



CaliforniaCivilLiberties.org

California Civil Liberties Advocacy
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Saturday, March 5, 2016

Assemblymember Mike Gipson
P.O. Box 942849
Room 4164
Sacramento, CA 94249-0064

RE: Assembly Bill 1673

Dear Assemblymember Gipson,

The California Civil Liberties Advocacy is writing to enlist **SUPPORT** for AB 1673.

The California Civil Liberties Advocacy (CCLA) takes the position that the purpose of the Second Amendment was to protect the right of the States to maintain militias, which were intended to guard against a perceived threat posed by a federal standing army against States' sovereignty. While opposed to an outright ban on firearms, the CCLA does disagree with the U.S. Supreme Court's holding in *District of Columbia v. Heller* (2008) 554 U.S. 570, that the prefatory clause of the Second Amendment has no bearing on the operative clause. Gun proponents have argued ad nauseam that the Second Amendment protects individual ownership of firearms while entirely ignoring the prefatory clause, which makes clear the very crux of the amendment itself – namely, that a “well-regulated militia” is “necessary to the security of a free State.” Thus, the CCLA's position may be summed up by Joseph Story's Commentaries on the Constitution, quoted in Justice Stephen's dissent in *Heller*, which observed an apathetic attitude among the population toward maintaining a well-regulated militia. “[A]mong the American people, there is a growing indifference to any system of militia discipline, and a strong disposition, from a sense of its burdens, to be rid of all regulations. How it is practicable to keep the people duly armed without some organization, it is difficult to see.” (*D.C. v. Heller, supra*, at 666, (dis. opn. of Stephens, J.) citing 2 J. Story, Commentaries on the Constitution of the United States § 1897, pp. 620-621 (4th ed. 1873).)

In a sense, one may argue that *Heller* codified this apathy – which by that time had grown into full-fledged ignorance – and made it acceptable by severing the prefatory from the operative clause of the Second Amendment. It is this lack of regulation which has perpetuated

“Indifference to personal liberty is but the precursor of the state's hostility to it.”
– Justice Kennedy, *U.S. Supreme Court*

the ubiquity of guns and gun-related violence on the massive scale that our society has witnessed over the past few decades. While mass shootings are not a recent phenomenon, they have increased disproportionately in the latter half of the twentieth century to the point that many are now becoming numb to the media coverage each time there is an occurrence. Is it not logical to limit the availability of weapons that only make it easier to carry out these types of shootings?

Despite being a nonpartisan organization, the CCLA draws much political ire from both sides of the debate. Gun proponents, most notably, are quick to criticize the CCLA for claiming to advocate for civil liberties since gun ownership is perceived by many to be one such liberty and necessary for the protection of liberty. The Declaration of Independence lists as unalienable rights “Life, Liberty and the pursuit of Happiness.” Noting the right to life is listed before liberty, the CCLA contends that the former is inextricably bound to the latter and thus the protection of peoples’ lives is itself a protected liberty. On the same grounds, gun proponents argue that gun owners have an interest in protecting life by utilizing firearms for home and self-defense. To reiterate, the CCLA does not support an outright ban on firearms in California.

Nonetheless, there exist certain weapon designs which facilitate mass shootings and which are capable of being easily modified to make them even more lethal. One such weapon is the AR-15, referred to by enthusiasts as “America’s gun.” (Chang, Why The AR-15 Is More Than Just A Gun, NPR (Jun. 24, 2013.) Gun proponents may cite several incidents where AR-15 assault rifle was successfully used for self-defense, including one couple in Philadelphia, a security guard in Detroit, a college student in Detroit, a 15-year-old boy in Texas who defended himself and his sister, and Korean residences and shop keepers who scared off looters during the L.A. riots of 1992. (Messamore, 5 People Who Used An AR-15 to Defend Themselves, and It Probably Saved Their Lives, PolicyMic (Sep. 24, 2013.) <http://mic.com/articles/64663/5-people-who-used-an-ar-15-to-defend-themselves-and-it-probably-saved-their-lives> <Accessed Mar. 4, 2016>.)

One may argue that the presence and use of AR-15’s in all of those incidents saved at least eight lives. Even so, the AR-15’s were only fired in three, and the intruders hit twice. But to presume that the presence of an AR-15 was the determining factor in stopping the attackers is begging the question. According to a study conducted by the Cato Institute in 2012, “the mere presence of an armed citizen thwarts many crimes.” (Adelmann, Guns Used In Self-Defense, The New American (Feb. 23, 2012).) And in contrast to the eight lives purportedly saved by AR-15 assault rifles, AR-15’s have been used to kill fourteen people in the San Bernardino shooting in December 2015, nine people at a community college in Oregon in October 2015, twelve people in a Colorado movie theater in 2012, and twenty-six people in Newtown, Connecticut — 20 of whom were first-graders. (Mirkinson, Gun used in the San Bernardino massacre is a mass shooting mainstay, Fusion (Dec. 5, 2015) <http://fusion.net/story/241960/ar-15-san-bernardino->


gun-control/ <Accessed Mar. 4, 2016>.) So for each person saved by an AR-15, eight more were killed by one.

As for the problem that AB 1673 seeks to curtail, our research reveals that not only is it possible to purchase and machine an unfinished lower receiver, but there are sellers on the internet which make available kits that include the lower receiver, the upper, buffer tube, trigger assembly, grip, and pins. One can be purchased without a background check from the Sportsman's Guide at <http://www.sportsmansguide.com/product/index/anderson-sbr-105-parts-kit-with-80-lower-receiver?a=1783050>. Additionally, there are plenty of YouTube videos with step-by-step instructions for completing the machining using only a drill press, vise, a 3/8" drill bit and stop collar, 5/32" drill bit, 19/64" drill bit, 1/4" end mill, 1/8" hex wrench, 3/16" hex wrench, 3/32" hex wrench, a router, cutting fluid, masking tape, and a jig available from <http://www.80percents.com/>. Anyone can purchase these tools and parts to put together as many AR-15 assault rifles as their budget will allow. These weapons could then be used by the owner for any purpose they see fit and/or resold on the black market to the highest bidder.

As civil liberties advocates, it is the CCLA's responsibility to weigh in policy questions and ensure that the needs of public safety are met while properly balancing individual rights. We feel that leaving this loophole available so that anyone can purchase the parts to build an untraceable AR-15 is reckless and unnecessary exercise of one's individual rights. We have heard the arguments on the use of kitchen knives by amateur chef enthusiasts compared to AR-15's being used by civilians for recreational shooting. Kitchen knives are essential to cooking and food preparation, which is essential for the preservation of life. AR-15's are made for an entirely different purpose, and that purpose is killing. If recreational shooting is one's purpose then we recommend looking into less-than-lethal alternatives, such as dart guns, pellet guns, or airsoft guns. Otherwise, we see absolutely no point in allowing the parts for these weapons to be bought and assembled in a fashion that makes them entirely untraceable.

Due to all of the foregoing reasons, the CCLA strongly supports AB 1673.

Respectfully,


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Cc: Assembly Public Safety Committee