
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: SJR 24 **Hearing Date:** April 10, 2018
Author: Jackson
Version: March 20, 2018
Urgency: No **Fiscal:** Yes
Consultant: AY

Subject: *Firearms*

HISTORY

Source: Author

Prior Legislation: SJR 1 (Wolk), 2013
AJR 45 (Feuer), Ch. 143, Stats. of 2012
SJR 7 (Padilla), Ch. 63, Stats. of 2011
AJR 56 (Frommer), Ch. 188, Stats. of 2004
SJR 23 (Perata), Ch. 129, Stats. of 1999

Support: Unknown

Opposition: National Rifle Association

PURPOSE

This resolution urges the Congress of the United States to reauthorize and strengthen the federal assault weapons ban and for the Congress to pass, and the President to sign, the Assault Weapons Ban of 2018. This measure additionally calls on CalPERS to divest from its holdings related to the production and sale of firearms.

Existing law defines “assault weapon” as any of the following:

- 1) A semiautomatic, centerfire rifle that does not have a fixed magazine but has any one of the following:
 - a) a pistol grip that protrudes conspicuously beneath the action of the weapon;
 - b) a thumbhole stock;
 - c) a folding or telescoping stock;
 - d) a grenade launcher or flare launcher;
 - e) a flash suppressor; or,
 - f) a forward pistol grip.

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

- 3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.
- 4) A semiautomatic pistol that does not have a fixed magazine but has any one of the following:
 - a) a threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer;
 - b) a second handgrip;
 - c) a shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning the bearer's hand, except a slide that encloses the barrel; or,
 - d) the capacity to accept a detachable magazine at some location outside of the pistol grip.
- 5) A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds.
- 6) A semiautomatic shotgun that has both of the following:
 - a) a folding or telescoping stock; and,
 - b) a pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.
- 7) A semiautomatic shotgun that has the ability to accept a detachable magazine.
- 8) Any shotgun with a revolving cylinder. (Penal Code Sections 30510, 30515.)

Existing law defines "large-capacity magazine" as any ammunition-feeding device with the capacity to accept more than 10 rounds, not including any feeding device that has been permanently altered so that it cannot accept more than 10 rounds, any .22 caliber tube ammunition-feeding device, or any tubular magazine that is contained in a lever-action firearm. (Penal Code Section 16740.)

Existing law 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. (Penal Code Section 30600.)

Existing law prohibits the manufacture, importation, keeping for sale, offering or exposing for sale, giving, or lending of any large-capacity magazine with specified exceptions. (Penal Code Section 32310.)

Existing law gives the governing body or board of a public pension or retirement system plenary authority and fiduciary responsibility for investment of moneys and administration of the system. (California Constitution Article XVI, Section 17.)

Existing law states that the Legislature may by statute prohibit certain investments by a governing board of a public pension or retirement system where it is in the public interest to do so, and provided that the prohibition satisfies the standards of fiduciary care and loyalty required of a board. (California Constitution Article XVI, Section 17.)

Current federal law - The federal assault weapons law (the Violent Crime Control and Law Enforcement Act, H.R. 3355, Pub.L. 103-322.) became effective on September 13, 1994, and banned the possession of “assault weapons” and “large capacity ammunition feeding devices,” defined as a magazine capable of holding more than ten rounds of ammunition, manufactured after that date. That law expired in 2004 and has not been reenacted.

This resolution resolves that the Legislature calls on CalPERS to divest all its holdings related to the production and sale of firearms.

This resolution resolves that the Legislature urges the Congress of the United States to reauthorize and strengthen the federal assault weapons ban and for the Congress to pass, and the President to sign, the federal Assault Weapons Ban of 2018.

This resolution makes numerous declarations regarding incidents involving the use of assault weapons, that numerous factors contribute to the occurrence of mass shootings, that the Second Amendment does not prohibit laws forbidding firearms in schools or regulation of unusually dangerous weapons, that an estimated 40% of firearm transfers are completed without a background check, that a renewed assault weapons ban will not necessarily stop every mass shooting but will begin to remove deadly weapons from our streets, that the Legislature commends companies who have terminated their business dealings with the National Rifle Association, that the Legislature commends CalPERS for divesting from its holdings in companies making guns that are illegal in California, and the need for a comprehensive federal approach to reducing and preventing gun violence.

COMMENTS

1. Need for This Bill

According to the author:

Congress passed an assault weapons ban as part of the Violent Crime Control and Law Enforcement Act (Act) on September 13, 1994. The Act specified which weapons were classified as assault weapons. The Act defined features which classified specified semi-automatic rifles, pistols, and shotguns as assault weapons. The Act was limited to semi-automatic weapons only, as fully automatic weapons were addressed in earlier legislation passed in 1934 and 1986. The Act banned large-capacity ammunition feeding devices and high-capacity magazines. After 10 years of existence, the Act expired in 2004 and was not reenacted.

Rapid-fire assault weapons with large clips of ammunition have only one purpose: the mass slaughter of large numbers of human beings. They were designed for use by the military to achieve that mission in combat — and that mission alone. No one argues that other combat weapons like rocket-propelled grenades (RPGs) or stinger missiles should be widely available to anyone at a local gun shop. Some weapons are simply too dangerous for civilian use.

That’s why, for nearly 80 years, federal law has banned machineguns, sawed-off shotguns, silencers, very high-caliber firearms, grenades and bombs. Military-

style assault weapons — like the one used to murder defenseless children in Newtown and Parkland — are versions of military weapons that are designed for rapid fire. Seven states, including California, have enacted laws strictly regulating the making, possession, and transfer of assault weapons. Without a comprehensive federal law, states that take steps to protect their communities from assault weapons remain vulnerable to criminals who use those weapons.

A primary criticism of the proposed assault weapons ban is the idea that the vast majority of gun deaths in the U.S. aren't performed with the aid of assault weapons. Critics of the ban hold that it will not have a notable effect on gun violence while taking away what they perceive as a right to own semiautomatic weapons.

But an assault weapons ban is designed for an entirely different subset of homicides: It targets the mass shootings that have occurred roughly once per month since 2009, according to the Mayors Against Illegal Guns data.

Mass shooters who use an assault weapon or a high capacity magazine shoot more than twice as many people than those who use handguns, according to the MAIG data. The data also shows them to be 54 percent more lethal. When assault weapons or high capacity magazines are used in a mass shooting — 23 percent of the time since 2009 — more people are shot and more people are killed.

When a shooter doesn't use an assault weapon or high capacity magazine, he or she shoots 7 and kills 5.4 people on average. When a shooter is using a high capacity magazine or an assault weapon, he or she shoots 15.6 and kills 8.3 people on average.

In the 10 years that the federal ban on assault weapons was in effect, the percentage of assault weapons traced to crime fell by 66 percent. In short, the federal assault weapons ban worked, and it's past time to reinstate it.

2. Mass Shootings in the U.S.

The number of mass shootings and deaths resulting from mass shootings has continued to grow in the United States.

A press release by U.S. Senator Dianne Feinstein regarding the federal Assault Weapons Ban states:

“Between 1988 and 1997, 125 were killed in 18 mass shootings. The next decade, 1998 to 2007, 171 were killed in 21 mass shootings. And over the last 10 years, 2008 to 2017, 437 were killed in 50 mass shootings.” (U.S. Senator Dianne Feinstein, Senators Introduce Assault Weapons Ban (November 8, 2017).)

The five deadliest mass shootings in the U.S. have occurred in the past 10 years. The deadliest mass shooting in U.S. history occurred on October 1, 2017 in Las Vegas, when a single shooter left 58 dead after firing on a crowd of concertgoers from his hotel window. On June 12, 2016, 49 people were killed when a gunman opened fire inside of Orlando's Pulse nightclub.

A number of mass shootings occur in schools. On February 14, 2018, 14 students and adults were killed by a single gunman at Marjory Stoneman Douglas High School in Parkland, Florida. The New York Times reports that since the mass shooting at Sandy Hook Elementary School in 2012, there have been at least 239 school shootings nationwide. (The New York Times, After Sandy Hook, More Than 400 People Have Been Shot in Over 200 School Shootings (February 15, 2018).)

According to a 2018 Mother Jones study, more than three quarters of the guns possessed by mass shooters in the past 35 years obtained their guns legally. (Mother Jones, A Guide to Mass Shootings in America (March 10, 2018).)

3. The Federal Assault Weapons Ban of 1994

The Federal Assault Weapons Ban of 1994 was passed as a portion of the Violent Crime Control and Law Enforcement Act on September 13, 1994. The Act specified which weapons were classified as assault weapons. The Act defined features which classified specified semi-automatic rifles, pistols, and shotguns as assault weapons. The Act was limited to semi-automatic weapons only, as fully automatic weapons were addressed in earlier legislation passed in 1934 and 1986. The Act banned large-capacity ammunition feeding devices and high-capacity magazines. After ten years of existence, the Act expired in 2004 and was not reenacted.

4. The Assault Weapons Ban of 2018 (U.S. House Resolution 5087 (Cicilline).)

On February 26, 2018, U.S. Congressman David Cicilline introduced U.S. House Resolution 5087, the Assault Weapons Ban of 2018. The bill, along with a companion bill introduced by U.S. Senator Dianne Feinstein in 2017, would ban the sale, manufacture, transfer, possession, and importation of semiautomatic assault weapons. The bill additionally would ban large capacity ammunition feeding devices, which enable an individual to fire 10 rounds of ammunition or more without having to reload and which are frequently used in mass shootings. The bill would require a background check on any future sale, trade, or gifting of an assault weapon covered by the bill. Weapons which were lawfully possessed on the date of enactment are exempt from the ban, but they must be securely stored.

5. Argument in Opposition

According to the National Rifle Association:

SJR 24 would urge the Congress of the United States to reauthorize and strengthen the federal assault weapons ban and would urge the Congress to pass, and the President to sign, the federal Assault Weapons Ban of 2018 and would call on the California Public Employee' Retirement System (CalPERS) to divest all its holdings related to the production and sale of firearms.

An "assault-weapons" ban represents the worst form of gun control. It would burden the self-defense rights of law-abiding Americans without meaningfully addressing the problems it's purportedly designed to address, it would not impact overall gun death rates, and there is no evidence it would prevent mass shootings. Given that reality, it looks much less like rational policy-making and much more like legislative emoting — a moral gesture with the primary impact of diminishing American constitutional rights.

It is obvious that SJR 24 is not about reducing California's and the Nations firearm crime rate, but is simply another attempt to further strip the law-abiding citizens of their Constitutional right to self-defense.

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