

Date of Hearing: April 29, 2003
Counsel: Fredericka McGee

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Mark Leno, Chair

AB 50 (Koretz) – As Amended: April 10, 2003
As Proposed to be Amended in Committee

SUMMARY: Adds the .50 caliber BMG rifle to the list of dangerous weapons and creates new felonies for the manufacture, sale, or possession without a permit of this firearm. Specifically, this bill:

- 1) Provides 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) Provides 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) Provides that registration information regarding any person who possesses or owns a .50 BMG rifle shall be included in the Prohibited Armed Person File maintained by the Department of Justice (DOJ).
- 4) Provides that any person who manufactures, imports, sells, gives, lends, or possesses any .50 BMG cartridge ammunition is guilty of an alternate felony/misdemeanor, punishable by up to one year in county jail or 16 months, 2 or 3 years in state prison, except if it is:
 - a) A relic, curio, memorabilia or display item;
 - b) Permanently altered to prevent use of live ammunition;
 - c) Possessed or owned by or for a federal, state, county, city and county, or city law enforcement agency;
 - d) Possessed or owned by or for a sworn peace officer who is authorized to carry a firearm in the scope and course of his or her employment;
 - e) Possessed or owned by a state-licensed firearms dealer;
 - f) Lent between two individuals, as specified;
 - g) Possessed or owned by a person returning to California who legally possessed the ammunition in California prior to January 1, 2004;
 - h) Given or lent to a gunsmith for maintenance or repair and subsequently returned to the owner;

- i) The person has a DOJ permit authorizing possession, transportation or sale;
 - j) Being manufactured for export to sworn peace officers for use within the course and scope of their employment, law enforcement departments and agencies, governmental agencies or the military;
 - k) Being loaned for use as a prop in a motion picture, television, or video production; or,
 - l) Being purchased by a special weapons permit holder for specified purposes.
- 5) Provides that any person who may legally manufacture, import, keep for sale, sale, offer, lend, or possess a .50 BMG rifle may legally possess the .50 BMG cartridge.
- 6) Defines a ".50 BMG cartridge" as being :
- a) 5.54 inches long from the base to the tip of the bullet.
 - b) A cartridge measuring 0.510 of an inch to, and including, 0.511 of an inch in diameter.
 - c) A case base diameter for the cartridge measuring 0.800 or an inch to, and including, 0.804 of an inch.
 - d) The cartridge case length is 3.910 inches; or,
 - e) A center-fire cartridge in 50 caliber or .50 BMG.
- 7) Provides that where a person uses a .50 BMG rifle during the commission of a felony, he or she shall be subject to all the same sentencing enhancements that currently apply to the use of a firearm.
- 8) Allows the DOJ to issue permits for possession, transportation, or sale of .50 BMG cartridges.
- 9) Amends the title of the assault weapons act and tombstones the provisions of this bill to also be called the "Koretz .50 BMG Rifle Control Act of 2003."
- 10) Codifies legislative findings and declarations that .50 BMG rifles pose a clear and present terrorist threat to the health, safety and security of all residents and states that it is the legislative intent to establish a registration and permit process for the lawful sale and possession of the .50 BMG rifle.
- 11) Defines a ".50 BMG rifle" as a center-fire rifle designed or redesigned to fire the .50 BMG cartridge and provides an exemption for any antique firearm.
- 12) Provides 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. Certain exemptions are provided where the firearm is being manufactured for specified sworn peace officers and law enforcement departments and agencies.

- 13) Provides 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.
- 14) Provides that any person who unlawfully possesses a .50 BMG rifle is guilty of a public offense, punishable by imprisonment in the state prison for 16 months, 2 or 3 years or by imprisonment in the county jail not exceeding one year. However, if the person presents proof the weapon was lawfully possessed prior to the effective date of the Act, it is punishable as an infraction.
- 15) Includes the .50 BMG rifle within the assault weapons provisions which generally make it a felony to manufacture, distribute, transport, import, keep for sale, offer, give or lend the firearm, with the standard exemptions provided to sworn peace officers and law enforcement departments and agencies.
- 16) Requires a law enforcement officer who possesses or receives a .50 BMG rifle before January 1, 2004 to register the rifle by July 1, 2004; where the officer receives the .50 BMG rifle after January 1, 2004, he or she is required to register the firearm within 180 days of receipt of the firearm.
- 17) Allows the lawful manufacture of .50 BMG rifles where the person obtains a DOJ permit.
- 18) Provides many of the same standard exemptions for the .50 BMG rifle currently are provided under several assault weapon provisions (e.g., manufacturing the firearm for law enforcement, an inheritance, or lending and transporting to a .50 BMG rifle competitive match or league).
- 19) Requires that a person who lawfully possesses a .50 BMG rifle as of December 31, 2003 must register the firearm within 180 days with DOJ.
- 20) Authorizes DOJ to charge a \$25 processing fee for registration and allows that fee to be adjusted based on the legislatively approved cost-of-living index.
- 21) Prohibits the transfer of a .50 BMG rifle other than to a licensed gun dealer, as specified and with the standard exceptions.
- 22) Establishes a method to register a lawfully owned .50 BMG rifle and provides that a person who registered his or her .50 BMG rifle as an assault weapon will not be required to re-register that firearm.
- 23) Requires that a person who lawfully possesses a .50 BMG rifle registered with DOJ and intends to use it in a manner other than at a target range, shooting club, while attending a exhibition, or transporting the firearm under specified conditions to obtain a permit authorizing the special uses from DOJ.
- 24) Provides that a person must obtain a permit from DOJ to lawfully acquire a .50 BMG rifle after January 1, 2004.

- 25) Authorizes DOJ to issue a permit to a federally licensed manufacturer, upon a finding of good cause for the manufacture of the .50 BMG rifle.
- 26) Provides that a person may relinquish a .50 BMG rifle to a police or sheriff's department, as specified.
- 27) Provides the standard provisions relative to broadcast guidelines also provided for assault weapons.
- 28) Requires DOJ to conduct an education campaign to .50 BMG rifle dealers and national associations consisting of providing materials relative to the provisions of this bill to .50 BMG rifle dealers and recognized national associations.
- 29) Authorizes a licensed firearm dealer to transport, display at gun shows, sell and transfer for the purposes of servicing and repair of a .50 BMG rifle, as specified.
- 30) Makes other minor technical amendments.

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 in counties of less than 200,000 population. This requirement is applicable to both purchases from a licensed firearms dealer and private-party transactions, which must be made through a licensed dealer or a local sheriff's department in smaller counties. A 10-day waiting period, background check, and handgun safety certificate for handgun transfers are required prior to delivery of the firearm. [Penal Code Sections 12072(c) and (d) and 12084.]
- 2) Requires a license for persons to manufacture firearms in California. (Penal Code Section 12085.)
- 3) Provides that any person, firm or corporation possessing or transporting a machinegun and does not qualify under one of the statutory exceptions is guilty of a felony, punishable by four, six or eight years in state prison or by a fine not to exceed \$10,000. [Penal Code Section 12220(a).]
- 4) Defines a "machinegun" as any weapon that fires more than one shot automatically without manual reloading, by a single function of the trigger, any part or combination of parts designed and intended for use in converting, and any weapon deemed by the federal Bureau of Alcohol, Tobacco, and Firearms (ATF) as readily convertible to a machinegun. (Penal Code Section 12200.)
- 5) Authorizes DOJ to issue and revoke permits for the possession, manufacture, transportation and sale of machineguns. (Penal Code Sections 12230, 12233 and 12250.)
- 6) Prohibits selling, manufacturing, distributing, transporting, importing, possessing or lending semi-automatic assault weapons in California. (The Roberti-Roos Assault Weapons Control

Act of 1989, including Penal Code Section 12280.)

- 7) 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. [Penal Code Section 12280(a).]
- 8) Provides that any person who unlawfully possesses an assault weapon is guilty of a public offense, punishable by imprisonment in the state prison for 16 months, 2 or 3 years or by imprisonment in the county jail not exceeding one year. However, if the person presents proof the weapon was lawfully possessed prior to the effective date of the Act, it is punishable as an infraction. [Penal Code Section 12280(b).]
- 9) Allows a person who lawfully possessed an assault weapon prior to June 1, 1989 to register the weapon with the DOJ and to keep the weapon under specified restrictions. (Penal Code Section 12285.)
- 10) Provides a generic definition of "assault weapons" and makes manufacturing, importing, selling, lending, or giving a large-capacity magazine (any ammunition feeding device with the capacity to accept more than 10 rounds) an alternate felony/misdemeanor with specified exceptions. [Penal Code Section 12276.1.(a).]
- 11) Contains a list which enumerates, by model and manufacturer, semiautomatic rifles, pistols, and shotguns deemed to be assault weapons. [Penal Code Section 12276.]
- 12) Authorizes the Attorney General to file a petition in superior court to declare that additional weapons are prohibited because they are essentially identical to weapons on the list of prohibited assault weapons. [Penal Code Section 12276.5(a).]

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Author's Statement: According to the author, "[t]he fifty-caliber sniper rifle is one of the United States military's highest-powered rifles, capable of ripping through armored limousines. It is said to be able to punch holes through military personnel carriers at a distance of 2,000 yards, the length of 20 football fields. It is deadly accurate at up to one mile and effective at more than four miles.

"Yet, current law classifies .50 caliber guns as 'rifles' subject to the least government regulation for any firearm. Sawed-off shotguns and handguns are more highly regulated than this military sniper rifle. I think that the public would be shocked to know that any 18-year-old high school student with a valid driver's license could purchase this deadly weapon.

"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."

- 2) Background: The .50 caliber sniper rifle weighs between 28 to 60 pounds and comes in bolt action and semiautomatic versions. The term ".50 BMG" stands for Browning machine gun (one of the earliest firearms to use the ammunition) and is a technical designation for the round used in the weapon. The diameter of this type of round is one-half inch (or ".50") and the lengths vary from about three to six inches. Manufacturers of the rifles claim that the rifle is accurate up to 2,000 yards and effective up to 7,500 yards. The .50 BMG cartridge is similar to common hunting calibers. The larger safari hunting cartridges are also available to the public. The .50 caliber ammunition, as well as other rounds used to hunt deer or larger game or for competitive shooting of 600 yards or greater, are capable of piercing through body armor.

According to the United States General Accounting Office (GAO), the .50 caliber rifle gained popularity after it was first used in the 1991 Gulf War. It is now available on the open market and advertised in newspapers, magazines and on the Internet. GAO requested and obtained records from ATF regarding companies manufacturing the .50 caliber rifle between 1987 and 1998. The Barrett Company sold over 2,800 .50 caliber rifles in the civilian market. The majority of the weapons, over 2,200, were sold after the Gulf War in 1991.

- 3) Federal Legislation: The Military Sniper Weapon Regulation Act of 2001 was reintroduced as Senate Bill S.505 (Feinstein, Schumer, and Kennedy) and failed passage from the Committee on Finance. S.505 would have criminalized the possession of the .50 caliber rifle by most civilians (certificates would be required to legally possess the firearm) and imposes special regulations. S. 505 was substantially similar to H.R. 2127, which failed passage as well and would have amended the Internal Revenue Code of 1986 to regulate specified .50 caliber sniper weapons in the same manner as machineguns and other firearms.
- 4) New .50 Caliber Handgun: On February 5, 2003, Smith & Wesson introduced the .50 Magnum hunting revolver at a gun show in Florida. The .50 caliber handgun was scheduled to be available in March 2003 and weighs 72.5 ounces, measures 15 inches in length and sells for approximately \$1,000.
- 5) Violence Policy Center Reports: The Violence Policy Center has issued two reports on the .50 caliber sniper rifle. [One Shot, One Kill (May 1999) and Voting from the Rooftops (October 2001).] Both reports stated that the unregulated sale of military sniper rifles to civilians creates a danger to national security as the rifles have the ability to shoot down aircraft.

The second report also states that at least 25 Barrett .50 caliber sniper rifles were sold to the Al Qaeda network. [Voting from the Rooftops, Pages 1 and 7, citing the transcript of the trial, United States of America v. Usama bin Laden, et al., United States District Court, Southern District of New York, February 14, 2001, pp. 18-19; "Al-Qaeda's Business Empire," Jane's Intelligence Review (August 1, 2001).] However, opponents of this bill provided an article which states that the Barrett .50 caliber sniper rifles were shipped in the late 1980's when the United States was supporting Afghanistan against the Soviet government. [Kopel, Dave. Guns and (Character) Assassination. December 21, 2001.] According to the article, Ronnie Barrett, President of Barrett Firearms stated, "The rifles were picked up by United States government trucks, shipped to United States government bases, and shipped to those Afghan freedom fighters."

6) .50 Caliber Sporting Associations:

- a) The Fifty-Caliber Shooter's Association (FCSA) was established in 1985 and conducts 1,000-yard shooting competitions. FCSA sponsors approximately eight to ten 1,000-yard rifle matches per year in various places throughout the continental United States. FCSA is affiliated with the National Rifle Association and has almost 2,000 members. GAO investigators reported that FCSA appeared to be an organization of law-abiding citizens engaged in legitimate sporting activity.
- b) The United States Congress created the Civilian Marksmanship Program (CMP). The CMP's original purpose was to provide civilians with an opportunity to learn and practice marksmanship skills so they would be skilled marksmen if later called to serve in the United States military. Over the years, the emphasis of CMP shifted to focus on youth development through marksmanship. CMP promotes firearm safety training and rifle practice for all qualified United States citizens, with special emphasis on youth. CMP operates through a network of affiliated shooting clubs and associations that includes every state in the United States. The clubs and associations offer firearms safety training and marksmanship courses as well as the opportunity for continued practice and competition. The California Rifle and Pistol Association, Inc., is the designated California CMP association. There are 72 CMP-affiliated clubs.

7) Proposed Amendments: The attached mock-up outlines amendments relative to the lawful loaning of the .50 BMG rifle, clarifies that a person has 180 days to register a .50 BMG rifle if it is lawfully possessed or owned at the time of enactment of this bill and makes minor technical amendments.

8) Arguments in Support: According to the Los Angeles County Sheriff's Department, ". . . This weapon, which is readily available on the civilian market, can pierce armored vehicles and concrete structures from one mile away with pinpoint accuracy. In the hands of terrorists, .50 BMG sniper rifles pose a grave threat to airplanes, refineries or other potential targets. There are incredibly powerful military rifles, which in the hands of the wrong person can cause great chaos or death. . . ."

9) Arguments in Opposition: According to the .50 Caliber Shooter's Association, ". . . the Fifty Caliber Shooters Association, Inc., is a sports shooting club, organized in 1985 as a non-profit corporation in Tennessee for the purpose of promoting the sport of target shooting. . . . Our members are spread throughout all 50 states and in 22 foreign countries. . . . The fifty caliber target rifle has never been used in a criminal incident in the history of the state of California. There is no crisis that begs for legislation to deprive our members of the right to continue to own their target rifles."

10) Related Legislation: SB 601 (Perata), pending assignment by the Senate Committee on Rules, prohibits the manufacture, import, sale, transfer, or possession of .50 caliber handguns, as specified.

11) Prior Legislation: AB 2222 (Koretz), of the 2001-2002 Legislative Session, failed passage in the Assembly Committee on Public Safety.

AB 566 (Koretz), of the 2001-2002 Legislative Session, was held on the Assembly

Appropriations Committee Suspense file and would have created a one-year assault weapon buy-back program.

SB 626 (Perata), Chapter 937, Statutes of 2001, created additional exemptions for large-capacity firearms magazines.

SB 23 (Perata), Chapter 129, Statutes of 1999, added a generic definition of "assault weapon".

AB 48 (Wright), Chapter 909, Statutes of 1998, established a buy-back program for SKS rifles.

REGISTERED SUPPORT / OPPOSITION:

Support

The Brady Campaign to Prevent Gun Violence
California Chapter of the American College of Emergency Physicians
California Organization of Police and Sheriffs
City of Los Angeles
Coalition to Stop Gun Violence
Community Wellness Partnership
League of California Cities
Legal Community Against Violence
Los Angeles County Sheriff's Department
Million Mom March
Physicians for a Violence-Free Society
The Trauma Foundation
Women Against Gun Violence

Opposition

C5 Corvette Performance Center, Inc.
Calreo Construction
California Rifle and Pistol Association, Inc.
The California Sportsman's Lobby, Inc.
Fifty Caliber Shooters Association
Fifty Caliber Shooters Policy Institute
Herb Bauer Sporting Goods
Interconnect Systems, Inc.
N.C. Dundas & Associates
NRA Members' Council of Silicon Valley
Outdoor Sportsman's Coalition of California
Safari Club International
Spider Firearms
3,949 private citizens