

EXHIBIT B

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Date of Hearing: July 1, 2003
Counsel: Gregory Pagan

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Mark Leno, Chair

SB 489 (Scott) - As Amended: June 26, 2003

C.O.P.S.
Do Not Remove

SUMMARY: Commencing January 1, 2007 requires all center-fire semiautomatic pistols not already listed on the Department of Justice (DOJ) roster of approved "safe" firearms to have chamber load indicators and magazine disconnect mechanisms if the pistol has a detachable magazine. Specifically, this bill:

- 1) Requires, commencing January 1, 2005, all center-fire semiautomatic pistols not already found to be "safe" to have either a chamber load indicator or a magazine disconnect mechanism if the pistol has a detachable magazine in order to be added to the DOJ roster of approved "safe" firearms.
- 2) Requires, commencing January 1, 2007, all center-fire semiautomatic pistols not already found to be "safe" to have both a chamber load indicator and a magazine disconnect mechanism if the pistol has a detachable magazine in order to be added to the DOJ roster of approved "safe" firearms.
- 3) Requires, commencing January 1, 2005, all rifufire semiautomatic pistols not already found to be "safe" to have a magazine disconnect mechanism if the pistol has a detachable magazine in order to be added to the DOJ roster of approved "safe" firearms.
- 4) Defines "chamber load indicator" as a device that plainly indicates that a cartridge is in the firing chamber. A device satisfies this definition if it is readily visible, has incorporated or adjacent explanatory text or graphics, or both, and is designed and intended to indicate to a reasonably foreseeable user of the pistol, without requiring the user to refer to a user's manual or any other resource other than the pistol itself, whether a cartridge is in the firing chamber.
- 5) Defines "magazine disconnect mechanism" as a mechanism that prevents a semiautomatic pistol from operating to strike the primer of the ammunition in the firing chamber when a detachable magazine is not inserted in the semiautomatic pistol.
- 6) Defines "semiautomatic pistol" as a pistol, as defined, the operating mode of which uses the energy of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh cartridge with a single pull of the trigger.
- 7) Prohibits semiautomatic pistols without chamber load indicators and magazine disconnect mechanisms, as specified, from being submitted to the DOJ for testing according to the above "phased in" schedule.

- 8) Exempts the sale, loan, or transfer of any firearm that is to be used as a prop during the course of a motion picture, television, or video production from specified safety requirements.

EXISTING LAW:

- 1) Makes it a misdemeanor, 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, or gives or lends any unsafe handgun, except as specified, punishable by up to one year in county jail. [Penal Code Section 12125(a).]
- 2) Defines "unsafe handgun" as 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. (Penal Code Section 12126.)
- 3) Requires any pistol, revolver, or other firearm manufactured in California capable of being concealed upon a person 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) and meet or exceed specified standards defining unsafe handguns. [Penal Code Section 12130(a).]
- 4) Requires DOJ to certify laboratories to verify compliance with the specified standards defining unsafe handguns on or before October 1, 2000. [Penal Code Section 12130(b).]
- 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 concealed upon a person that he or she manufactures or imports, keeps or exposes for sale, is not a prohibited unsafe handgun. (Penal Code Section 12129.)
- 6) Requires 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. [Penal Code Section 12131(a).]
- 7) 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. (Penal Code Section 12132.)
- 8) Provides that, effective January 1, 2002, all firearms sold or transferred in California by a licensed firearms dealer, including private transfers through a dealer and all firearms manufactured include or be accompanied by a firearms safety device approved by the Attorney General (AG). [Penal Code Section 12088.1(a).]

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- 9) Requires the AG, not later than January 1, 2000, to commence development of regulations to implement a minimum safety standard for firearm safety devices to reduce the risk of firearms-related injuries to children. [Penal Code Section 12088.2(a).]
- 10) Requires that the AG adopt and issue regulations regarding a final safety standard for firearm safety devices and report these standards to the Legislature by January 1, 2001. These standards become effective January 1, 2002. [Penal Code Section 12088.2 (b).]
- 11) Requires DOJ to certify laboratories to test firearm safety devices in order to verify compliance with standards, and to compile and publish a roster of approved safety devices that have met DOJ's standards. (Penal Code Section 12088.)
- 12) Authorizes the AG, after January 1, 2002, to order recall and replacement of any firearm or firearm safety device that does not conform to the standards and warnings as required, and requires that the licensed manufacturer bring the firearm or the firearm safety device into conformity, or provide a replacement. (Penal Code Section 12088.4.)

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's Statement. According to the author, " From 1987 to 1996, nearly 2,200 American children 14 years of age and younger died from unintentional shootings. For every child who dies after being shot, an estimated four children are treated in United States hospitals for nonfatal gunfire injuries. In 1995 and 1996, 8,832 Californians were killed as a result of gunfire. According to data reported by hospitals to the California Department of Health Services, there were 13,155 nonfatal injuries which required hospitalization during the same period. About 10% of the injuries during that period of time were determined to be the result of unintentional shootings.

"Many of these injuries and deaths were the result of unintentional shootings by users who thought that the guns they fired were not loaded. Gun users are often unaware that semiautomatic weapons can be fired when their loading mechanism - the magazine - is removed or emptied. A live round of ammunition may remain in the chamber of the firearm after the magazine is removed. When the trigger of a semiautomatic firearm with a live round in its chamber is pulled, it will fire even though it does not have a magazine inserted, unless the gun has a magazine disconnect mechanism.

"A 1997 survey by the Johns Hopkins Center for Gun Policy and Research and the National Opinion Research Center found that almost 35% of respondents (who were all *adults*) either did not know that a gun could be fired or believed that a gun *could not be fired* with the magazine removed. Twenty-eight percent of those respondents lived in households where guns were present. Undoubtedly, many of those households also included children.

"Teaching children how to 'safely handle guns' is not the answer. Study after study has shown that gun safety programs for children are ineffective and may even increase the risk of unintentional firearm injury to children. In two recent experiments (one by the University of North Carolina and one by ABC News), guns were hidden in rooms where children were playing. Both studies found that children who previously had been taught not to touch guns

and to instead immediately notify an adult are just as likely to handle guns than those who have not been so instructed. Another study released in July 2002 by the David and Lucille Packard Foundation found that parents overestimate the ability of their children to deal safely with guns. The report found that the easiest way to save lives is to make guns more 'childproof' with built-in safety devices.

"One such safety device is a chamber load indicator. A chamber load indicator alerts the gun user when there is a bullet in the firing chamber of the gun. Currently, chamber load indicators are installed on only about 11% all semiautomatic handguns. Chamber load indicators are effective safety devices. A 1991 General Accounting Office (GAO) study of shootings in 10 randomly selected cities across the nation found that 23% of the accidental shootings could have been prevented by chamber load indicators. The GAO report explained that "[a]lthough we cannot project to the country as a whole, were there actually to be the same ratio nationwide as in the 10 cities we studied, that would mean there were approximately 157,600 such injuries each year."

"Magazine disconnect mechanisms prevent a semiautomatic weapon from being fired when its ammunition magazine is removed. They are passive safety devices, which require no training on the part of the user to be effective, which is particularly important to prevent accidents involving children. Magazine disconnect devices are currently installed on only about 14% of the semiautomatic handguns on the market.

"Like chamber load indicators, magazine disconnect mechanisms are effective safety devices. A 1999 report by the Johns Hopkins Center for Gun Policy and Research concluded that magazine disconnect mechanisms are inexpensive and effective safety devices. A soon-to-be released study by Johns Hopkins shows that it was likely that 20% of all unintentional shootings that were studied would have been prevented if the handguns involved had been equipped with chamber load indicators. Approximately 4% of the incidents would have been prevented by a magazine disconnect mechanism."

- 2) Chamber Load Indicators: This bill defines "chamber load indicator" as a device that plainly indicates that a cartridge is in the firing chamber. A chamber load indicator, as its name suggests, is a feature on some semiautomatic pistols intended to indicate to a user or observer that the chamber of the firearm contains a round of ammunition. Chamber load indicators are analogous to devices on cameras, which tell the operator there is film in the camera. To be effective, currently manufactured chamber load indicators require knowledge and action on the part of the gun's operator. The operator must be aware that the handgun has the device, understand how to interpret its message, and alter his or her conduct accordingly. Unlike most film indicators, chamber load indicators do not convey readily understood information to an untrained person. Generally, chamber load indicators indicate the presence of ammunition via a small protrusion somewhere on the handgun. This bill states a device satisfies the chamber load indicator definition if the device is readily visible, has incorporated or adjacent explanatory text or graphics, or both, and is designed and intended to indicate to a reasonably foreseeable user of the pistol, without requiring the user to refer to a user's manual or any other resource other than the pistol itself, whether a cartridge is in the firing chamber. In order for a chamber load indicator to have incorporated or adjacent explanatory text or graphics which indicate to an unfamiliar user that a round is in the chamber. Essentially, these suggested design features would require that a battery operated electronic sensor be incorporated in the design of a pistol, which is of a purely mechanical

device. Are these suggested design features feasible now or in the near future?

- 3) Magazine Disconnect Mechanisms: This bill defines a "magazine disconnect mechanism" as "a mechanism that prevents a semiautomatic pistol from operating to strike the primer of ammunition in the firing chamber when a detachable magazine is not inserted in the firearm." As with chamber load indicators, such devices are currently available on semiautomatic handguns. These devices prevent a pistol from being fired when the ammunition magazine is removed, even if there is a round in the chamber.
- 4) Similar Legislation: SB 190 (Scott) was similar to this bill as SB 190 required semiautomatic pistols, after a certain date, to have chamber load indicators and magazine disconnect mechanisms. SB 190 failed passage in the Senate Public Safety Committee.
- 5) Prior Legislation: SB 510 (Scott), of the 2001-02 Legislative Session, prohibited any person in California from manufacturing or importing for sale, or any licensed firearms dealer from selling, a semiautomatic pistol that did not have a chamber load indicator, and if the semiautomatic pistol has a detachable magazine, a magazine disconnect mechanism. SB 510 was amended by the author into an unrelated subject matter.
- 6) Argument in Support: The Brady Campaign to Prevent Gun Violence states, "It is just common sense that handgun should include a chamber load indicator that makes it clear whether the weapon is loaded. Since cheap disposable cameras can clearly count down the number of pictures left, it is inexcusable that handguns do not indicate when a bullet is in the chamber. Magazine safety disconnects would also greatly reduce the number of unintentional accidental shootings by ensuring that when the magazine is removed the gun will not fire."
- 7) Argument in Opposition: The National Rifle Association states, "This bill would force the adoption, into the design of firearms, unproven and untested technology. The requirements of this bill will not make firearms safer or reduce the number of accidents."

REGISTERED SUPPORT / OPPOSITION:

Support

American Academy of Pediatrics
Brady Campaign
California Chapter of the American College of Emergency Physicians
California Nurses Association
Coalition to Stop Gun Violence
Legal Community Against Violence
Physicians for Social Responsibility, Los Angeles
Women Against Gun Violence
Two Private Citizens

Opposition

California Association of Firearms Retailers
California Rifle and Pistol Association

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Gun Owners of California
Herb Bauer Sporting Goods
National Rifle Association
San Bernardino County Sheriff's Department

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