
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 355 **Hearing Date:** July 11, 2023
Author: Alanis
Version: June 19, 2023
Urgency: No **Fiscal:** No
Consultant: AB

Subject: *Firearms: assault weapons: exception for peace officer training*

HISTORY

Source: California Police Chiefs Association

Prior Legislation: AB 50 (Koretz, Ch. 494, Stats. of 2004)
SB 626 (Perata), Chapter 937, Statutes of 2001
SB 23 (Perata, Ch. 129, Stats. of 1999)
Roberti-Roos Assault Weapons Ban (AB 357, Chapter 19, Statutes of 1989 and SB 292, Chapter 18, Statutes of 1989)

Support: Arcadia Peace Officers Association; Burbank Peace Officers Association; California Association of Highway Patrolmen; California Coalition of School Safety Professionals; California State Sheriffs Association; Claremont Peace Officers Association; Corona Peace Officers Association; Culver City Peace Officers Association; Fullerton Peace Officers Association; Inglewood Police Association; Los Angeles School Police Association; Newport Beach Police Association; Palos Verdes Peace Officers Association; Peace Officers Research Association of California (PORAC); Placer County Deputy Sheriffs Association; Pomona Peace Officers Association; Riverside Peace Officers Association; Riverside Sheriffs Association; Santa Ana Peace Officers Association; Stanislaus County Deputy Sheriff's Association; Turlock Associated Police Officers; Upland Peace Officers Association

Opposition: None known

Assembly Floor Vote: 79 - 0

PURPOSE

The purpose of this bill is to exempt, under specified conditions, persons enrolled in specified peace officer training courses from existing assault weapons prohibitions while they are engaged in firearms training and being supervised by a firearms instructor.

Existing law states the intent of the Legislature to place restrictions on the use of assault weapons and .50 BMG rifles and to establish a registration and permit procedure for their lawful sale and possession. (Penal Code § 30505.)

Existing law defines an “assault weapon” by specifying certain firearms such as the Beretta AR-70, Armalite AR-180, all AK series rifles, and UZI, among others. (Pen. Code, § 30510.)

Existing law defines an “assault weapon” as also including a firearm with certain characteristics such as a semiautomatic centerfire rifle with an overall length of less than 30 inches, a semiautomatic pistol with a fixed magazine that can accept more than 10 rounds, and other enumerated characteristics. (Pen. Code, § 30515.)

Existing law defines a “.50 BMG rifle” as a center fire rifle that can fire a .50 BMG cartridge and is not already an assault weapon or machinegun, and additionally defines “.50 BMG cartridge” to mean a cartridge with certain physical specifications. (Penal Code §§ 30525, 30530).

Existing law prohibits, among other things, the giving or lending of any assault weapon, and states that a violation is a felony punishable by four, six or eight years in county jail. (Pen. Code, § 30600.)

Existing law prohibits the possession of any assault weapon, except as provided, and states that a violation may be a misdemeanor punishable by up to one year in county jail, or a felony punishable by 16 months, or 2, or 3 years. (Pen. Code, § 30605.)

Existing law provides an exception to assault weapon prohibitions for the sale, purchase, import, or possession by the Department of Justice (DOJ), police departments, sheriffs’ offices, and other specified law enforcement agencies for use in the discharge of their official duties. (Pen. Code, § 30625.)

Existing law provides an exception to the possession of an assault weapon for specified peace officers for law enforcement purposes, whether they are on or off duty. (Pen. Code, § 30630, subd. (a).)

Existing law provides an exception to the sale or possession of an assault weapon for specified peace officers if their employer authorizes possession, as outlined. (Pen. Code, § 30630, subd. (b).)

Existing law provides various other exemptions related to the possession and manufacture of assault weapons and .50 BMG weapons. (Pen. Code, § 30635 et. seq.)

Existing law provides that possession of any assault weapon or .50 BMG rifle except as authorized constitutes a public nuisance, and that the Attorney General, any district attorney, or any city attorney may, in lieu of criminal prosecution, bring a civil action or reach a civil compromise in any superior court to enjoin the manufacture of, importation of, keeping for sale of, offering or exposing for sale, giving, lending, or possession of an assault weapon or .50 BMG rifle. (Penal Code §30800).

Existing law requires the Commission on Peace Officers Standards and Training (POST) to establish a certification program for peace officers. (Pen. Code, § 13510.1.)

Existing law requires each applicant for admission to a basic course of training certified by POST that includes the carrying and use of firearms, as specified, shall be required to submit written certification from the DOJ that the applicant has no criminal history background which

would disqualify them from owning, possessing or having under their control a firearm. (Penal Code §13511.5.)

This bill provides that specified prohibitions regarding the giving, lending or possession of an assault weapon do not apply to the loan of an assault weapon to, nor the possession of an assault weapon by, a person enrolled in the course of basic training prescribed by POST, or any other course certified by POST, while engaged in firearms training and being supervised by a firearms instructor, if the following requirements are met:

- The loaned assault weapon does not leave the training facility
- The enrollee has met the minimum peace officer hiring standards, as specified, prior to entry to the course and is currently employed by any of the following:
 - A police department or sheriff's office
 - A marshal's office
 - The Department of Justice
 - The Department of the California Highway Patrol
 - The Department of Fish and Wildlife

COMMENTS

1. Need for This Bill

According to the Author:

Assembly Bill 355 corrects an oversight in current law by allowing peace officer cadets enrolled in basic training prescribed by the Commission on Peace Officers Standards and Training (POST), or other certified training, to use a tactical (assault) rifle while engaged in firearms training while under the supervision of a firearms instructor. As narrowly drafted, AB 335 does not allow cadets to use or possess an assault rifle anywhere but under the supervision of trainers during firearms training. In doing so, AB 335 will allow cadets to complete necessary training components during the academy, and avoid costly logistical and procedural issues created by current law.

2. California's Assault Weapons Laws

California's ban on assault weapons was enacted over three decades ago, with the Roberti-Roos Assault Weapons Control Act of 1989 (AWCA), which prohibited the possession and transfer of over 50 specific brands and models of semi-automatic firearms.¹ The law was augmented in 1999 to restrict acquisition and transfer of magazines that could hold more than 10 rounds of

¹ Penal Code §§30500 et. seq.

ammunition.² In 2004, AB 50 (Koretz, Ch. 494, Stats. of 2004), also known as the .50 Caliber BMG Regulation Act of 2004 effectively banned the sale of all .50 BMG-caliber rifles in the state by including such weapons within the definition of “assault weapon.” SB 118 (Committee on Budget, Ch. 29, Stats. of 2020), 2020’s public safety budget trailer bill, further expanded the definition of “assault weapon” to include semiautomatic centerfire firearms that are not pistols, shotguns or rifles, and do not have a fixed magazine, but do have other specific features.³

In addition to defining which weapons constitute prohibited assault weapons, existing law imposes various penalties for various conduct related to these weapons. Specifically, any person who manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, with limited exception, is guilty of a felony.⁴ Possession of an assault weapon is a wobbler. Recent legislation authorized a prosecutor, in lieu of criminal prosecution for possession of an assault weapon, to institute a civil action for an injunction, fine, and destruction of the firearm as a nuisance.⁵

Existing law also contains several exemptions to the state’s comprehensive assault weapons restrictions, particularly for law enforcement officers and agencies. Specifically, existing law permits agencies to purchase, import and possess assault weapons, permits sworn peace officers to possess or use assault weapons for law enforcement purposes whether on or off duty, and permits the sale, delivery or transfer of an assault weapon to a sworn peace officer if the peace officer is authorized by their employer.⁶ However, according to the Author, these exemptions do not apply to cadets enrolled in POST training, leading to logistical issues with getting cadets properly training and certified during the academy. The sponsor of the bill, the California Police Chiefs Association, articulates the problem as follows:

Every person designated a peace officer in California must “satisfactorily complete an introductory training course prescribed by the Commission on Peace Officer Standards and Training.” (Penal Code §832) All cadets are required to obtain firearms clearance through the Department of Justice prior to enrolling in one of the POST-certified academies. Once enrolled, part of that training requires a demonstration of proficiency in the use of firearms – both handguns and tactical (assault) rifles.

While cadets are required to train with handguns during the POST academy, under existing law they are technically prohibited from going through that same training with tactical rifles. However, POST requires proficiency in the use of these firearms. To resolve this conflict, agencies are having to graduate cadets without completing tactical rifle training, then send them back to receive the rest of their firearms training as sworn officers. This has caused logistical and cost issues for agencies and POST, wasting resources and staff time that should be better spent providing public safety services.

This bill would create an exemption to assault weapon prohibitions for peace officer cadets while they are engaged in firearms training and being supervised by a firearms instructor, but only if

² SB 23 (Perata), Ch. 129, Stats. of 1999; Firearms and magazines that were legally owned when the law went into effect were grandfathered if they were registered with DOJ.

³ Penal Code §30515(a).

⁴ Penal Code §30600.

⁵ Penal Code §30800, enacted by AB 879 (Gipson), Ch. 730, Stats. of 2019.

⁶ Penal Code §§ 30625, 30630.

two conditions are met. First, the assault weapon being used may not leave the training facility. Second, the trainee using the weapon is required to have met minimum hiring standards set forth in existing law (Gov. Code §§1029-1031) prior to entry to the training course, and at the time of training must be employed by one of the following agencies: a police or sheriff's department, a marshal's office, the DOJ, the CHP or the Department of Fish and Wildlife. As such, this bill likely resolves many of the logistical and procedural issues that law enforcement agencies face when training cadets with assault weapons.

3. Argument in Support

According to the California State Sheriffs Association:

All peace officers must complete a POST-certified academy, in which cadets must demonstrate proficiency in a number of areas, including the use of both handguns and tactical rifles. Existing law exempts sworn peace officers from specified prohibitions related to assault weapons. However, cadets are currently not explicitly exempt from these prohibitions. This inability for cadets to complete firearms training is causing logistical issues and delays for departments that are preparing cadets for their field training programs. AB 355 closes a technical loophole by clarifying that POST academy cadets can possess tactical rifles in the course of their firearm training.

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