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California Assaults Ban

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7TH STORY of Level 1 printed in FULL format.

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March 05, 1998, Thursday 13:21 Eastern Time

SECTION: State and regional

LENGTH: 999 words

HEADLINE: Assault weapons ban shot down by state appellate court

BYLINE: Bill Ainsworth

DATELINE: SACRAMENTO

BODY:

A state appellate court yesterday ruled California's landmark assault weapons ban unconstitutional, leaving the state under a weaker federal law and putting new urgency into a debate over pending gun control legislation.

In a strongly worded opinion, the 3rd District Court of Appeal struck down the add-on part of the Roberti-Roos Assault Weapons Control Act of 1989, which allows the attorney general to add copycat weapons to the list of banned firearms.

The justices also made it clear the heart of the law a list banning 62 assault rifles violated the equal protection provisions of the Constitution because in many cases guns banned under the law are no different than guns allowed to be sold legally.

"The listed guns are no more dangerous in the hands of criminals than the functionally indistinguishable guns, nor than the identical clone guns. Nor do they have a greater rate of fire, capacity for firepower, nor pose a greater danger of use to kill and injure human beings," wrote Justice Fred Morrison, the opinion's author.

As a technical matter, however, the court is going to require a trial court to decide whether the original list is unconstitutional. That portion of the ruling shouldn't change the outcome of the decision, but it will delay the effective date of the ruling by months.

The Roberti-Roos law, the first assault weapons ban in the nation, was a turning point in the nationwide battle over gun control.

It was passed in 1989, a few months after a mentally disturbed young man fired 105 bullets into a Stockton schoolyard, killing five children and wounding many others.

The horror of the shooting spree put gun-owner advocates like the National Rifle Association on the defensive and gave gun-control proponents new momentum.

After Roberti-Roos was passed, the California Legislature passed bills requiring mandatory background checks, waiting periods and safety training for gun owners. In 1994, Congress followed the lead of California by passing a federal assault weapons ban.

Copley News Service, March 05, 1998

Gun owner advocates yesterday celebrated the court decision because it overturns a law that ushered in a new era of gun control legislation.

'This is the death knell for the Roberti-Roos Act,' said Chuck Michel, a Los Angeles attorney who represents Colt Manufacturers, a huge gun-making company. 'This is a victory for any citizen who doesn't like symbolic, feel-good laws that are filled with technical flaws.'

Michel argued that the law, named after former Senate leader David Roberti and former Assemblyman Mike Roos, was arbitrary because it banned some guns while leaving more powerful weapons on the market.

He also contended that it was unworkable because weapons could be banned without properly notifying people that they were illegal. As a result, he said, gun owners could become felons without realizing it.

The court agreed with that argument, saying that the law contained a gap in its notice provisions, which would leave open the theoretical possibility that a person could be prosecuted before he knew that a gun he owned was illegal.

'This is intolerable,' Morrison wrote.

Gun-control advocates said they were disappointed with the ruling.

But they believe it could actually improve the political prospects for the passing of a broader, more effective ban of semi-automatic weapons.

Currently, the Legislature is considering AB 23, sponsored by Assemblyman Don Perata, D-Oakland.

Perata's bill would replace the list of 62 banned weapons in the Roberti-Roos Act with a broad definition of assault weapons based on their firepower and the presence of military characteristics. The bill would ban semiautomatic rifles with magazines of more than 10 rounds and some rapid firing pistols.

Unlike the Roberti-Roos law, Perata's bill would not allow gun makers to avoid the ban by simply changing the name of their weapon.

'The law is gone that's the bad news. The good news is that we have legislation ready to replace it,' Perata said.

Now that the current law is on its way out, the vote on Perata's bill, scheduled to be taken up by the state Senate next week, will have added importance for both sides of the gun control debate. The measure has passed the Assembly once, but would need to go back for a final vote if the Senate approves.

'This ruling will put enormous pressure on the Legislature to pass the bill and the governor to sign it,' said Luis Tolley, West Coast director for Handgun Control.

Gov. Pete Wilson, considered a moderate on gun control issues, might not have signed AB 23 if the current law were still in effect, he said.

Copley News Service, March 05, 1998

Five years after the Roberti-Roos bill became law in California, Congress passed the federal assault weapons ban. The federal law bars the manufacturing of certain types of assault rifles, but does not prohibit the sale of those weapons. As a result, many of these guns can still be purchased.

Tolley and other gun control advocates argue that the federal law is weaker than California's law because in California banned guns like Uzis cannot be purchased, distributed or made.

Attorney General Dan Lungren, whose office defended the law, declined comment yesterday. Lungren's spokesman Rob Stutzman said the office has not decided whether to appeal the decision to the California Supreme Court.

Lungren has been criticized by both camps in the gun issue.

Gun owners lambaste him for supporting modest gun control legislation, while gun-control advocates say he failed to enforce the law vigorously by declining to add copycat weapons to the list of banned firearms.

Michel, the gun manufacturer's lawyer, said that politically the decision may be beneficial to Lungren, the likely Republican nominee for governor.

'This is probably the best thing that could happen to Dan Lungren and the Department of Justice,' he said. 'There are so many potential problems with this law that it's better just not to have to enforce any of it.'

LOAD-DATE: March 06, 1998

4TH STORY of Level 1 printed in FULL format.

Copyright 1998 Times Mirror Company  
Los Angeles Times

March 6, 1998, Friday, Home Edition

SECTION: Part A; Page 3; Metro Desk

LENGTH: 512 words

HEADLINE: CALIFORNIA AND THE WEST;  
LUNGREN TO APPEAL RULING ON ASSAULT WEAPONS LAW;  
COURT: APPELLATE PANEL STRUCK DOWN KEY PROVISION THAT ALLOWED SOME ADDITIONS TO  
LIST OF BANNED GUNS.

BYLINE: STEVE BERRY and DAN MORAIN, TIMES STAFF WRITERS

BODY:

Atty. Gen. Dan Lungren said Thursday he will ask the state Supreme Court to reverse an appellate ruling declaring a key provision of California's assault weapons law unconstitutional.

"I was very disappointed," Lungren said. "My disappointment comes from the broad scope of the decision."

The 2-1 ruling by the 3rd District Court of Appeal on Wednesday outlawed a provision of the state law that allowed the attorney general--with a judge's consent--to add newly marketed assault weapons to a list of 75 banned firearms.

The Sacramento appeals court said the law violated the separation of powers principle by giving judges legislative authority to decide whether copycat weapons are illegal military-style weapons.

Lungren said he was particularly concerned about the justices' statement that the list of 75 banned weapons may be unconstitutional as well because it unfairly penalizes owners of the restricted weapons while exempting people who own similar weapons that are not banned. The panel sent the case, which was filed in 1991 by Colt Manufacturing Co., back to the Superior Court in Sacramento to determine whether weapons on the list are distinguishable from those that are not.

Although the Legislature is considering a new assault weapons bill, Lungren said his decision to appeal the ruling prevents him from expressing an opinion about the legislation.

On Thursday, the state Senate postponed a vote on the bill for a week after Assemblyman Don Perata (D-Alameda) amended it for the 12th time.

The bill, AB 23, seeks to replace the 1989 list of banned guns with a generic definition listing a variety of attributes that would make a semiautomatic gun an assault weapon. The bill seeks to prohibit the sale of semiautomatic pistols that accept magazines holding more than 19 rounds, and semiautomatic rifles that take magazines holding 10 or more rounds. People who own such weapons would have six months to register them or face criminal charges.

Los Angeles Times, March 6, 1998

If the Senate approves it as expected, the measure would head to the Assembly for a final vote before being sent to Gov. Pete Wilson. He declined Thursday to say whether he would sign it, but he voted for federal assault weapons restrictions when he was in the U.S. Senate.

If the court decision stands and lawmakers fail to approve new legislation, California would be without any state restrictions on such weapons. As a result, Perata said, the appeals court decision adds pressure on lawmakers to act, particularly in so-called swing suburban districts where he believes voters support assault weapons bans.

"If you want to get elected, you better pay attention to these swing voters," he said.

Although most Democrats in the Democratic-controlled Assembly support the legislation, the bill cannot pass the 80-seat house without Republican support. Among the key votes is that of Assemblyman Jim Cunneen (R-San Jose), a moderate. Cunneen said Thursday he probably will vote for the bill, saying Perata's amendments made him "much more comfortable" with the legislation.

LANGUAGE: English

LOAD-DATE: March 6, 1998

## State Senate Approves Assault Weapons Ban

■ **Guns:** Bill would go further than 1989 state law and 1994 federal law. Outcome in Assembly is uncertain.

By DAN MORAIN  
TIMES STAFF WRITER

SACRAMENTO—The state Senate on Wednesday approved a sweeping new assault weapons ban that would replace the landmark 1989 California weapons law struck down by an appellate court this month.

The measure includes a broad generic definition of military-style

firearms, focusing on semiautomatic weapons that can be concealed easily and can fire large numbers of bullets in rapid succession.

The legislation, AB 23 by Assemblyman Don Perata (D-Alameda), would ban the sale of semiautomatic pistols that can hold more than 19 rounds, and semiautomatic rifles that hold more than 10 rounds. People who own such guns would have six months to register them or face criminal sanctions.

"It's time we finish the job we started in 1989," said Sen. Charles M. Calderon (D-Whittier), adding that the legislation "will ban once and for all assault weapons in California."

The measure would restrict many more models of semiautomatic weapons than the 75 brand-name weapons covered by the 1989 state law. It also would go further than the 1994 federal assault weapons ban.

Perata expects his bill to pass the Assembly when it is put to a final vote set for March 30.

Given its sweep, the bill attracted wide interest, with Sen. Dianne Feinstein (D-Calif.), the main author of the federal law, urging its passage, and pro- and anti-gun groups mounting major efforts to convince their adherents to contact legislators and Gov. Pete Wilson, who has not taken a stand on the bill.

The Senate voted 22-14 to approve the bill, with most

Democrats backing it and most Republicans opposing it. The measure was approved in the Senate and Assembly last year, but in a different form.

Pro-gun groups led by the National Rifle Assn. are battling to kill the bill in the lower house. On the opposite side, Handgun Control plans to air radio ads touting the measure, in part to sway Wilson.

Although the Republican governor has not said whether he will sign Perata's bill, he supported assault weapons restrictions when he was in the U.S. Senate. Perata has been meeting with Wilson aides in an effort to gain the governor's signature.

Republican opponents of the bill charge that Democrats are using the legislation as part of their 1998 election strategy. Assault weapons restrictions have wide support among law enforcement groups, and public opinion polls show that voters overwhelmingly want such weapons banned.

Senators got one small indication of that sentiment when a visiting group of fourth-graders from Top of the World Elementary School in Laguna Beach, viewing the debate from the Senate gallery, broke into applause as the bill was approved.

"We're concerned about gangs," said parent Linda Butterwick, among those who lauded the action.

Insisting that the bill is politically motivated, Republican state senators contended that the military-style weapons covered by the legislation are no more lethal than semiautomatic weapons not banned by the bill.

"Basically, what the [legislation] says is that if they're ugly we want to make them illegal," said Sen. Raymond N. Haynes (R-Riverside). "They're not any more dangerous than any other rifle that is out there. They're just ugly.... This is the height of politics."

Perata began pushing the legislation last year, but delayed a final vote in the 80-seat Assembly after

a lawmaker who supported it the first time around left the Legislature. Since then, he has amended it extensively—"frankly to win bipartisan support," he said.

In some ways, the latest incarnation goes further than last year's version, specifically targeting semiautomatic pistols that can accept magazines of 19 or more rounds, and semiautomatic rifles that can take magazines of more than 10 rounds.

"The only way to broaden the net is [to limit] firepower," Perata said. "What we take is the mental image people have of a weapon of war, and apply clear standards."

But NRA lobbyist Steve Helsley said the bill is so broad that it could require registration of virtually any semiautomatic weapon that can take detachable magazines.

"Clearly the bill is focused on the

good guys," Helsley said. "This is not a crime-fighting tool. It's just a way to beat up legitimate gun owners."

Perata's bill does not ban high-capacity magazines. But the bill would make it illegal to attach such magazines to semiautomatic rifles or pistols. Magazines are easily obtained, requiring no background check of the purchaser, and they are cheap. A magazine that can hold 50 bullets can cost less than \$50.

"For the first time, this will restrict large ammunition magazines," said Luis Tolley, western director of Handgun Control. "People will no longer be able to spray-fire 50 bullets. That goes right to the heart of the issue."

Among its other provisions, the legislation would ban the sale of guns if they are:

- Semiautomatic rifles with an overall length of 30 inches that also have the ability to accept detachable magazines, and have a protruding pistol grip or thumb hole that make them easier to maneuver.

- Semiautomatic pistols that have folding stocks, which make them easier to conceal, a shroud that makes them easier to hold when the barrel heats up, or a threaded barrel that would allow them to accept a silencer.

- Semiautomatic shotguns that can take more than five rounds, accept detachable magazines or a revolving cylinder

- Semiautomatic guns capable of firing rounds larger than .45 caliber. That provision is aimed at a .50-caliber weapon that was part of the Branch Davidians' arsenal in Waco, Texas.

Perata said the need for the bill became more urgent after a state District Court of Appeal, acting on a lawsuit brought by gun manufacturers, on March 4 struck down key provisions of California's 1989 assault weapons law.

The 1989 law, passed after Patrick Purdy killed five children in a Stockton schoolyard with an assault rifle, prohibited 75 guns by name. The appellate court invalidated a so-called copycat provision that allowed the state attorney general to add guns to the list if they contained only slight modifications.

Atty. Gen. Dan Lungren, the leading Republican candidate for governor, is appealing the ruling. Lungren has said he might support a generic ban on assault weapons, but cautioned lawmakers against backing Perata's bill, saying the new measure might hamper the appeal.

Lungren opposed Perata's bill last year, in part because it did not contain the \$830,000 estimated cost of enforcing its registration requirements.

Perata's bill goes further than the 1994 federal assault weapons

ban in several areas. Although the federal law bans the manufacture and importation of assault weapons, Perata's bill would bar the sale of such weapons already in circulation and would require people who already own them to register with the state attorney general.

People who fail to register guns meeting the Perata bill's definition within six months would face an infraction. If gun owners continued to fail to register their weapons, they could face a misdemeanor or felony charge.

Additionally, because of the broader definitions in the state proposal, Israeli-made Uzis could not be sold in California, although they might be permissible under federal law. The question of the Israeli-made guns was highlighted last fall after The Times detailed how large numbers of the weapons were being imported into the United States.

After protests by Feinstein, President Clinton in November blocked the importation of as many as 600,000 semiautomatic weapons that the Bureau of Alcohol, Tobacco and Firearms initially approved. A final decision is pending on whether those guns can be sold to civilians.

Even as the Senate was taking its vote, Assembly members were preparing for a showdown. Although Democrats tout their support for gun control and hold a majority in the Assembly, enough Democratic lawmakers oppose gun restrictions that the bill won't pass without Republican votes.

In an interview, Assemblyman Steve T. Kuykendall (R-Rancho Palos Verdes), one of the swing votes, said he was "leaning toward supporting this one."

"It's a big deal to me that this [existing law] was thrown out," Kuykendall said. "That's one of the reasons I'm more inclined to support it."



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Los Angeles Times

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Friday, March 20, 1998

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By DAN MORAIN, Times Staff Writer

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