

ASSEMBLY BILL

No. 362

Introduced by Assembly Member De Leon

February 14, 2007

An act to add Sections 12315, 12316.5, 12317, and 12318 to the Penal Code, relating to ammunition.

LEGISLATIVE COUNSEL'S DIGEST

AB 362, as introduced, De Leon. Ammunition.

Existing law generally regulates the sale of ammunition.

This bill would require that commencing July 1, 2008, unless specifically excluded, no person shall sell or transfer more than 50 rounds of handgun ammunition in any month unless they are registered as a handgun ammunition vendor, as defined. The bill would also require these vendors to obtain a background clearance for those employees who would handle ammunition in the course and scope of their employment. The bill would require the Department of Justice to maintain a registry of registered handgun ammunition vendors, as specified. Violation of these provisions, as specified, would be a misdemeanor.

The bill would also provide that no retail seller of ammunition shall sell, offer for sale, or display for sale, any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser without the assistance of the retailer or employee thereof. Violation of these provisions would be punishable as an infraction with a fine of \$500, or as a misdemeanor.

The bill would further provide that no ammunition or reloaded ammunition may be delivered by a common or contract carrier pursuant to a retail transaction unless certain conditions exist. A violation of

these provisions would be punishable as a misdemeanor, with enhancements for prior violations.

By creating new crimes, this bill would impose a state-mandated local program.

Existing law provides that it is a crime to sell ammunition to a minor, or to sell handgun ammunition to a person who is under 21 years of age.

This bill would provide that any person under 21 years of age who purchases, or who attempts to purchase, handgun ammunition by using a false identification document, or by otherwise misrepresenting the person’s age, and any minor who purchases, or attempts to purchase, any ammunition by using a false identification document, or otherwise misrepresenting the person’s age, is guilty of a misdemeanor.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12315 is added to the Penal Code, to
- 2 read:
- 3 12315. (a) (1) As used in this section “registered handgun
- 4 ammunition vendor” means any person or business that is engaged
- 5 in the retail sale of handgun ammunition and has all of the
- 6 following:
- 7 (A) Any regulatory or business license, or licenses, required by
- 8 local government.
- 9 (B) A valid seller’s permit issued by the State Board of
- 10 Equalization.
- 11 (C) Is among those recorded in the centralized ammunition
- 12 vendor’s registry specified in subdivision (c).
- 13 (D) A certificate of eligibility issued pursuant to Section 12071.
- 14 (2) Commencing July 1, 2008, no person shall sell or transfer
- 15 more than 50 rounds of handgun ammunition in any month unless

1 the person is registered as a handgun ammunition vendor as
2 described in paragraph (1).

3 (b) A registered handgun ammunition vendor shall not permit
4 any employee who is a person described in Section 12021 or
5 12021.1 of this code or Section 8100 or 8103 of the Welfare and
6 Institutions Code to handle handgun ammunition in the course and
7 scope of his or her employment. A registered handgun ammunition
8 vendor is authorized to request a background clearance from the
9 Department of Justice pursuant to subdivision (d) of Section 12076
10 to determine if an employee or potential employee is a person
11 described in any of the specified sections. The department may
12 require the registered handgun ammunition vendor to charge a fee
13 sufficient to reimburse it for the background clearance authorized
14 pursuant to subdivision (e) of Section 12076. Fees received by the
15 department pursuant to this section shall be deposited in the
16 Dealers' Record of Sale Special Account of the General Fund.

17 (c) The Department of Justice shall keep a centralized registry
18 of all persons, businesses, and corporations who are registered
19 handgun ammunition vendors. The department may remove from
20 this registry any vendor who violates the provisions of this chapter.
21 Upon removal of a registered handgun ammunition vendor from
22 this registry, notification shall be provided to local law enforcement
23 and licensing authorities in the jurisdiction where the vendor's
24 business is located.

25 (d) This section does not apply to any of the following:

26 (1) Wholesale sellers of handgun ammunition who have a
27 business license to sell ammunition.

28 (2) Sales of handgun ammunition by a target facility which
29 holds a business or regulatory license to persons who are on the
30 premises of the target facility or sales of handgun ammunition to
31 persons who are on the premises of any club or organization
32 organized for the purposes of practicing shooting at targets upon
33 established ranges, whether public or private, if the sale of the
34 ammunition occurs at the premises of the target range or on the
35 premises of the club or organization and is sold to a person who
36 is using ammunition primarily at the facility.

37 (3) Sales of handgun ammunition by persons licensed pursuant
38 to Section 12071.

1 (4) Sales of handgun ammunition by commercial hunting clubs,
2 game bird clubs, or pheasant clubs licensed by the Department of
3 Fish and Game.

4 (5) Sales of handgun ammunition by a nonprofit public benefit
5 or mutual benefit corporation organized pursuant to Part 2
6 (commencing with Section 5110) or Part 3 (commencing with
7 Section 7110) of Division 2 of the Corporations Code, if both of
8 the following conditions are satisfied:

9 (A) The nonprofit public benefit or mutual benefit corporation
10 is selling ammunition to assist the corporation or local chapters of
11 the corporation in conducting auctions or similar events at which
12 firearms are auctioned off and to fund the activities of the
13 corporation or the local chapters of the corporation.

14 (B) The firearms being auctioned off at the corporation’s
15 auctions or events are not primarily handguns.

16 (e) A violation of this section is punishable as a misdemeanor.

17 SEC. 2. Section 12316.5 is added to the Penal Code, to read:

18 12316.5. Any person under 21 years of age who purchases, or
19 who attempts to purchase, handgun ammunition by using a false
20 identification document, or by otherwise misrepresenting the
21 person’s age, and any minor who purchases, or attempts to
22 purchase, any ammunition by using a false identification document,
23 or otherwise misrepresenting the person’s age, is guilty of a
24 misdemeanor.

25 SEC. 3. Section 12317 is added to the Penal Code, to read:

26 12317. (a) No retail seller of ammunition shall sell, offer for
27 sale, or display for sale, any handgun ammunition in a manner that
28 allows that ammunition to be accessible to a purchaser without the
29 assistance of the retailer or employee thereof.

30 (b) Violation of this section is punishable as an infraction with
31 a fine of five hundred dollars (\$500), or as a misdemeanor.

32 (c) The Attorney General is authorized to adopt regulations to
33 implement the provisions of this section.

34 SEC. 4. Section 12318 is added to the Penal Code, to read:

35 12318. (a) (1) Handgun ammunition may not be delivered by
36 a seller to a purchaser via a common or contract carrier pursuant
37 to a retail transaction except as provided in paragraph (2).

38 (2) A seller of handgun ammunition may deliver handgun
39 ammunition to a retail purchaser via a common or contract carrier
40 if all of the following occurs:

1 (i) The seller ensures that a common carrier or contract carrier
2 obtains the signature of the purchaser and views bona fide evidence
3 of the identity of the purchaser.

4 (ii) The carrier ensures the purchaser is 21 years of age or older
5 before delivering the handgun ammunition to the purchaser within
6 this state.

7 (iii) The seller ensures that the contract carrier or common
8 carrier returns a copy of the signed receipt to the seller.

9 (iv) The seller retains the copy of the signed receipt for three
10 years as evidence of compliance with this section.

11 (v) The container being delivered by the common or contract
12 carrier has the following language, in at least 14-point type,
13 conspicuously placed on the container, stating: "SIGNATURE
14 AND BONA FIDE EVIDENCE OF IDENTITY REQUIRED.
15 PURCHASER MUST BE AGE 21 YEARS OR OLDER FOR
16 DELIVERY."

17 (b) (1) Except as provided in paragraph (2), any person,
18 corporation, or dealer who delivers handgun ammunition in
19 violation of this section shall be punishable by imprisonment in a
20 county jail for a term not to exceed six months, or by a fine not to
21 exceed one thousand dollars (\$1,000), or by both imprisonment
22 and a fine.

23 (2) Common carriers and contract carriers shall not be held
24 liable for any violation of this section and shall not be subject to
25 the penalties provided for in this subdivision and subdivision (c).

26 (c) A second and subsequent violation of this section is
27 punishable by imprisonment in a county jail not to exceed one
28 year, by a fine not to exceed two thousand dollars (\$2,000), or by
29 both imprisonment and a fine.

30 (d) (1) "Bona fide evidence of identity" means a document issued
31 by a federal, state, county, or municipal government, or subdivision
32 or agency thereof, including, but not limited to, a motor vehicle
33 operator's license, state identification card, identification card
34 issued to a member of the armed forces, or other form of
35 identification that bears the name, date of birth, description, and
36 picture of the person.

37 (2) "Handgun ammunition" means handgun ammunition as
38 defined in subdivision (a) of Section 12323.

39 (e) Subdivision (a) shall not apply to or effect the deliveries,
40 transfers, or sales of, handgun ammunition to any of the following:

1 (1) Authorized law enforcement representatives of cities,
2 counties, cities and counties, or state and federal governments for
3 exclusive use by those government agencies if, prior to the delivery,
4 transfer, or sale of the handgun ammunition, written authorization
5 from the head of the agency employing the purchaser or transferee,
6 is obtained identifying the employee as an individual authorized
7 to conduct the transaction, and authorizing the transaction for the
8 exclusive use of the agency employing the individual.

9 (2) Sworn peace officers, as defined in Chapter 4.5 (commencing
10 with Section 830) of Title 3 of Part 2 who are authorized to carry
11 a firearm in the course and scope of their duties.

12 (3) Rimfire ammunition.

13 SEC. 5. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.