

ASSEMBLY BILL

No. 48

Introduced by Assembly Member Skinner
(Coauthor: Assembly Member Ammiano)
(Coauthor: Senator De León)

December 20, 2012

An act to amend Sections 16740, 16890, and 32390 of, and to add Sections 16740.5, 30301, and 32311 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as introduced, Skinner. Firearms: ammunition: sales.

(1) Except as specified, existing law makes it a crime to manufacture, import, keep for sale, offer or expose for sale, or give or lend any large-capacity magazine, and makes a large-capacity magazine a nuisance. Existing law defines “large-capacity magazine” to mean any ammunition feeding device with the capacity to accept more than 10 rounds but excludes, in pertinent part, a feeding device that has been permanently altered so that the magazine cannot accommodate more than 10 rounds.

This bill would make it a misdemeanor, punishable by a fine of not more than \$1,000 or imprisonment in a county jail not to exceed 6 months, or by both that fine and imprisonment, to knowingly manufacture, import, keep for sale, offer or expose for sale, or give or lend any device that is capable of converting an ammunition feeding device into a large-capacity magazine. The bill would revise the definition of “large-capacity magazine” to mean any ammunition feeding device with the capacity to accept more than 10 rounds, including a readily restorable, as defined, disassembled large-capacity magazine,

and an oversize magazine body that appears to hold in excess of 10 rounds. The bill would make related, conforming changes. By creating a new crime, this bill would impose a state-mandated local program.

(2) Existing law prohibits any person, corporation, or dealer from selling ammunition to a person under 18 years of age, selling ammunition designed for use in a handgun to a person under 21 years of age, or providing possession of any ammunition to any minor who the person, corporation, or dealer knows is prohibited from possessing that ammunition at that time. Existing law prohibits a person, corporation, or firm from giving possession or control of ammunition to any person who he or she knows is prohibited by law from possessing ammunition. Existing law also regulates handgun ammunition vendors and provides that a handgun ammunition vendor shall not permit any employee who the vendor knows or reasonably should know is a person who has been convicted of a felony or other specified crimes to handle, sell, or deliver handgun ammunition in the course and scope of employment.

This bill would require anyone in the state, prior to selling, transferring, or otherwise furnishing ammunition to an individual or business entity in this state or any other state to require proper identification, as prescribed, to be an authorized firearms dealer, and to report the sales to the Department of Justice. An individual who fails to make the required report or who knowingly makes a report with false or fictitious information would be guilty of a misdemeanor, as specified. By creating a new crime, this bill would impose a state-mandated local program.

The bill would require the department to alert local law enforcement entities in the community in which the purchaser resides if an individual purchaser who is not a peace officer obtains more than ____ rounds within a 5-day period.

(3) 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 16740 of the Penal Code is amended to
2 read:

3 16740. (a) As used in this part, “large-capacity magazine”
4 means any ammunition feeding device with the capacity to accept
5 more than 10 rounds, *including*, but ~~shall not be construed limited~~
6 ~~to include any of the following~~; *a readily restorable disassembled*
7 *large-capacity magazine and an oversize magazine body that*
8 *appears to hold in excess of 10 rounds. A magazine body is not a*
9 *large-capacity magazine if it is only of sufficient size to*
10 *accommodate no more than 10 rounds of ammunition and the*
11 *internal working parts of the magazine, including the follower and*
12 *spring.*

13 ~~(a) A feeding device that has been permanently altered so that~~
14 ~~it cannot accommodate more than 10 rounds.~~

15 ~~(b) A .22 caliber tube ammunition feeding device.~~

16 ~~(c) A tubular magazine that is contained in a lever-action~~
17 ~~firearm.~~

18 (b) *As used in this section, “readily restorable” means magazine*
19 *parts under the custody and control of an individual or individuals*
20 *that can be assembled into a complete magazine.*

21 SEC. 2. Section 16740.5 is added to the Penal Code, to read:

22 16740.5. As used in this part, a “large-capacity magazine” shall
23 not be construed to include any of the following:

24 (a) A .22 caliber tube ammunition feeding device.

25 (b) A tubular magazine that is contained in a lever-action
26 firearm.

27 SEC. 3. Section 16890 of the Penal Code is amended to read:

28 16890. As used in Section *16150, 16740, 30305, or 30515,*
29 “magazine” means any ammunition feeding device, *including*
30 *readily restorable disassembled magazines. For purposes of this*
31 *section, “readily restorable” means magazine parts under the*
32 *custody and control of an individual or individuals that can be*
33 *assembled into a complete magazine.*

34 SEC. 4. Section 30301 is added to the Penal Code, to read:

35 30301. (a) Anyone in this state, prior to selling, transferring,
36 or otherwise furnishing ammunition to an individual or business
37 entity in this state or any other state, shall do all of the following:

1 (1) Require proper identification from the purchaser in the form
 2 of a driver’s license or other photographic identification issued by
 3 a state or the federal government.

4 (2) Be an authorized firearms dealer, pursuant to Section 26500.

5 (3) Submit a report to the Department of Justice for all of the
 6 transactions, in a manner to be determined by the department.

7 (b) The Department of Justice shall alert local law enforcement
 8 entities in the community in which the purchaser resides if the
 9 purchaser obtains more than ____ rounds within a five-day period
 10 and the purchaser is an individual and not an authorized firearms
 11 dealer. The department is not required to alert local law
 12 enforcement of sales of ammunition made to peace officers.

13 (c) (1) Any individual who does not submit the report required
 14 by paragraph (3) of subdivision (a), or who knowingly submits a
 15 report with false or fictitious information, shall be punished by
 16 imprisonment in a county jail not exceeding six months, by a fine
 17 not exceeding five thousand dollars (\$5,000), or by both the fine
 18 and imprisonment.

19 (2) Any individual who has previously been convicted of a
 20 violation of paragraph (1) shall, upon a subsequent conviction
 21 thereof, be punished by imprisonment pursuant to subdivision (h)
 22 of Section 1170 of the Penal Code, or by imprisonment in a county
 23 jail not exceeding one year, by a fine not exceeding one hundred
 24 thousand dollars (\$100,000), or by both the fine and imprisonment.

25 SEC. 5. Section 32311 is added to the Penal Code, to read:

26 32311. Except as provided in Article 2 (commencing with
 27 Section 32400) of this chapter and in Chapter 1 (commencing with
 28 Section 17700) of Division 2 of Title 2, commencing January 1,
 29 2014, any person in this state who knowingly manufactures or
 30 causes to be manufactured, imports into the state, keeps for sale,
 31 or offers or exposes for sale, or who gives or lends any device that
 32 is capable of converting an ammunition feeding device into a
 33 large-capacity magazine is punishable by a fine of not more than
 34 one thousand dollars (\$1,000) or imprisonment in a county jail not
 35 to exceed six months, or by both that fine and imprisonment.

36 SEC. 6. Section 32390 of the Penal Code is amended to read:

37 32390. (a) Except as provided in Article 2 (commencing with
 38 Section 32400) of this chapter and in Chapter 1 (commencing with
 39 Section 17700) of Division 2 of Title 2, *and in subdivision (b),*

1 any large-capacity magazine is a nuisance and is subject to Section
2 18010.

3 *(b) Subdivision (a) does not apply to the possession of a readily*
4 *restorable disassembled large-capacity magazine or an oversize*
5 *magazine body that has been permanently altered so that the*
6 *magazine cannot accommodate more than 10 rounds by a person*
7 *who lawfully possessed the magazine prior to January 1, 2014.*

8 SEC. 7. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.

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