

CONCURRENCE IN SENATE AMENDMENTS

AB 50 (Koretz)

As Amended July 21, 2004

Majority vote

ASSEMBLY: 43-28 (June 4, 2003) SENATE: > (>)

---

Original Committee Reference: PUB. S.

SUMMARY: Adds the .50 caliber BMG rifle to the list of dangerous weapons and creates new felonies for the manufacture, sale, or importation without a permit of this firearm, except as specified. Generally makes possession of such a rifle without registration a misdemeanor.

The Senate amendments:

- 1) Provide that for checks of persons prohibited to possess firearms in the Prohibited Armed Persons File database, the Department of Justice (DOJ) shall determine if the person has an entry in the Consolidated Firearms Information System rather than the Automated Firearms System.
- 2) Delete the proposed alternate felony-misdemeanor for a person who manufactures, imports, lends, sells, gives, or possesses a .50 BMG cartridge; the corresponding exceptions; and the provision authorizing the DOJ to issue permits related to .50 BMG cartridges.
- 3) Re-title the assault weapons law to the "Roberti-Roos Assault Weapons Control Act of 1989 and the .50 Caliber BMG Regulation Act of 2004."
- 4) Relocate the definition of a ".50 BMG cartridge" to the section defining a ".50 BMG rifle" within the assault weapons law and clarify that the rifle definition does not include a firearm already considered an assault weapon or machine gun under existing law.
- 5) Recast the existing assault weapon penalty step-down provision that allows a first violation of possession of an assault weapon to be an infraction if specified conditions are met.
- 6) Provide that the penalty for unlawfully possessing a .50 BMG rifle is punishable by imprisonment in the county jail not to exceed one year and/or a fine not to exceed \$1,000 rather than an alternate felony-misdemeanor.
- 7) Provide for a penalty step-down for a first-time violation of the prohibition on possession of a .50 BMG rifle that would be an infraction punishable by a fine of up to \$500 if specified conditions are met.
- 8) Change the time in which a person shall register a .50 BMG possessed prior to the effective date of this bill from within 180 days to no later than April 30, 2006.
- 9) Provide that the fees collected for the registration of .50 BMG rifles and assault weapons shall be deposited in the Dealers' Record of Sale Special Account and provide that the DOJ's costs associated with modifying its data system to accommodate .50 BMG rifles shall not be

paid from this Account.

- 10) Make various updating and corresponding changes to reflect statutory changes from 2003 legislation, largely reflecting changes made by SB 238 (Perata), Chapter 499, Statutes of 2003, as well as changes reflecting that the effective date would be January 1, 2005.

EXISTING LAW:

- 1) Generally requires that the sale, loan or transfer of a firearm (handguns, rifles and shotguns) in California must be conducted through a state-licensed firearms dealer or through a local sheriff's department, as specified. A 10-day waiting period, background check, and handgun safety certificate for handgun transfers are required prior to delivery of the firearm.
- 2) Provides that any person who unlawfully manufactures an assault weapon is guilty of a felony, punishable by imprisonment in the state prison for four, six, or eight years.
- 3) Provides that any person who unlawfully possesses an assault weapon is guilty of a public offense, punishable by an alternate felony misdemeanor.
- 4) Allows a person who lawfully possessed and registered an assault weapon with the DOJ to keep the weapon, as specified.

AS PASSED BY THE ASSEMBLY, this bill:

- 1) Provided that any person who commits an assault with a .50 BMG rifle is guilty of a felony, punishable by 4, 8, or 12 years in state prison.
- 2) Provided that any person who commits an assault against a peace officer or firefighter with a .50 BMG rifle is guilty of a felony, punishable by 6, 9, or 12 years in state prison.
- 3) Provided that registration information regarding any person who possesses or owns a .50 BMG rifle shall be maintained by the Department of Justice (DOJ).
- 4) Provided that any person who manufactures, imports, sells, gives, lends, or possesses any .50 BMG cartridge ammunition is guilty of an alternate felony/misdemeanor, with exceptions.
- 5) Provided that any person who legally possesses a .50 BMG rifle may legally possess the .50 BMG cartridge.
- 6) Defined a ".50 BMG cartridge" and a ".50 BMG rifle".
- 7) Provided that where a person uses a .50 BMG rifle during the commission of a felony, he or she shall be subject to specified sentencing enhancements, and the .50 BMG rifle would be deemed a nuisance and subject to disposal, as specified.
- 8) Allowed the DOJ to issue permits for .50 BMG cartridges, as specified.

- 9) Provided that any person who unlawfully manufactures a .50 BMG rifle is guilty of a felony, punishable by four, six or eight years in state prison, with law enforcement exceptions.
- 10) Provided that where a person transfers a .50 BMG to a minor, a one-year enhancement will be added to the sentence for the underlying crime.
- 11) Provided that any person who unlawfully possesses a .50 BMG rifle is guilty of an alternate misdemeanor/felony, and as an infraction if specified proof is provided, as specified.
- 12) Required any person who possesses a .50 BMG rifle to register the firearm within 180 days.
- 13) Set a specific process for transferring a .50 BMG rifle.
- 14) Established a method to register, and obtain a permit to manufacture or sell, a .50 BMG rifle.
- 15) Allowed a person to relinquish a .50 BMG rifle to a police or sheriff's department.
- 16) Provided that the standard provisions relative to police or dispatcher broadcast guidelines for assault weapons also apply to .50 BMG rifles.
- 17) Authorized a licensed firearm dealer to transport, display at gun shows, sell and transfer for the purposes of servicing and repairing a .50 BMG rifle, as specified.
- 18) Required DOJ to conduct an education campaign regarding the .50 BMG rifle laws.
- 19) Made other minor technical changes to the firearm codes.

FISCAL EFFECT: According to the Assembly Appropriations Committee analysis:

- 1) Costs of up to \$100,000 for .50 BMG registration processing, issuing dangerous weapons permits, developing regulations and data processing to track .50 MBGs, fully offset by the \$25 fee.
- 2) Absorbable costs for an education campaign. This bill further specifies that any costs not covered by the \$25 fee will be funded from DOJ's Dealer Record of Sale Special Account.
- 3) Unknown, probably minor to moderate annual costs for increased state prison commitments as a result of adding .50 caliber BMGs to the various assault weapons an alternate misdemeanor/felony penalty sections. Three two-year terms could increase annual costs by more than \$150,000 within two years, depending on sentence credits.

COMMENTS: According to the author, "Given the destruction this weapon can cause, I doubt most Californians would be comfortable knowing this gun is easier to buy than a small handgun. This bill ensures that terrorists and criminals do not gain access to this deadly weapon. Placing some reasonable restrictions on those who can possess this weapon is just good public policy."

Please see the policy committee analysis for full discussion of this bill.

Analysis Prepared by: Harry Ermoian / Fredericka McGee / PUB. S. / (916) 319-3744  
FN: 0001484

FN:

CONCURRENCE IN SENATE AMENDMENTS  
AB 50 (Koretz)  
As Amended July 27, 2004  
Majority vote

ASSEMBLY:	43-28	(June 5, 2003)	SENATE:	21-14	(August 23,
					2004)

Original Committee Reference: PUB. S.

SUMMARY : Adds the .50 caliber BMG rifle to the list of dangerous weapons and creates new felonies for the manufacture, sale, or importation without a permit of this firearm, except as specified. Generally makes possession of such a rifle without registration a misdemeanor.

The Senate amendments :

- 1) Provide that for checks of persons prohibited to possess firearms in the Prohibited Armed Persons File database, the Department of Justice (DOJ) shall determine if the person has an entry in the Consolidated Firearms Information System rather than the Automated Firearms System.
- 2) Delete the proposed alternate felony-misdemeanor for a person who manufactures, imports, lends, sells, gives, or possesses a .50 BMG cartridge; the corresponding exceptions; and the provision authorizing the DOJ to issue permits related to .50 BMG cartridges.
- 3) Re-title the assault weapons law to the "Roberti-Roos Assault Weapons Control Act of 1989 and the .50 Caliber BMG Regulation Act of 2004."
- 4) Relocate the definition of a ".50 BMG cartridge" to the section defining a ".50 BMG rifle" within the assault weapons law and clarify that the rifle definition does not include a firearm already considered an assault weapon or machine gun under existing law.
- 5) Recast the existing assault weapon penalty step-down provision that allows a first violation of possession of an assault weapon to be an infraction if specified conditions are met.

b

- 6) Provide that the penalty for unlawfully possessing a .50 BMG rifle is punishable by imprisonment in the county jail not to exceed one year and/or a fine not to exceed \$1,000 rather than an alternate felony-misdemeanor.
- 7) Provide for a penalty step-down for a first-time violation of the prohibition on possession of a .50 BMG rifle that would be an infraction punishable by a fine of up to \$500 if specified conditions are met.
- 8) Change the time in which a person shall register a .50 BMG possessed prior to the effective date of this bill from within 180 days to no later than April 30, 2006.
- 9) Provide that the fees collected for the registration of .50 BMG rifles and assault weapons shall be deposited in the Dealers' Record of Sale Special Account and provide that the DOJ's costs associated with modifying its data system to accommodate .50 BMG rifles shall not be paid from this Account.
- 10) Make various updating and corresponding changes to reflect statutory changes from 2003 legislation, largely reflecting changes made by SB 238 (Perata), Chapter 499, Statutes of 2003, as well as changes reflecting that the effective date would be January 1, 2005.

---

EXISTING LAW :

- 1) Generally requires that the sale, loan or transfer of a firearm (handguns, rifles and shotguns) in California must be conducted through a state-licensed firearms dealer or through a local sheriff's department, as specified. A 10-day waiting period, background check, and handgun safety certificate for handgun transfers are required prior to delivery of the firearm.
- 2) Provides that any person who unlawfully manufactures an assault weapon is guilty of a felony, punishable by imprisonment in the state prison for four, six, or eight years.
- 3) Provides that any person who unlawfully possesses an assault weapon is guilty of a public offense, punishable by an alternate felony misdemeanor.

- 4) Allows a person who lawfully possessed and registered an

assault weapon with the DOJ to keep the weapon, as specified.

AS PASSED BY THE ASSEMBLY , this bill:

- 1) Provided that any person who commits an assault with a .50 BMG rifle is guilty of a felony, punishable by 4, 8, or 12 years in state prison.
- 2) Provided that any person who commits an assault against a peace officer or firefighter with a .50 BMG rifle is guilty of a felony, punishable by 6, 9, or 12 years in state prison.
- 3) Provided that registration information regarding any person who possesses or owns a .50 BMG rifle shall be maintained by the Department of Justice (DOJ).
- 4) Provided that any person who manufactures, imports, sells, gives, lends, or possesses any .50 BMG cartridge ammunition is guilty of an alternate felony/misdemeanor, with exceptions.
- 5) Provided that any person who legally possesses a .50 BMG rifle may legally possess the .50 BMG cartridge.
- 6) Defined a ".50 BMG cartridge" and a ".50 BMG rifle".
- 7) Provided that where a person uses a .50 BMG rifle during the commission of a felony, he or she shall be subject to specified sentencing enhancements, and the .50 BMG rifle would be deemed a nuisance and subject to disposal, as specified.
- 8) Allowed DOJ to issue permits for .50 BMG cartridges, as specified.
- 9) Provided that any person who unlawfully manufactures a .50 BMG rifle is guilty of a felony, punishable by four, six or eight years in state prison, with law enforcement exceptions.
- 10) Provided that where a person transfers a .50 BMG to a minor, a one-year enhancement will be added to the sentence for the underlying crime.
- 11) Provided that any person who unlawfully possesses a .50 BMG rifle is guilty of an alternate misdemeanor/felony, and as an infraction if specified proof is provided, as specified.

□

AB 50  
Page 4

12) Required any person who possesses a .50 BMG rifle to register the firearm within 180 days.

13) Set a specific process for transferring a .50 BMG rifle.

- 14) Established a method to register, and obtain a permit to manufacture or sell, a .50 BMG rifle.
- 15) Allowed a person to relinquish a .50 BMG rifle to a police or sheriff's department.
- 16) Provided that the standard provisions relative to police or dispatcher broadcast guidelines for assault weapons also apply to .50 BMG rifles.
- 17) Authorized a licensed firearm dealer to transport, display at gun shows, sell and transfer for the purposes of servicing and repairing a .50 BMG rifle, as specified.
- 18) Required DOJ to conduct an education campaign regarding the .50 BMG rifle laws.
- 19) Made other minor technical changes to the firearm codes.

FISCAL EFFECT : According to the Assembly Appropriations Committee analysis:

- 1) Costs of up to \$100,000 for .50 BMG registration processing, issuing dangerous weapons permits, developing regulations and data processing to track .50 MBGs, fully offset by the \$25 fee.
- 2) Absorbable costs for an education campaign. This bill further specifies that any costs not covered by the \$25 fee will be funded from DOJ's Dealer Record of Sale Special Account.
- 3) Unknown, probably minor to moderate annual costs for increased state prison commitments as a result of adding .50 caliber BMGs to the various assault weapons an alternate misdemeanor/felony penalty sections. Three two-year terms could increase annual costs by more than \$150,000 within two years, depending on sentence credits.

COMMENTS : According to the author, "Given the destruction this weapon can cause, I doubt most Californians would be comfortable knowing this gun is easier to buy than a small handgun. This

AB 50  
Page 5

bill ensures that terrorists and criminals do not gain access to this deadly weapon. Placing some reasonable restrictions on those who can possess this weapon is just good public policy."

Please see the policy committee analysis for full discussion of this bill.

Analysis Prepared by : Harry Ermoian / Fredericka McGee / PUB.

S. / (916) 319-3744

FN: 0008069