

EXHIBIT E

BILL ANALYSIS

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Date of Hearing: April 17, 2007
Counsel: Kimberly A. Horiuchi

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Jose Solorio, Chair

AB 1471 (Feuer) - As Amended: April 10, 2007

SUMMARY : Requires specified semiautomatic pistols to be equipped with microscopic identifying markings which are transferred to each cartridge case when the firearm is fired. Specifically, this bill :

- 1) States, beginning January 1, 2010, all semiautomatic pistols not already designated as safe handguns, as specified, to be equipped with microscopic characters that identify the make, model, and serial number of the pistol etched in two or more places on the interior surface or internal working parts of the pistol which are transferred by imprinting on each cartridge case when the firearm is fired.
- 2) Makes other technical, non-substantive changes.

EXISTING LAW :

- 1) Requires, commencing January 1, 2001, that manufacturing, importing into California for sale, keeping for sale, offering or exposing for sale, giving, or lending any unsafe handgun is a misdemeanor, punishable by up to one year in the county jail. [Penal Code Section 12125.]
- 2) Defines "unsafe handgun" as any pistol, revolver, or other firearm capable of being concealed upon the person, as specified, which lacks various safety mechanisms, as specified. [Penal Code 12126.]
- 3) Requires any concealable firearm manufactured in California, imported for sale, kept for sale, or offered for sale to be tested within a reasonable period of time by an independent laboratory, certified by the Department of Justice (DOJ), to determine whether it meets required safety standards, as specified. [Penal Code Section 12130.]

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- 4) Requires DOJ, on and after January 1, 2001, to compile, publish, and thereafter maintain a roster listing all of the pistols, revolvers, and other firearms capable of being concealed upon the person that have been tested by a certified testing laboratory, have been determined not to be unsafe handguns, and may be sold in California, as specified. The roster shall list, for each firearm, the manufacturer, model number, and model name. [Penal Code Section 12131(a).]
- 5) Provides that DOJ may charge every person in California who is licensed as a manufacturer of firearms, as specified, and any person in California who manufactures or causes to be manufactured, imports into California for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in California, an annual fee not exceeding the costs of preparing, publishing, and maintaining the roster of firearms determined not be unsafe, and the costs of research and development, report analysis, firearms storage, and other program infrastructure costs, as specified. [Penal Code Section 12131(b)(1).]
- 6) Requires the DOJ to maintain a registry of all handguns sold by a licensed dealer in California including, but not limited to, the buyer's name, address and other identifying information, as well as the serial number of the weapon sold. [Penal Code Section 11106.]

FISCAL EFFECT : Unknown

COMMENTS :

- 1) Author's Statement : According to the author, "This bill is about catching criminals. This bill will allow law enforcement to positively link used cartridge casings recovered at crime scenes to the crime gun. This bill will: (a) help law enforcement solve handgun crimes; (b) help reduce

gang violence; and, (c) help reduce gun trafficking of new semi-automatic handguns.

"One of the most important pieces of this legislation is that it places no additional burden to gun owners. The additional cost will be \$0.50 to \$2 a gun and no new licenses or permits are required.

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"California has an enormous and diverse problem of unsolved homicides committed with handguns. No arrest is made in approximately 45% of all homicides in California because police lack the evidence they need. Of the approximately 2,400 homicides in California per year over 60% are committed with handguns (2004 DOJ data). Approximately 70% of new handguns sold in California are semiautomatics ('Handgun Commerce in California 1999,' Sacramento: Violence Prevention Research Program, 2002).

"Microstamping technology would give law enforcement a tool that will provide evidence to help investigate, arrest and convict more people who use semiautomatic handguns in crimes and will provide rapid leads in the first crucial hours after a homicide.

"This bill will help law enforcement identify and apprehend armed gang members before they inflict more harm on others, including innocent bystanders. In instances of drive-by shootings where the only evidence at the crime scene may be a spent cartridge case, law enforcement could quickly obtain a critical lead."

2) Feasibility Study : The Legislature recently ordered a feasibility study by DOJ to consider a similar technology, ballistic fingerprinting, which had been proposed to accomplish the same purpose, i.e., to trace evidence left at a crime scene to a particular gun and that gun's owner. The result of AB 1717 (Hertzberg), Chapter 271, Statutes of 2000, was that the proposal was determined not to be feasible

3) Arguments in Support :

a) The California Chapters of the Brady Campaign to Prevent Gun Violence state, "This bill would require that newly designated semi-automatic handguns sold after January 1, 2010, be equipped with 'micro-stamping' technology. This technology consists of engraving microscopic characters onto the firing pin and other interior surfaces, which would be transferred onto the cartridge casing when the handgun is fired. Micro-stamping technology would substantially enhance law enforcement's ability to quickly identify and link shell casings found at a crime scene to the individual semi-automatic handgun from which it was fired and to the gun's law lawful possessor.

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"Nearly one-half of the homicides in California are unsolved and the majority of homicides are committed with handguns. In this time of escalating gang violence in our state, new tools for finding and apprehending armed criminals are needed. This bill would help law enforcement solve murders and other handgun crimes as the information provided by a micro-stamped cartridge casing gives police important leads in the first crucial hours after a crime.

"In addition, this bill would help reduce trafficking of new semi-automatic handguns by creating accountability. Legal purchasers who buy guns for traffickers ('straw' buyers), will be deterred when they realize that micro-stamped casings can be traced directly back to them. Consequently, this big source of crime guns, which rapidly fall into the hands of criminals and gang members, would be disrupted. Curbing the flow of illegal guns to prohibited purchasers, including felons and violent teens, would reduce gun violence in our streets and protect the innocent bystanders.

"Micro-stamping will not impose a new cost on the state of California as no new database or procedures are required. California already has a system for tracking guns and their

owners. At the scene of a crime, law enforcement will simply check the existing database. Buyers of micro-stamping handguns will notice no change in the purchasing process as no new permitting or information is needed. Existing handguns and existing handgun owners will not be impacted by this bill since the law only applies to new handguns.

"The micro-stamping technology is highly tamper resistant. The redundant markings are durable and routine maintenance and servicing of the firearm will not affect the technology. Criminals will find it extremely difficult to defeat the technology. This bill is supported by law enforcement as it will assist in solving handgun crime and curbing the flow of illegal weapons to prohibited purchasers."

- b) The Fresno Police Department states, "As a law enforcement executive, I want my department to have the best tools available to decrease the level of violent gun

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crime in our state and increase public safety. Firearm identification from physical evidence left behind at the crime scene is essential to the investigation and prosecution of gun crime. In this bill, the California Legislature is considering requiring 'microstamping' technology on all newly designed semi-automatic handguns.

"'Microstamping' technology consists of engraving microscopic characters on the firing pin and other interior gun parts, which would be transferred onto the cartridge casing when the handgun is fired. The markings would identify the make, model and serial number of the gun and enable law enforcement to rapidly link shell casings found at the crime scene to the individual semi-automatic handgun from which they were fired, and then to the last lawful possessor. This technology will provide law enforcement with a critical lead in finding armed criminals or 'straw buyers' who illegally traffic weapons to prohibited purchasers. The technology will also add additional information into the crime gun trace database, which will help law enforcement identify gun trafficking channels.

"One of the benefits of microstamping technology is that it does not require any new database or additional information from gun purchasers and will be virtually cost free for law enforcement. The cartridge casings expelled from the firearm will indicate the serial number of the firearm, which is already available through the dealer record of sale. Using California's current handgun database, the owner of the gun can then be identified. Finding the guns and identifying its owners are critical pieces of information for violent gun crime investigation."

4) Arguments in Opposition :

- a) The Crossroads of the West Gun Shows states, "At the shows, licensed firearms dealers buy and sell handguns in strict adherence to all applicable laws. When buying or selling a previously owned handgun, how will the dealer and the customer know of the microstamping has been removed or worn away in violation of Penal Code Sections 12090 and 12091? In those cases where the microstamping is known to be missing, such as a broken firing pin, how can it legally be restored? Most dealers, gunsmiths, or members of the public will not have the equipment necessary to do so.

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Could a gun show operator incur liability if a dealer at a gun show or a gun show attendee, either knowingly or unwittingly, possessed a handgun in violation of the prohibition against obliterating a manufacturer's identifying marks on a firearm? In the case of this bill, such a violation could easily occur either as a result of firing pin breakage or normal wear. There are many practical problems that would make this bill undesirable, even if the technology was generally workable. Whether it would actually work in real life application is seriously in question."

- b) The California Association of Firearm Retailers state,

"The technology which this proposed bill seeks to promote has not been shown to work under actual field conditions. Mandating its implementation by law at this time would be excessively premature as it cannot be scientifically justified, and it has not been proven to be practical in application. Impartial testing to date has raised very serious questions relative to whether this technology could actually work in the field given all the variables and other factors that are present outside of the laboratory.

"For example, criminals can easily defeat it in a number of different ways, and it is well known that the overwhelming majority of handguns used in crime are stolen. Fired casings from them found at crime scenes in most cases would not lead law enforcement to the actual perpetrator. Placing micro-stamping on semi-automatic handguns, even if the technology was reliable, would be ineffective as a law enforcement tool.

"Furthermore, micro-stamping is a 'sole source' technology at the present time. It is owned by a single company. If micro-stamping did work, a matter that the results of recent independent scientific research casts in doubt and highly questions, it would probably continue to be 'sole source' as other forms of cartridge case marking have reportedly been proven to be more difficult and costly to engineer.

"This increases the likelihood that the sole source problem would in fact continue and that the costs of using it would not be contained by realistic competition. The result would be higher costs for retailers and their customers for

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a system that is not reliable and would not be of much assistance to law enforcement."

5) Prior Legislation :

a) AB 352 (Koretz), of the 2005-06 Legislative Session, would have required specified semiautomatic pistols to be equipped with microscopic identifying markings which are transferred to each cartridge case when the firearm is fired. The Assembly refused to concur with the Senate amendments.

b) SB 357 (Dunn), of the 2005-06 Legislative Session, would have established a program requiring the serialization of handgun ammunition. SB 357 was substantially amended.

REGISTERED SUPPORT / OPPOSITION :

Support

American College of Emergency Physicians, California Chapter
Antioch Police Department
Brentwood Police Department
Burlingame Police Department
California Chapters, Brady Campaign to Prevent Gun Violence
Capitola Police Department
City of Los Angeles
Clayton Police Department
Clearlake Police Department
Concord Police Department
Costa Mesa Police Department
Emeryville Police Department
Fresno Police Department
Friends Committee on Legislation
Gray Panthers California
Grover Beach Police Department
Healdsburg Police Department
Huntington Police Department
Jerry Sanders, Mayor of San Diego
Legal Community Against Gun Violence
Los Alamitos Police Department
National City Police Department
Newport Beach Police Department
Oakland Police Department
Pinole Police Department

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Salinas Police Department

San Diego Police Department
Santa Barbara County Coalition Against Gun Violence
Seaside Police Department
Stockton Police Department
Stop Gun Violence Orange County Citizens for the Prevention of
Gun Violence
Tustin Police Department
Vernon City Police Department
Violence Prevention Coalition of Orange County
Violence Prevention Coalition of Orange County
Walnut Creek Police Department
Westminster Police Department

Opposition

California Association of Firearm Retailers
California Outdoor Heritage Alliance
California Rifle and Pistol Association
California Sportsman's Lobby
Crossroads of the West Gun Shows
Gun Owners of California
National Rifle Association of America
Outdoor Sportsmen's Coalition of California
Safari Club International
Sporting Arms and Ammunition Manufacturers' Institute (SAAMI)
8 private citizens

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