

AMENDED IN SENATE APRIL 28, 2011

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 427

Introduced by Senator De León

February 16, 2011

An act to amend *Section 3479 of the Civil Code, and to amend Sections 30312, 30352, 30355, 30357, and 30362 of, and to add 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~~ *authorizes issuance of an injunction prohibiting specified criminal gang activity for purposes of abating a nuisance.*

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~~ *require the court issuing an injunction against gang activity, as specified, to state on the record whether any or all of the defendants are enjoined from possessing a firearm as a term of the injunction.*

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

(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 3479 of the Civil Code is amended to
2 read:

3 3479. (a) Anything which is injurious to health, including, but
4 not limited to, the illegal sale of controlled substances, or is
5 indecent or offensive to the senses, or an obstruction to the free
6 use of property, so as to interfere with the comfortable enjoyment
7 of life or property, or unlawfully obstructs the free passage or use,
8 in the customary manner, of any navigable lake, or river, bay,
9 stream, canal, or basin, or any public park, square, street, or
10 highway, is a nuisance.

11 (b) In every case in which a court orders an injunction pursuant
12 to this section to abate a nuisance related to gang activity, the
13 court shall state on the record whether any or all defendants shall
14 be enjoined from possessing a firearm as a term of the injunction.

15 SECTION 1. ~~Section 29826 is added to the Penal Code, to~~
16 ~~read:~~

17 ~~29826. (a) A person who is enjoined from engaging in activity~~
18 ~~pursuant to an injunction issued against that person pursuant to~~
19 ~~Section 3479 of the Civil Code as a member of a criminal street~~
20 ~~gang, as defined in Section 186.22, may not own, possess, or have~~
21 ~~under his or her custody or control, any firearm.~~

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

23 SEC. 2. Section 30312 of the Penal Code is amended to read:

24 30312. (a) The delivery or transfer of ownership of handgun
25 ammunition may only occur in a face-to-face transaction with the
26 deliverer or transferor being provided bona fide evidence of identity
27 from the purchaser or other transferee, provided, however, that
28 handgun ammunition may be purchased over the Internet or
29 through other means of remote ordering if a handgun ammunition
30 vendor in California initially receives the ammunition and

1 processes the transfer in compliance with this section and Article
2 3 (commencing with Section 30345) of Chapter 1 of Division 10
3 of Title 4 of Part 6.

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

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

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

19 (3) An importer or manufacturer of handgun ammunition or
20 firearms who is licensed to engage in business pursuant to Chapter
21 44 (commencing with Section 921) of Title 18 of the United States
22 Code and the regulations issued pursuant thereto.

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

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

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

36 (7) A handgun ammunition vendor.

37 (8) A consultant-evaluator.

38 (c) A violation of this section is a misdemeanor.

39 SEC. 3. Section 30352 of the Penal Code is amended to read:

1 30352. (a) A vendor shall not sell or otherwise transfer
2 ownership of any handgun ammunition without, at the time of
3 delivery, legibly or electronically recording the following
4 information:

- 5 (1) The date of the sale or other transaction.
- 6 (2) The purchaser's or transferee's driver's license or other
7 identification number and the state in which it was issued.
- 8 (3) The brand, type, and amount of ammunition sold or
9 otherwise transferred.
- 10 (4) The purchaser's or transferee's signature.
- 11 (5) The name of the salesperson who processed the sale or other
12 transaction.
- 13 (6) The right thumbprint of the purchaser or transferee on the
14 above form.
- 15 (7) The purchaser's or transferee's full residential address and
16 telephone number.
- 17 (8) The purchaser's or transferee's date of birth.

18 (b) Subdivision (a) shall not apply to or affect sales or other
19 transfers of ownership of handgun ammunition by handgun
20 ammunition vendors to any of the following, if properly identified:

- 21 (1) A person licensed pursuant to Sections 26700 to 26915,
22 inclusive.
- 23 (2) A handgun ammunition vendor.
- 24 (3) A person who is on the centralized list maintained by the
25 department pursuant to Article 6 (commencing with Section 28450)
26 of Chapter 6 of Division 6 of this title.
- 27 (4) A target facility that holds a business or regulatory license.
- 28 (5) A gunsmith.
- 29 (6) A wholesaler.
- 30 (7) A manufacturer or importer of firearms licensed pursuant
31 to Chapter 44 (commencing with Section 921) of Title 18 of the
32 United States Code, and the regulations issued pursuant thereto.
- 33 (8) An authorized law enforcement representative of a city,
34 county, city and county, or state or federal government, if the sale
35 or other transfer of ownership is for exclusive use by that
36 government agency, and, prior to the sale, delivery, or transfer of
37 the handgun ammunition, written authorization from the head of
38 the agency authorizing the transaction is presented to the person
39 from whom the purchase, delivery, or transfer is being made.
40 Proper written authorization is defined as verifiable written

1 certification from the head of the agency by which the purchaser,
2 transferee, or person otherwise acquiring ownership is employed,
3 identifying the employee as an individual authorized to conduct
4 the transaction, and authorizing the transaction for the exclusive
5 use of the agency by which that individual is employed.

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

7 30355. The records required by this article shall be maintained
8 on the premises of the vendor for a period of not less than five
9 years from the date of the recorded transfer. Copies of these records
10 shall be transmitted to the county sheriff or chief of police if
11 required by local law. Commencing February 1, 2012, except for
12 the purposes set forth in Section 30357, no vendor shall provide
13 the information specified in subdivision (a) of Section 30352 to
14 any third party without the written consent of the purchaser or
15 transferee. Any records required by this section that are no longer
16 required to be maintained shall be destroyed in a manner that
17 protects the privacy of the purchaser or transferee who is the subject
18 of the record.

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

20 30357. (a) The records referred to in Section 30352 shall be
21 subject to inspection at any time during normal business hours by
22 any peace officer employed by a sheriff, city police department,
23 or district attorney as provided in subdivision (a) of Section 830.1,
24 or employed by the department as provided in subdivision (b) of
25 Section 830.1, provided that the officer is conducting an
26 investigation where access to those records is or may be relevant,
27 is seeking information about persons prohibited from owning a
28 firearm or ammunition, or is engaged in ensuring compliance with
29 the Dangerous Weapons Control Law, as defined in Section 23500,
30 or any other laws pertaining to firearms or ammunition.

31 (b) The records referred to in Section 30352 shall also be subject
32 to inspection at any time during normal business hours by any
33 other employee of the department, provided that the employee is
34 conducting an investigation where access to those records is or
35 may be relevant, is seeking information about persons prohibited
36 from owning a firearm or ammunition, or is engaged in ensuring
37 compliance with the Dangerous Weapons Control Law, as defined
38 in Section 23500, or any other laws pertaining to firearms or
39 ammunition. Records may be copied for investigatory or

1 enforcement purposes by any person authorized to inspect those
2 records pursuant to this section.

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

4 30362. (a) No vendor shall, during any inspection conducted
5 pursuant to this article, refuse to permit a person authorized under
6 Section 30357 to examine any record prepared in accordance with
7 this article.

8 (b) No vendor shall refuse to permit the use of any record or
9 information by a person authorized under Section 30357.

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

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