

S.F. VOTERS CONSIDER TOUGH HANDGUN BAN

By MARY ANNE OSTROM, Mercury News November 4, 2005 Publication: San Jose Mercury News (CA) Page: 1A Word Count: 919

The city that made Dirty Harry famous, but also witnessed the assassination of a mayor and supervisor a generation ago, on Tuesday will weigh enacting the toughest handgun ban in the nation. If Proposition H passes on the ballot, San Francisco residents would not be allowed to own handguns and would have to turn in ones already in their possession by April 1.

The proposal comes at a time when San Francisco is confounded by how to stop the rise of gun-related homicides in recent years, particularly among youths. But opposition from gun-owner groups is fierce, and San Francisco is poised again to insert itself in the middle of a contentious national debate.

The National Rifle Association and several other groups have promised to file suit as early as Wednesday morning should the measure pass -- which is expected in a city known for its liberal bent.

The NRA and others will argue

that San Francisco is again overstepping its bounds by taking on a role -- similar to the city's decision to marry same-sex couples in 2004 -- that should be left up to the state. Their view is that deciding who can own a gun is the state's job, and the California

Supreme Court has upheld that notion in the past.

Although Mayor Gavin Newsom has not taken a position, several of the city's most liberal leaders are supporting the far-reaching ban -- including District Attorney Kamala Harris and four supervisors who are listed as sponsors. Newsom, instead, has been touting his pilot program to place security cameras at high-crime locations, an idea he's borrowed from Chicago.

That's not enough, said Supervisor Sophie Maxwell, whose district includes Potrero Hill. That's where Naemon Wysinger, 2, and his 22-year-old father, Derna Wysinger, were shot to death October 14. After a City Hall anti-crime rally this week, Maxwell said she backs the ban because "We've got to try everything we can."

Underscoring the frustration with gun-related violence, several of the ban's supporters said even if a legal battle ensues and though enforcement of the new law may be difficult, they want to send a message that the city needs to step up anti-crime initiatives.

There were 88 homicides in the city last year, the largest count since 1995. San Francisco just hit the 70 mark for 2005.

Whether such a gun ban is legally or practically enforceable is at the center of the debate.

Other attempts at far-reaching municipal gun bans have met with strong resistance in the courts. In the wake of the 1978 handgun slayings of then Mayor George Moscone and supervisor Harvey Milk, one of Dianne Feinstein's first acts as Moscone's replacement was to enact a handgun ban. It was struck down a couple of years later,

however, by the state Supreme Court. Feinstein, now a U.S. senator, is not taking a position on Proposition H, because she feels the state's top court has already ruled, a spokesman said.

Last autumn, a similar 20-year-old handgun ban in Washington D.C. was overturned by the U.S. House of Representatives, which oversees gun laws in that city. A tough Chicago ban has been challenged. One key difference in those two cities: residents were allowed to keep handguns they already owned. In San Francisco, if the measure passes, residents must turn in their handguns at a police or sheriff's station by April 1, 2006.

That element of the proposed law has opponents raising the specter of defenseless residents and small-business owners, who would be in danger not just from violent thugs, but in a major catastrophe.

Adding a timely twist to the debate, those opponents warn that a major earthquake could lead to chaos and anarchy, akin to post-Katrina New Orleans.

"What happens when the police leave town, just like they did in New Orleans?" asked John Mindermann, a retired San Francisco police officer who keeps a handgun in his home in the low-crime area of West Portal. Only active law enforcement and military personnel would be exempt from the ban.

And even though its officers fight violence daily, the San Francisco Police Officers Association is also opposed to the ban, saying it cannot back a measure that takes away "the personal choice of city residents to lawfully possess a handgun for self-defense purposes."

Another argument is that if the ban passes, San Francisco will be a magnet for out-of-town criminals who will know residents are unarmed. Also, opponents point out, it's unlikely that criminals will march down to a police station and turn in their guns.

In addition to the ban on handguns, Proposition H also would prohibit the sale, manufacture, transfer and distribution of all firearms and ammunition in the city. Currently, only one retail gun store operates in the city, so that provision has less impact than it would in a city with several retail outlets. The ban would not apply to lawful handgun owners from other cities.

And what happens if you're a San Franciscan caught with a handgun? Stay tuned. If passed, the punishment will be spelled out by the Board of Supervisors.

WHY IT MATTERS

Supporters say Proposition H would reduce gun-related crime. Opponents say the city, as it did with same-sex marriage, would be taking on a role that should be left to the state.

S.F. HANDGUN BAN

Highlights of Proposition H, on Tuesday's ballot:

Would ban possession of handguns within city limits by San Francisco residents unless they are active law enforcement or military personnel.

Would ban manufacture, distribution, sale and transfer of firearms and ammunition within the city.

Would take effect Jan. 1, 2006, and residents would have until April 1 to turn in their handguns.

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