LEGISLATIVE ALERT

Wednesday, April 11, 2018

Regarding: **Assembly Bill 2382 ("AB 2382")**
Bill as amended April 10, 2018

Position: **STRONGLY OPPOSE**

On behalf of our members, supporters, and all law-abiding Californians, the Firearms Policy Coalition respectfully submits our **strong opposition** to Assemblymember Mike Gipson's Assembly Bill 2382 – which is essentially a re-packaging of the train-wreck of proposed legislation presented and rejected under AB 1673 (2015-2016 Reg. Session) but which the same lawmakers once again seek to install; this time with many additional layers of inevitably disastrous provisions.

Not even two years ago, Governor Brown flatly rejected AB 1673 (Gipson) as "unduly vague" with "far reaching and unintended consequences." The Governor did so for the specific reason that the bill would have "defin[ed] certain metal components as a firearm because they could ultimately be made into a homemade weapon," and this "could trigger potential application of myriad and serious criminal consequences." Indeed, the bill would have defined "frame" and "receiver" so as to include within the meaning of "firearm" under the state's myriad criminal laws any "part of a firearm which provides housing for the hammer, bolt, or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel, and includes a frame or receiver blank, casting, or machined body that requires further machining or molding to be used as part of a functional weapon so long as it has been designed and is clearly identifiable as being used exclusively as part of a functional weapon." The definition also extended to any "rocket, rocket propelled projectile launcher, or similar device containing an explosive or incendiary material, whether or not the device is designed for emergency or distress signaling purposes."

Yet the ugly head of AB 1673 rears again in AB 2382, which seeks to establish *precisely the same* expanded definitions of "firearm" by including within that word the same definition of "frame or receiver" and rocket-like projectiles soundly rejected under AB 1673. (§ 16520, subds. (c) & (h).) The Legislative Counsel's Digest makes clear that the intent of this bill is to do exactly what the Governor disallowed AB 1673 from doing: to extend all the onerous trappings applicable to actual firearms to essentially any object that could be perceived or used as a component or "precursor" part to a firearm, including the requirement that all sales and transfers of such objects be made "by and through a licensed firearm dealer," that all such transfers be subject to "a 10-day waiting period prior to delivery of a firearm by a dealer," that all such purchasers and transferees be subject to a background check, and that the prohibitions preventing certain classes of persons from owning and possessing firearms extend to any such "parts" of a firearm. (Leg. Counsel Digest, AB 2382.) This is patently absurd given the litany of components and parts that are or could be used in the assembly of a firearm and thus could be viewed as "clearly identifiable" "parts." And many, if not most, of these items are in and of themselves incapable of causing any harm and are of essentially no value or functionality apart from an assembled firearm. Even more alarmingly, the bill's definition is not limited to "parts" of a *firearm*, but includes any such objects that could be used as "parts" of any "*functional weapon*" – which could include any device one could functionally employ as a weapon to inflict some kind of harm.

And what about the stretching of the "firearm" definition to include all rocket-like projectiles? Does this mean fireworks commonly sold to celebrate the Fourth of July or New Year's or emergency

distress flares sold to boaters and hikers for safety purposes are subject regulation on pain of criminal conviction? The fundamentally vague, ambiguous, and egregiously overreaching definitions of "firearm" alone, which would inevitably substantially burden the fundamental rights to keep and bear arms with no legitimate governmental justification, render this scheme subject to outright rejection as unconstitutional. But think too of the tremendous burden to be placed upon small business firearms dealers who would be saddled with the costly and time-consuming headaches of attempting to identify, monitor, and ensure all sales and transfers of these nebulously defined "frames or receivers" comply with the myriad regulations. Even more, all those subject to prohibitions against ownership and possession of actual firearms based on their status would unfairly and unconstitutionally be subject to a much more expansive and burdensome form of prohibition in being precluded from any access to anything that constitutes essentially *any* part of a firearm.

This bill, unfortunately, would go even further. Under the version most likely to be presented for a vote, AB 2382 goes on to establish a whole new scheme of restrictions (most of which to become effective by January 1, 2020) targeting "firearm precursor parts" – a term that is similarly expansive in its reach so as to include essentially any object or component typically used in the manufacture or assembly of a firearm, even, for example, "*unfinished* receivers." (§ 16531, subd. (3).) These myriad new restrictions would control – under threat of significant criminal sanctions to both sides of any transaction involving such "parts" (imprisonment, substantial monetary fines, or both) – everything from the sale, supply, delivery, importation into the state, possession or delivery of possession, carrying, and display of such "parts," to the mere "custody or control" of them at any time. (See e.g., §§ 30400, 30405, 30406, 30410, 30414.) These restrictions would effectively restrict the mere access of such parts to a finite class of specified persons excluding most average citizens (§ 30452, subds. (c) – (e); § 30470, subd. (a)), and require extensive background checks to enforce the same as to each and every transaction involved (§ 30470, subd. (b)). The preclusion against *firearm* ownership or possession by certain statutorily-disabled classes is not only extended to cover all these "parts" but, through an amendment to section 29805, the law would expand the prohibited class itself by augmenting the already long list of disqualifying misdemeanor convictions (itself constitutionally suspect) that render a person ineligible to possess or use firearms for 10 years.

It would also include the sort of baseless and draconian classifications, dangerous to a free society, that exempt from many of these restrictions active peace officers and even anyone who ever served as such an officer so long as he or she was honorably retired (e.g., §§ 30410, subd. (b)(6)-(9), 30412, subd. (c), 30414, subd. (b), 30452, subd. (e)(6), (7), & (8)), as well as special privileges for state and federal agencies to engage in the activities that citizens are prohibited from engaging in with such parts (§ 30430).

In an equally problematic vein, this scheme would establish a new class of non-firearms licensed dealers – a "licensed firearms precursor parts vendor" – through which all transfers of such parts must be conducted for the average citizen. (§ 30412.) Again, aside from the clear infringement upon citizens' rights to be free from vague and discriminatory laws that unjustifiably impede their Second Amendment protections, the burden to be placed upon such licensees is unfathomable. These numerous, entirely impracticable burdens include, among many other things: the restriction on the locations where such transfers may lawfully take place (§ 30448), the requirement that vendors obtain DOJ approval before commencing any transfer or sale of any such part, track each sale or transfer through an exhaustive information gathering process concerning the type of part and the person to whom it was sold or transferred, transmit all that information to the DOJ, and maintain records of the same on their end for at least five years (§§ 30452, 30454, 30470, subd. (d)); the requirement of an "annual fee" to maintain a license (§§ 30485, subd. (a); 30490); and

being at all times "subject to forfeiture for a breach of any of the prohibitions and requirements" of the scheme (§ 30495).

Millions of the public's dollars ($6,000,000, to be exact) would be appropriated for these purposes to fund the "start-up costs of implementing, operating and enforcing" this scheme. (§ 30471, subd. (a).) Additionally, the public must bear the "reasonable cost of regulatory and enforcement activities related to" this scheme, since the scheme mandates that the DOJ "shall recover" such costs through specified fees subject to increase over time. (§ 30470, subd. (e).) Given its use of these monies in pursuit of statutory schemes that are unconstitutional on multiple grounds, the entire process constitutes "government waste."

In the final analysis, this bill would prove to exact even more societal damage and government waste than its vetoed predecessor – and should be flatly rejected just the same.

For these and other reasons, FPC requests your "NO" vote on AB 2382.

Please contact us at policy@fpchq.org or (916) 378-5785 if you have any questions or would like discuss this further.