



December 21, 2005

Mr. Carlos Lopez
[REDACTED]

Upland, CA 91786

RE: Assault Weapons

Dear Mr. Lopez:

This correspondence is in response to your letter (undated) in which you posed a number of questions regarding the regulation of assault weapons in California under the Roberti-Roos Assault Weapons Control Act of 1989 and subsequent legislation.

Your first question was about the effect of *Kasler v. Lockyer* (2000) 23 Cal. 4th 472 on California assault weapons law. *Kasler* upheld the original Roberti-Roos Assault Weapons Control Act of 1989, including the add-on provisions in Penal Code (PC) section 12276.5 that were amended into the law in 1999 by Senate Bill 23. The court in *Kasler* ruled that none of the assault weapons provisions violated constitutional guarantees of equal protection, separation of powers, or due process.

You asked "whether receivers that are not on the Roberti-Roos list, or are not "ak" and "ar" series are legal to buy and own in California." Receivers that are not listed in Penal Code section 12276 are still illegal to buy and own in California if they are listed in the Assault Weapons Identification Guide published by the California Department of Justice (DOJ), or if they have certain generic characteristics listed in Penal Code 12276.1. Also, a local prosecutor in one of California's 58 counties could file charges under 12276(e) for possession of an assault weapon because the firearm that is virtually identical to a listed assault weapon, even if the firearm is not identified by DOJ, and does not have any of the banned characteristics.

Specifically, you asked about the PTR-91 receiver, which is not listed in Penal Code 12276. The PTR-91 is illegal in California under Penal Code 12276.1 because it has a pistol grip. You are correct that it would not be considered by DOJ to be a Category One or Two Assault Weapon. However, as mentioned above, a local prosecutor could file charges under 12276(e), even if the firearm was not identified by DOJ, and did not have any of the banned characteristics.

Finally, you asked whether the PTR-91 receiver would comply with California law if it had a fixed magazine "or no pistol grip or flash-hider." Subject to local

Carlos Lopez
December 21, 2005
Page 2

prosecutorial discretion to file charges under Penal Code 12276(e), the PTR-91 may be legal for sale in California if it lacks all of the generic characteristics listed in Penal Code 12276.1.

I hope that this information was helpful. If you have any additional questions regarding this issue, please feel free to contact me at (916) 263-0802.

Sincerely,



ALISON MERRILEES
Deputy Attorney General
Firearms Division

For BILL LOCKYER
Attorney General