

**EXHIBIT A**

SB 15  
Page 1

Date of Hearing: June 8, 1999  
Counsel: Gregory Pagan

ASSEMBLY COMMITTEE ON PUBLIC SAFETY  
Mike Honda, Chair

SB 15 (Polanco) - As Amended: June 2, 1999

SUMMARY : Makes it a misdemeanor for any person in California to manufacture, import for sale, offer for sale, give, or lend any "unsafe handgun", as defined, with certain specific exceptions. Specifically, this bill :

- 1) Makes it a misdemeanor, punishable by up to one year in the county jail, beginning January 1, 2001 for any person in California who manufactures or causes to be manufactured, imports into California for sale, keeps for sale, offers or exposes for sale, gives or lends any unsafe handgun, except as specified.
- 2) Defines "unsafe handgun" to mean any pistol, revolver or firearm capable of being concealed upon a person that does not have a specified safety device, does not meet specified firing requirements, or does not meet specified drop safety requirements.
- 3) Requires any pistol, revolver, or other firearm capable of being concealed upon a person manufactured in California, imported into California for sale, kept for sale, or offered or exposed for sale to be tested by an independent laboratory certified by the Department of Justice (DOJ) meets or exceeds specified standards defining unsafe handguns.
- 4) Requires the DOJ to certify laboratories to verify compliance with the specified standards defining unsafe handguns on or before July 1, 2000.
- 5) Requires every person licensed to manufacture firearms who manufactures firearms in California, and every person who imports firearms into California for sale, keeps for sale, or offers or exposes for sale any firearm to certify under penalty of perjury that every model, kind, class, style, type of pistol, revolver, or other firearm capable of being

SB 15  
Page 2

concealed upon a person that he or she manufactures or imports, keeps or exposes for sale is not a prohibited unsafe handgun.

- 6) Requires the DOJ on and after January 1, 2001 to compile, publish, and thereafter maintain, a roster listing all pistols, revolvers, and other firearms capable of being concealed upon a person that are not unsafe handguns by the manufacturer, model number and model name.
- 7) Authorizes the DOJ to charge every person who manufactures, imports into California for sale, offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon a person an annual fee not exceeding the costs of preparing, publishing, and maintaining the roster.
- 8) Exempts from limitations: (a) prototypes which are to be tested by an independent laboratory to determine if the handgun is prohibited by this bill; (b) the handling of a handgun by persons authorized to determine if the weapon is prohibited; (c) firearms listed as curios or relics by federal law; and, (d) the sale, purchase, or possession of any handgun by specified law enforcement agencies or sworn members of these agencies when the sworn member has written authorization from the employing agency.
- 9) Exempts the sale loan or transfer of any firearm between private parties through dealers or law enforcement agencies, between private parties exempt from the requirement that the transfer be through a dealer or law enforcement agency, firearms listed as curios or relics, the delivery or return of a firearm for the purposes of repair, and the return of a firearm by a licensed dealer when the firearm was delivered for the purposes of a consignment sale or as collateral for a pawnbroker loan.
- 10) States that it is the Legislature's intent that the DOJ

pursue an internal loan from special fund revenues available to the DOJ to cover start-up costs for the program established pursuant to this bill, and any loan shall be repaid with the proceeds of fees collected under that program within six months.

- 11) States that nothing in this bill shall require or prohibit any local ordinance that places a more stringent requirement

SB 15  
Page 3

upon the manufacture, importation, transfer, sale, or possession of handguns.

EXISTING LAW:

- 1) Provides for licensing and regulation of all firearm dealers and manufacturers in California. (Penal Code Sections 12071 and 12085.)
- 2) States that it is an alternate felony/misdemeanor punishable by 16 months, 2 or 3 years in the state prison or by up to one year in the county jail to manufacture, cause to be manufactured, import into California, keep for sale, offer or expose for sale, give, lend or possess specified prohibited firearms. (Penal Code Section 12020 (a).)
- 3) Provides that perjury is willfully stating under oath a material fact that one knows to be false, either orally or in writing, and is punishable by two, three, or four years in the state prison. (Penal Code Sections 118 and 126.)

FISCAL EFFECT : Unknown

COMMENTS :

1) Author's Statement . According to the author, "SB 15 is a common sense responsible gun law. It requires that weapons fire when they are supposed to and that they not fire when they're dropped. The drop test is based on the United States DOJ quality standards for law enforcement weapons and the misfire test is a slightly more lenient standard than currently used by law enforcement agencies. The tests are fair and reasonable for weapons sold to members of the public for self-protection. If a weapon is not reliable for self-defense, it has no business being sold in California.

"SB 15 would require any handgun manufactured in California, imported into the State of California for sale, kept for sale or exposed for sale, given or lent, meet these basic standards. The Attorney General's Office would be required to certify independent labs that would test weapons that manufacturers wished to sell in California. If they failed to pass the test it would be a misdemeanor to manufacture or sell the weapon in our state."

SB 15  
Page 4

2) Definition of "Unsafe Handgun" . This bill defines an "unsafe handgun" as follows: (a) does not have a requisite safety device, (b) does not meet specified firing tests, and (c) does not meet a specified drop safety test.

a) Required Safety Device . This bill requires that a revolver have a safety device that, either automatically in the case of a double-action firing mechanism, or by manual operation in the case of a single-action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge or in the case of a pistol have a positive manually operated safety device.

b) Firing Test . In order to meet the "firing requirements" under this bill, the manufacturer must submit three unaltered handguns, of the make and model for which certification is sought, to an independent laboratory certified by the Attorney General. The laboratory shall fire 600 rounds from each gun under certain conditions. A handgun shall pass the test if each of the three test guns fires the first 20 rounds without a malfunction, and fires the full 600 rounds without more than 6 malfunctions and without any crack or breakage of an operating part of the handgun that increases the risk of injury to the user.

"Malfunction" is defined as a failure to properly feed, fire or eject a round; failure of a pistol to accept or reject a manufacturer-approved magazine; or failure of a pistol's slide to remain open after a manufacturer approved magazine has been expended.

c) Drop Test . This bill provides that at the conclusion of the firing test, the same three manufacturer's handguns must undergo and pass a "drop safety requirement" test. The three handguns are dropped a specified number of times, in specified ways, with a primed case (no powder or projectile) inserted into the handgun, and the primer is examined for indentations after each drop. The handgun passes the test if each of the three test guns does not fire the primer.

3) Exemptions . The misdemeanor penalties specified in this bill do not apply to a handgun imported as a prototype for the purpose of laboratory testing; where it is imported or loaned to determine whether the weapon is prohibited; if it is listed

SB 15  
Page 5

as a curio or relic under federal law; or where the sale to, purchase by, or possession of any handgun by specified law enforcement agencies, or sworn members of these agencies when the sworn member is has written authorization from the employing agency. Also, this bill does not apply to the private sale, loan, or transfer between private parties through a licensed dealer, or law enforcement agency; an infrequent transfer, as defined; the delivery or return of a handgun for the purpose of service or repair; the return of a handgun that was delivered to a licensed dealer or pawnbroker for the purposes of consignment sale or as collateral for a loan; or for "old west" single-action revolvers and replicas of those revolvers.

4) Laboratory Certification . This bill provides that on or before July 1, 2000, the DOJ shall certify laboratories to verify compliance with the standards established by this bill, and the DOJ may charge a fee for certification not exceeding the costs of certification.

This bill allows the DOJ to charge every person who is a manufacturer of firearms in California, imports firearms into California for the purpose of sale, or offers for sale a pistol, revolver, or handgun capable of being concealed upon a person in California, an annual fee not exceeding the costs of preparing and maintaining the roster of firearms deemed not to be unsafe.

This bill also provides that the certified testing laboratory shall, at the expense of the manufacturer or importer, test the submitted firearm.

5) Prior Legislation . SB 1500 (Polanco), of the 1997-98 Legislative Session, was almost identical to this bill. SB 1500 was vetoed by the Governor. The Governor stated in part:

"The bill gives the DOJ six months to find and certify laboratories to perform safety tests. Once laboratories are identified, handgun manufacturers wishing to sell their products in California would be required to submit three prototypes of each model for testing. Only handguns passing the test during the following six months would be certified and placed on the initial DOJ roster. All other handguns would be presumed to be unsafe subject to penalty under this bill and remain so unless and until they were certified to

SB 15  
Page 6

have passed the test.

"The author was advised that this Administration could accept both the premise of safety testing and the specific safety tests proposed, provided that the bill be made prospective, impacting handguns manufactured or sold new, after January 1, 2000. The author declined to amend the bill, insisting that used handguns could be sold through private transactions, but not by licensed dealers. Other than improving business for gun manufacturers by increasing demand for new guns, it is unclear how anyone would benefit from this new standard.

"SB 1500 would deny owners of used handguns access to a

dependable marketplace of licensed firearms dealers and pawnbrokers for safe and legal sales and loans, while threatening to delay market access to manufacturers and purchasers of new guns.

"But an even more fundamental question is whether consumer safety is better achieved by a program that offers manufacturers market incentives to have their products tested, or a program that penalizes not only makers of products that fail the test, but also those who through no fault of theirs have been unable to get their guns tested.

"There are few laboratories that perform this kind of testing now. With the manufacturers providing the cost of testing, the number of laboratories and testing capacity may increase. But in the meantime, there are hundreds, if not thousands, of makes and models of handguns. There is a very real possibility that delay - for any number of reasons beyond the control of gunmakers - will lead to a large number of guns being banned without any showing that they are unsafe.

"While there have been isolated reports of firearms that jam excessively and even a few reports of guns which discharge accidentally, when dropped, or explode in the shooter's hand, the number of makes of suspect guns does not seem to justify a regulatory scheme that is likely to have the unintended consequence of prohibiting, or at least unreasonably holding up, sales of what appears to be the vast majority of perfectly reliable weapons.

"And there is no objection to weapons testing. But the procedure which SB 1500 would impose threatens to unreasonably

SB 15

Page 7

limit the right of law abiding citizens to obtain previously lawful firearms. It makes little sense for the law to deny weapons to people who need them, on the pretext that they are unsafe to the user until testing proves them safe, when they are arguably in far greater danger from certifiably unsafe thugs than from uncertified handguns."

6) Pending Legislation . AB 505 (Wright), pending assignment by the Senate Rules Committee, provides that every pistol, revolver, or firearm capable of being concealed upon a person, effective July 1, 2000, manufactured in California or imported into California for sale meet specified minimum safety standards. AB 505 has a prospective application and only applies to firearms manufactured or imported into California after the effective date of the bill.

7) Arguments in Support . Handgun Control states, "There are no federal quality or safety standards for domestically manufactured handguns. Guns are the only product in America exempt from regulation by the Consumer Product Safety Commission or by any other agency. The gun lobby has repeatedly pressured Congress to continue to exempt domestically made handguns from the safety standards that have applied to imported handguns for more than 30 years."

8) Arguments in Opposition . The California Sporting Goods Association states, "Requiring out-of-production firearms to meet abstract performance tests will place an onerous burden on anyone trying to buy or sell one. If the product is no longer made, how can samples be provided for testing? Further, if owners of discontinued models can no longer sell them lawfully, there will be a great temptation to dispose of them on the illicit market."

REGISTERED SUPPORT / OPPOSITION :

Support

American Academy of Pediatrics  
 Association of Bay Area Governments  
 Board of Supervisors of Alameda County  
 Board of Supervisors of Marin County  
 Board of Supervisors of San Mateo County  
 Board of Supervisors of Santa Clara County  
 Board of Supervisors of Santa Cruz County

SB 15

Page 8

Board of Supervisors of Siskiyou County

A000005

Board of Supervisors of Sonoma County  
 Butte County Sheriff  
 California Academy of Family Physicians  
 California Child Youth and Family Coalition  
 California Church Impact  
 California Congress of Parents, Teachers, and Students, Inc.  
 California Nurses Association  
 California Organization of Police and Sheriffs  
 Cathedral City  
 Children's Advocacy Institute  
 City of Alameda  
 City of Albany  
 City of Alhambra  
 City of Arvin  
 City of Belmont  
 City of Benicia  
 City of Berkeley  
 City of Bishop  
 City of Buena Park  
 City of Burbank  
 City of Camarillo  
 City of City of Cudahy  
 City of Commerce  
 City of Cypress  
 City of Daly City  
 City of El Cerrito  
 City of Fontana  
 City of Fortuna  
 City of Foster City  
 City of Fullerton  
 City of Guadalupe  
 City of Huntington Park  
 City of Indio  
 City of Inglewood  
 City of Irvine  
 City of Kerman  
 City of La Habra  
 City of La Puente  
 City of Lake Elsinore  
 City of Los Angeles  
 City of Malibu  
 City of Millbrae  
 City of Monte Sereno  
 City of Montebello

---

 SB 15

Page 9

City of Monterey  
 City of Monterey Park  
 City of Morgan Hill  
 City of Oakland  
 City of Oceanside  
 City of Ojai  
 City of Oxnard  
 City of Pacific Grove  
 City of Palm Springs  
 City of Palmdale  
 City of Palo Alto  
 City of Richmond  
 City of Riverside  
 City of Rohnert Park  
 City of San Bernadino  
 City of San Clemente  
 City of San Fernando  
 City of San Jose  
 City of San Luis Obispo  
 City of San Marino  
 City of San Mateo  
 City of Santa Ana  
 City of Santa Barbara  
 City of Santa Clara  
 City of Santa Monica  
 City of Santa Rosa  
 City of Signal Hills  
 City of South Pasadena  
 City of Stockton  
 City of Temecula  
 City of Thousand Oaks  
 City of Upland  
 City of Walnut Creek  
 City of West Hollywood  
 City of Williams  
 City of Winters  
 Colusa County District Attorney  
 Episcopal Church Diocese of Los Angeles  
 Escalon Police Department  
 Handgun Control  
 Jack Berman Advocacy Center  
 Lafayette City Council  
 League of California Cities  
 League of Women Voters of California  
 Legal Community Against Violence

SB 15  
Page 10

Livingston California  
Los Angeles County Bar Association  
Los Angeles County District Attorney's Office  
Los Angeles Unified School District  
Lutheran Office of Public Policy  
Michael J. Long, Attorney at Law  
Office of Criminal Justice Planning  
Older Women's League of California  
Orange County Citizens for Prevention of Gun Violence  
Physicians For a Violence-Free Society  
San Mateo Police Department  
Scotts Valley Police Department  
Signal Hill Police Department  
Sonora Police Department  
Town of Los Gatos  
Trauma Foundation  
Violence Prevention Coalition of Los Angeles

Opposition

California Rifle and Pistol Association, Inc.  
California Sporting Goods Association  
3 Private Citizens

Analysis Prepared by : Gregory Pagan / PUB. S. / (916) 319-3744