

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 427

Introduced by Senator De León

February 16, 2011

An act to amend Sections *30312*, *30352*, *30355*, *30357*, and ~~*30365*~~ *30362* of, and to add Sections ~~*29826*, *30346*, and *30358*~~ *Section 29826* to, the Penal Code, relating to ammunition and firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 427, as amended, De León. Ammunition.

(1) Existing law generally regulates the transfer and possession of firearms, and prohibits a person from possessing a firearm if he or she has been convicted of a felony or convicted of a specified misdemeanor, including threatening an officer or employee of a public or private educational institution.

This bill would provide that a person who is enjoined from engaging in activity pursuant to an injunction against that person as a member of a criminal street gang, as specified, may not own, possess, or have under the person's custody or control, any firearm. The bill would provide that violation of these provisions is a misdemeanor.

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

~~(2) Existing law generally regulates handgun ammunition vendors.~~

~~This bill would, commencing February 1, 2012, require a handgun ammunition vendor to provide written notice to the local police chief, or if the vendor is in an unincorporated area, to the county sheriff, of the vendor's intent to conduct business in the jurisdiction, and to obtain any regulatory or business licenses required by the jurisdiction for ammunition sales. The bill would also require that copies of ammunition~~

sales records be transmitted to the county sheriff or chief of police if required by local law.

~~(3) Existing law provides that commencing February 1, 2011, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly recording specified information regarding the purchaser or transferee, and maintaining the record for a period of not less than 5 years, as specified. Existing law provides that violation of these provisions is a misdemeanor.~~

~~This bill would also provide that those records that are no longer required to be maintained shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record. A violation of these provisions would be a misdemeanor.~~

~~By expanding the scope of an existing crime, this bill would impose a state-mandated local program.~~

~~(4) Existing law provides that specified handgun ammunition records shall be subject to inspection by any peace officer and certain others, as specified, for purposes of an investigation where access to those records is or may be relevant to that investigation, when seeking information about persons prohibited from owning a firearm or ammunition, or when engaged in ensuring compliance with laws pertaining to firearms or ammunition, as specified.~~

~~This bill would provide that records may be removed from the premises for purposes of copying or other investigatory or enforcement purposes by any person authorized to inspect those records, as specified.~~

~~The bill would also provide that commencing February 1, 2012, except for investigatory and enforcement purposes described above, no ammunition vendor shall provide the required information to any 3rd party without the written consent of the purchaser or transferee. The bill would provide that a violation of these provisions is a misdemeanor.~~

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

~~(5) 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.~~

~~(2) Existing law prohibits a vendor from selling or otherwise transferring ownership of any handgun ammunition without, at the time of delivery, legibly recording specified information regarding the purchaser or transferee, and maintaining the record for a period of not~~

less than 5 years, as specified. Existing law provides that violation of these provisions is a misdemeanor. Existing law also provides that the records shall be subject to inspection by any peace officer and certain others, as specified, for purposes of an investigation where access to those records is or may be relevant to that investigation, when seeking information about persons prohibited from owning a firearm or ammunition, or when engaged in ensuring compliance with laws pertaining to firearms or ammunition, as specified.

This bill would require the information described above in connection with the transfer of handgun ammunition be legibly or electronically recorded. The bill would provide that commencing February 1, 2012, except for investigatory and enforcement purposes described above, no ammunition vendor shall provide the information described above to any 3rd party without the written consent of the purchaser or transferee. The bill would also permit records containing that information to be copied for investigatory or enforcement purposes by any person authorized to inspect those records, as specified, and that copies shall be transmitted to local law enforcement if required by local law. Any required ammunition records that are no longer required to be maintained would be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record. The bill would provide that violation of these provisions is a misdemeanor.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The bill would require ammunition vendors, commencing February 1, 2012, to provide written notice to the local police chief, or if the vendor is in an unincorporated area, to the county sheriff, of the vendor's intent to conduct business in the jurisdiction, and to obtain any regulatory or business license required by the jurisdiction for ammunition sellers.

(3) Existing law provides that the delivery or transfer of ownership of handgun ammunition may only occur in a face-to-face transaction with the deliverer or transferor being provided bona fide evidence of identity from the purchaser or other transferee.

This bill would also provide that handgun ammunition may be purchased over the Internet or through other means of remote ordering if a handgun ammunition vendor in California initially receives the ammunition and processes the transfer, as specified.

(4) 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 29826 is added to the Penal Code, to
2 read:

3 29826. (a) A person who is enjoined from engaging in activity
4 pursuant to an injunction issued against that person pursuant to
5 Section 3479 of the Civil Code as a member of a criminal street
6 gang, as defined in Section 186.22, may not own, possess, or have
7 under his or her custody or control, any firearm.

8 (b) A violation of this section is a misdemeanor.

9 ~~SEC. 2. Section 30346 is added to the Penal Code, to read:~~

10 ~~30346. (a) Commencing February 1, 2012, a vendor shall~~
11 ~~provide written notice to the local police chief, or if the vendor is~~
12 ~~in an unincorporated area, to the county sheriff, of the vendor's~~
13 ~~intent to conduct business in the jurisdiction, and shall obtain any~~
14 ~~regulatory or business licenses required by the jurisdiction for~~
15 ~~ammunition sales.~~

16 ~~(b) Copies of ammunition sales records required by this article~~
17 ~~shall be transmitted to the county sheriff or chief of police if~~
18 ~~required by local law.~~

19 ~~SEC. 3. Section 30355 of the Penal Code is amended to read:~~

20 ~~30355. (a) Commencing February 1, 2011, the records required~~
21 ~~by this article shall be maintained on the premises of the vendor~~
22 ~~for a period of not less than five years from the date of the recorded~~
23 ~~transfer.~~

24 ~~(b) Any records required by this article that are no longer~~
25 ~~required to be maintained shall be destroyed in a manner that~~
26 ~~protects the privacy of the purchaser or transferee who is the subject~~
27 ~~of the record.~~

28 ~~SEC. 4. Section 30357 of the Penal Code is amended to read:~~

29 ~~30357. (a) Commencing February 1, 2011, the records referred~~
30 ~~to in Section 30352 shall be subject to inspection at any time during~~
31 ~~normal business hours by any peace officer employed by a sheriff,~~

1 ~~city police department, or district attorney as provided in~~
2 ~~subdivision (a) of Section 830.1, or employed by the department~~
3 ~~as provided in subdivision (b) of Section 830.1, provided that the~~
4 ~~officer is conducting an investigation where access to those records~~
5 ~~is or may be relevant, is seeking information about persons~~
6 ~~prohibited from owning a firearm or ammunition, or is engaged~~
7 ~~in ensuring compliance with the Dangerous Weapons Control Law,~~
8 ~~as defined in Section 23500, or any other laws pertaining to~~
9 ~~firearms or ammunition.~~

10 ~~(b) The records referred to in Section 30352 shall also be subject~~
11 ~~to inspection at any time during normal business hours by any~~
12 ~~other employee of the department, provided that the employee is~~
13 ~~conducting an investigation where access to those records is or~~
14 ~~may be relevant, is seeking information about persons prohibited~~
15 ~~from owning a firearm or ammunition, or is engaged in ensuring~~
16 ~~compliance with the Dangerous Weapons Control Law, as defined~~
17 ~~in Section 23500, or any other laws pertaining to firearms or~~
18 ~~ammunition.~~

19 ~~(c) The records referred to in Section 30352 may be removed~~
20 ~~from the premises for purposes of copying or other investigatory~~
21 ~~or enforcement purposes by any person authorized to inspect those~~
22 ~~records pursuant to this article.~~

23 ~~SEC. 5. Section 30358 is added to the Penal Code, to read:~~
24 ~~30358. Commencing February 1, 2012, except for the purposes~~
25 ~~set forth in Section 30357, no vendor shall provide the information~~
26 ~~specified in subdivision (a) of Section 30352 to any third party~~
27 ~~without the written consent of the purchaser or transferee.~~

28 ~~SEC. 6. Section 30365 of the Penal Code is amended to read:~~
29 ~~30365. (a) A violation of Section 30352, 30355, 30358, 30360,~~
30 ~~or 30362 is a misdemeanor.~~

31 ~~(b) The provisions of this section are cumulative, and shall not~~
32 ~~be construed as restricting the application of any other law.~~
33 ~~However, an act or omission punishable in different ways by~~
34 ~~different provisions of law shall not be punished under more than~~
35 ~~one provision.~~

36 ~~SEC. 2. Section 30312 of the Penal Code is amended to read:~~
37 ~~30312. (a) Commencing February 1, 2011, the~~ *The* ~~delivery~~
38 ~~or transfer of ownership of handgun ammunition may only occur~~
39 ~~in a face-to-face transaction with the deliverer or transferor being~~
40 ~~provided bona fide evidence of identity from the purchaser or other~~

1 transferee, *provided, however, that handgun ammunition may be*
2 *purchased over the Internet or through other means of remote*
3 *ordering if a handgun ammunition vendor in California initially*
4 *receives the ammunition and processes the transfer in compliance*
5 *with this section and Article 3 (commencing with Section 30345)*
6 *of Chapter 1 of Division 10 of Title 4 of Part 6.*

7 (b) Subdivision (a) shall not apply to or affect the sale, delivery,
8 or transfer of handgun ammunition to any of the following:

9 (1) An authorized law enforcement representative of a city,
10 county, city and county, or state or federal government, if the sale,
11 delivery, or transfer is for exclusive use by that government agency
12 and, prior to the sale, delivery, or transfer of the handgun
13 ammunition, written authorization from the head of the agency
14 employing the purchaser or transferee is obtained, identifying the
15 employee as an individual authorized to conduct the transaction,
16 and authorizing the transaction for the exclusive use of the agency
17 employing the individual.

18 (2) A sworn peace officer, as defined in Chapter 4.5
19 (commencing with Section 830) of Title 3 of Part 2 who is
20 authorized to carry a firearm in the course and scope of the officer's
21 duties.

22 (3) An importer or manufacturer of handgun ammunition or
23 firearms who is licensed to engage in business pursuant to Chapter
24 44 (commencing with Section 921) of Title 18 of the United States
25 Code and the regulations issued pursuant thereto.

26 (4) A person who is on the centralized list maintained by the
27 Department of Justice pursuant to Article 6 (commencing with
28 Section 28450) of Chapter 6 of Division 6 of this title.

29 (5) A person whose licensed premises are outside this state and
30 who is licensed as a dealer or collector of firearms pursuant to
31 Chapter 44 (commencing with Section 921) of Title 18 of the
32 United States Code and the regulations issued pursuant thereto.

33 (6) A person who is licensed as a collector of firearms pursuant
34 to Chapter 44 (commencing with Section 921) of Title 18 of the
35 United States Code and the regulations issued pursuant thereto,
36 whose licensed premises are within this state, and who has a current
37 certificate of eligibility issued by the Department of Justice
38 pursuant to Section 26710.

39 (7) A handgun ammunition vendor.

40 (8) A consultant-evaluator.

1 (c) A violation of this section is a misdemeanor.
2 *SEC. 3. Section 30352 of the Penal Code is amended to read:*
3 30352. (a) ~~Commencing February 1, 2011, a~~ A vendor shall
4 not sell or otherwise transfer ownership of any handgun
5 ammunition without, at the time of delivery, legibly *or*
6 *electronically* recording the following information:
7 (1) The date of the sale or other transaction.
8 (2) The purchaser's or transferee's driver's license or other
9 identification number and the state in which it was issued.
10 (3) The brand, type, and amount of ammunition sold or
11 otherwise transferred.
12 (4) The purchaser's or transferee's signature.
13 (5) The name of the salesperson who processed the sale or other
14 transaction.
15 (6) The right thumbprint of the purchaser or transferee on the
16 above form.
17 (7) The purchaser's or transferee's full residential address and
18 telephone number.
19 (8) The purchaser's or transferee's date of birth.
20 (b) Subdivision (a) shall not apply to or affect sales or other
21 transfers of ownership of handgun ammunition by handgun
22 ammunition vendors to any of the following, if properly identified:
23 (1) A person licensed pursuant to Sections 26700 to 26915,
24 inclusive.
25 (2) A handgun ammunition vendor.
26 (3) A person who is on the centralized list maintained by the
27 department pursuant to Article 6 (commencing with Section 28450)
28 of Chapter 6 of Division 6 of this title.
29 (4) A target facility that holds a business or regulatory license.
30 (5) A gunsmith.
31 (6) A wholesaler.
32 (7) A manufacturer or importer of firearms licensed pursuant
33 to Chapter 44 (commencing with Section 921) of Title 18 of the
34 United States Code, and the regulations issued pursuant thereto.
35 (8) An authorized law enforcement representative of a city,
36 county, city and county, or state or federal government, if the sale
37 or other transfer of ownership is for exclusive use by that
38 government agency, and, prior to the sale, delivery, or transfer of
39 the handgun ammunition, written authorization from the head of
40 the agency authorizing the transaction is presented to the person

1 from whom the purchase, delivery, or transfer is being made.
2 Proper written authorization is defined as verifiable written
3 certification from the head of the agency by which the purchaser,
4 transferee, or person otherwise acquiring ownership is employed,
5 identifying the employee as an individual authorized to conduct
6 the transaction, and authorizing the transaction for the exclusive
7 use of the agency by which that individual is employed.

8 *SEC. 4. Section 30355 of the Penal Code is amended to read:*

9 ~~30355. Commencing February 1, 2011, the~~ *The records required*
10 *by this article shall be maintained on the premises of the vendor*
11 *for a period of not less than five years from the date of the recorded*
12 *transfer. Copies of these records shall be transmitted to the county*
13 *sheriff or chief of police if required by local law. Commencing*
14 *February 1, 2012, except for the purposes set forth in Section*
15 *30357, no vendor shall provide the information specified in*
16 *subdivision (a) of Section 30352 to any third party without the*
17 *written consent of the purchaser or transferee. Any records*
18 *required by this section that are no longer required to be*
19 *maintained shall be destroyed in a manner that protects the privacy*
20 *of the purchaser or transferee who is the subject of the record.*

21 *SEC. 5. Section 30357 of the Penal Code is amended to read:*

22 ~~30357. (a) Commencing February 1, 2011, the~~ *The records*
23 *referred to in Section 30352 shall be subject to inspection at any*
24 *time during normal business hours by any peace officer employed*
25 *by a sheriff, city police department, or district attorney as provided*
26 *in subdivision (a) of Section 830.1, or employed by the department*
27 *as provided in subdivision (b) of Section 830.1, provided that the*
28 *officer is conducting an investigation where access to those records*
29 *is or may be relevant, is seeking information about persons*
30 *prohibited from owning a firearm or ammunition, or is engaged*
31 *in ensuring compliance with the Dangerous Weapons Control Law,*
32 *as defined in Section 23500, or any other laws pertaining to*
33 *firearms or ammunition.*

34 *(b) The records referred to in Section 30352 shall also be subject*
35 *to inspection at any time during normal business hours by any*
36 *other employee of the department, provided that the employee is*
37 *conducting an investigation where access to those records is or*
38 *may be relevant, is seeking information about persons prohibited*
39 *from owning a firearm or ammunition, or is engaged in ensuring*
40 *compliance with the Dangerous Weapons Control Law, as defined*

1 in Section 23500, or any other laws pertaining to firearms or
2 ammunition. *Records may be copied for investigatory or*
3 *enforcement purposes by any person authorized to inspect those*
4 *records pursuant to this section.*

5 SEC. 6. *Section 30362 of the Penal Code is amended to read:*

6 30362. (a) ~~Commencing February 1, 2011, no~~ *No* vendor shall,
7 during any inspection conducted pursuant to this article, refuse to
8 permit a person authorized under Section 30357 to examine any
9 record prepared in accordance with this article.

10 (b) ~~Commencing February 1, 2011, no~~ *No* vendor shall refuse
11 to permit the use of any record or information by a person
12 authorized under Section 30357.

13 (c) *Commencing February 1, 2012, a vendor shall provide*
14 *written notice to the local police chief, or if the vendor is in an*
15 *unincorporated area, to the county sheriff, of the vendor's intent*
16 *to conduct business in the jurisdiction, and shall obtain any*
17 *regulatory or business license required by the jurisdiction for*
18 *ammunition sellers.*

19 SEC. 7. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

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