. *Silveira* stands for the proposition that the Legislature had no rational basis to exempt retired peace officers from the AWCA. However, the Ninth Circuit in *Silveira* did hold that exemption for off-duty peace officers was not a violation of the Equal Protection Clause because it

did have a sufficient rational basis. The plaintiffs did not challenge provisions of the AWCA that exempts law enforcement. This bill states only that law enforcement shall be exempt and is not clear if that applies only to active peace officers or other members of the law enforcement community. Moreover, if the Supreme Court rules the Second Amendment is an individual rather than a collective right, that ruling will lead to a very different Equal Protection Clause analysis. Where the statute at issue burdens a fundamental right or targets a suspect class, that statute receives heightened or strict scrutiny. (See *Romer v. Evans* (1996) 517 U.S. 620.) In this instance, the local government would have to show the law is suitably or narrowly tailored to serve a compelling state interest. (See *Cleburne* at 440.) This argument could be raised by any person in the jurisdiction with the ban because that person is not able to enjoy the right to own a handgun as that person lives in that city, whereas another person living in a different city is not burdened.

8) Arguments in Support :

- a) According to the Legal Community Against Violence (LCAV), "AB 2566 would expand the authority of local governments to address handgun violence in their communities by amending Government Code Section 53071 to allow local laws pertaining to handgun registration or licensing, and by amending Penal Code Section 12026 to allow local governments to regulate or prohibit the manufacture, transfer, distribution or possession of handguns. An expansion of local authority in this area is needed because gun violence continues at epidemic levels in California, causing massive numbers of deaths and injuries and enormous health care and other economic costs, all of

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which are disproportionately borne by the state's local, particularly urban, communities.

"In 2005, the most recent year for which statewide statistics are available, 3,453 Californians died from firearm-related injuries and 4,316 others were treated for non-fatal gunshot wounds. Densely populated urban areas bear the brunt of this devastation. Last year in Los Angeles, for example, nearly 1,900 people were victims of gun violence and 80% of the homicides involved a gun. Last year in San Francisco, the number of firearm-related homicides reached its highest level since 1995. Moreover, the cost of health care and government services relating to firearm violence in San Francisco is estimated to be at least \$31.2 million each year.

"In response to these staggering facts, local governments across the state have adopted a wide array of gun laws to fit community needs. LCAV's most recent local ordinance survey, published in 2000, found that over 100 cities and counties had adopted over 300 firearm-related laws. Significantly, several state laws regulating firearms were modeled after these ordinances, including state laws limiting handgun purchases to one per person per month, prohibiting the sale of junk guns and large capacity ammunition magazines, and requiring the sale of locking devices with firearm transfers.

"Local authority to adopt laws to reduce gun violence has been significantly limited, however, by Government Code Section 53071 and Penal Code Section 12026 (which prohibit local registration or licensing laws, and permit or licensing requirements for the purchase or possession of a handgun in a residence or place of business). These statutes have been repeatedly asserted in legal challenges to a variety of local gun laws and, although nearly all of those challenges have been unsuccessful, Government Code Section 53071 and Penal Code Section 12026 remain a limitation upon the ability of local governments to tailor

gun laws to fit their particular needs."

- b) According to the Brady Campaign to Prevent Gun Violence, "Existing law generally regulates the purchase, possession and carrying of handguns within the State of California. The primary constitutional responsibility for maintaining

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public safety, however, rests at the local level. High levels of crime may convince local officials that State law is insufficient to meet their local public safety needs. Accordingly, local jurisdictions should have the freedom to establish local ordinances that are more stringent than those applied to the state as a whole."

9) Arguments in Opposition :

- a) According to the National Shooting Sports Foundation, "AB 2566 would repeal the existing statutory state pre-emption over local firearms laws with respect to a local government requirement that a license or permit must first be obtained in order for a lawful resident to purchase, own, possess, keep, or carry, either openly or concealed, a handgun within the persons place of residence, place of business, or on private property owned or lawfully possessed by the person.

"AB 2566 would amend Penal Code Section 12026 so that it would clearly violate the Second Amendment to the United States constitution.

"Handguns, as well as other firearms, are easily transported for various lawful purposes - people possess them, they lawfully carry them in their motor vehicles while transporting them to a shooting range, for hunting trips, recreational shooting, or for other lawful reasons including self defense. While traveling for these lawful purposes law-abiding individuals can and do pass through several different local government jurisdictions. This bill would allow a local government to require a license, or to otherwise regulate, the possession of a handgun while transporting it in a motor vehicle through the local jurisdiction to another destination. AB 2566 would allow local laws to establish their own laws governing the lawful possession of a handgun within their jurisdiction. This would result in Kafkaesque patchwork of local laws that would trap and ensnare otherwise law abiding gun owners and subject them to penalties and sanctions because they are unaware of the local laws. This patchwork of confusing and conflicting requirements is precisely why the Legislature pre-empted local laws in favor of a set of unified statewide rules.

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"AB 2566 would also put licensed firearms dealers in legal jeopardy if they sell a handgun to a California resident who lives in a jurisdiction with laws different to those in which the dealer resides. It is unfair to force small mom-n-pop firearms retailers to know the local laws pertaining to the possession of a handgun for every single jurisdiction in California.

"AB 2566 does not advance the public safety. To the contrary it is an ill-advised bill that will result in a hodgepodge

of conflicting local laws tripping up the unwary."

- b) According to the National Rifle Association , "The repeal of state preemption would lead to an unpredictable patchwork of local laws. American Citizens have the right to travel from one local jurisdiction to another in California without the fear of violating locally politically motivated ordinances."

10)Related Legislation : AJR 46 (Benoit) resolves that the California State Legislature supports the Second Amendment to the United States Constitution and the Bill of Rights and supports the decision of the United States Court of Appeals for the District of Columbia. AJR 46 is pending hearing by the Assembly Committee on Judiciary:

REGISTERED SUPPORT / OPPOSITION :

Support

Brady Campaign to Prevent Gun Violence, California Chapter  
 Coalition Against Gun Violence, Santa Barbara County  
 Legal Community Against Gun Violence

Opposition

California Association of Firearms Retailers  
 California Houndsmen for Conservation  
 California Outdoor Heritage Alliance  
 California Rifle and Pistol Association, Inc.  
 California Sportsman's Lobby  
 Crossroads of the West Gun Shows  
 Gun Owners of California  
 National Rifle Association

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National Shooting Sports Foundation, Inc.  
 Outdoor Sportsmen's Coalition of California  
 Safari Club International  
 2 private citizens

Analysis Prepared by : Kimberly Horiuchi / PUB. S. / (916)  
 319-3744