



MICHAEL N. FEUER  
CITY ATTORNEY

REPORT NO. R 1 4 - 0 0 3 9

FEB 0 3 2014

REPORT RE:

**DRAFT ORDINANCE ADDING SECTION 55.21 TO THE LOS ANGELES  
MUNICIPAL CODE TO PROHIBIT THE MANUFACTURE, SALE, POSSESSION  
OR USE OF ANY IMITATION FIREARM UNLESS IT IS COLORED  
BRIGHT ORANGE OR BRIGHT GREEN AND TO PROHIBIT THE OPEN  
DISPLAY OF ANY IMITATION FIREARM UNLESS EXEMPTED**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Council File No. 11-0962

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. This draft ordinance would add Section 55.21 to the Los Angeles Municipal Code (LAMC) to prohibit the manufacturing, sale or use of any imitation firearm unless the entire surface of the imitation firearm is colored bright orange or bright green. In addition, this draft ordinance would prohibit the display of any imitation firearm in a public place, subject to specific exemptions.

Background and Summary of Ordinance Provision

In 2007, the Los Angeles Police Department (LAPD) had an officer-involved shooting where a 14-year-old juvenile used a BB device that resembled an actual firearm. In 2010, the LAPD had an officer-involved shooting where a 13-year-old used a BB device that resembled an actual firearm. Between 2006 and 2012, the LAPD has had 18 officer-involved shootings involving persons using imitation firearms. The LAPD

believes that these officer-involved shootings might have been avoided if imitation firearms did not have the same appearance and color of actual firearms.

In January 2013, Government Code Section 53071.5 was amended to authorize the County of Los Angeles and any city within the County of Los Angeles to enact and enforce an ordinance or resolution that is more restrictive than state law regulating the manufacture, sale, possession or use of any BB device, toy gun, replica of a firearm or other device that is so substantially similar in coloration and overall appearance to an existing firearm as to lead a reasonable person to perceive that the device is a firearm; and that expels a projectile that is no more than 16 millimeters in diameter.

In a March 2013 report to the Los Angeles Board of Police Commissioners, LAPD requested an ordinance that would prohibit the manufacture, sale, possession or use of imitation firearms in the City of Los Angeles unless the entire exterior surface of the imitation firearm is brightly colored or translucent. In August 2013, the City Council requested that the City Attorney prepare such an ordinance.

Subsequently, the LAPD requested that the draft ordinance limit the color of imitation firearms to bright orange or bright green consistent with Penal Code Section 23800, which prohibits those colors from being used for actual firearms. Furthermore, the LAPD requested that the ordinance prohibit persons from displaying such devices in a public place, as defined in Penal Code Section 20170, subject to certain exemptions provided in Penal Code Section 20175. The enclosed draft ordinance incorporates the Police Department's requests.

#### Preemption

The enactment of Government Code Section 53071.5 removed any state law preemption and expressly allows the City to enact a more restrictive ordinance regulating certain imitation firearms. Additionally, we believe the proposed ordinance is not preempted by federal law.

#### Council Rule 38

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Los Angeles Police Commission and the Los Angeles Police Department with a request that any comments be presented directly to the City Council or its Committees when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Brian L. Sottile at (213) 978-8384. He or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By   
DAVID MICHAELSON  
Chief Assistant City Attorney

DM:BS:pg  
Transmittal