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AMENDED IN ASSEMBLY FEBRUARY 4, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 48

Introduced by Assembly Member Skinner
(Coauthors: Assembly Members Ammiano, Bonta, and Williams)
(Coauthors: Senators De León and Hancock)

December 20, 2012

An act to amend Sections 16740, 16890, and 32390 of, and to add Sections 16740.5, 30301, 30302, 30303, and 32311 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as amended, 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~~ *selling or otherwise transferring ownership of any* ammunition to an individual or business entity in this state or any other state *to possess a license to sell ammunition or a license to sell firearms, as provided,* to require proper identification, as ~~prescribed, to be an authorized firearms dealer, and to~~ *prescribed, 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, crime, and~~ *the ammunition dealer would be subject to an administrative enforcement action by the department* as specified. This bill would exempt an individual in the state who sells, transfers, or furnishes ammunition to certain specified law enforcement individuals from those identification and reporting requirements. 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 3,000 rounds within a 5-day period.

The bill would allow a person to request a license to sell ammunition from the Department of Justice, would require the department to conduct a background check to determine if the applicant is prohibited by state or federal law from possessing a firearm, and would require the department to issue a license to sell ammunition to an applicant if the applicant is not prohibited. The bill would require the department to adopt regulations to recover the costs of administering the program by imposing a fee on applicants.

The bill would require the department to create the California Ammunition Database, and would require the department to cross-reference specified information about ammunition purchasers provided by licensed ammunition dealers with the Prohibited Armed Persons File. If the dealer failed to report that information, the bill would authorize an administrative enforcement action against the dealer by the department. The bill would make these provisions and the above reporting requirements regarding the sale of ammunition operative upon the creation of the California Ammunition Database by the department. The bill would require the department to adopt regulations and to recover costs of administering the program by imposing a fee on ammunition dealers.

(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 not limited to, a readily
- 6 restorable disassembled large-capacity magazine and an oversize
- 7 magazine body that appears to hold in excess of 10 rounds. A
- 8 magazine body is not a large-capacity magazine if it is only of
- 9 sufficient size to accommodate no more than 10 rounds of

1 ammunition and the internal working parts of the magazine,
2 including the follower and spring.

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

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

7 16740.5. As used in this part, a “large-capacity magazine” shall
8 not be construed to include any of the following:

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

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

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

13 16890. As used in Section 16150, 16740, 30305, or 30515,
14 “magazine” means any ammunition feeding device, including
15 readily restorable disassembled magazines. For purposes of this
16 section, “readily restorable” means magazine parts under the
17 custody and control of an individual or individuals that can be
18 assembled into a complete magazine.

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

20 30301. (a) Anyone in this state, prior to selling, transferring,
21 or otherwise furnishing ammunition to an individual or business
22 entity in this state or any other state, shall do all of the following:

23 (1) *Possess a license to sell ammunition, as described in Section*
24 *30302, or a license to sell firearms pursuant to Article 1*
25 *(commencing with Section 26700) and Article 2 (commencing with*
26 *Section 26800) of Chapter 2.*

27 (1)

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

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

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

34 (b) The Department of Justice shall alert local law enforcement
35 entities in the community in which the purchaser resides if the
36 purchaser obtains more than ~~3,000~~ 3,000 rounds within a five-day
37 period and the purchaser is an individual and not an authorized
38 firearms dealer. The department is not required to alert local law
39 enforcement of sales of ammunition made to peace officers.

1 (c) (1) Any individual who does not submit the report required
2 by paragraph (3) of subdivision (a), or who knowingly submits a
3 report with false or fictitious information, shall be punished by
4 imprisonment in a county jail not exceeding six months, by a fine
5 not exceeding five thousand dollars (\$5,000), or by both the fine
6 and imprisonment, *and the dealer is subject to an administrative*
7 *enforcement action by the department to revoke or suspend the*
8 *dealer's license to sell ammunition.*

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

15 (d) Subdivisions (a), (b), and (c) do not apply to or affect the
16 sale, delivery, or transfer of ammunition to any of the following:

17 (1) An authorized law enforcement representative of a city,
18 county, city and county, or state or federal government, if the sale,
19 delivery, or transfer is for the exclusive use by that government
20 agency and, prior to the sale, delivery, or transfer of the
21 ammunition, written authorization from the head of the agency
22 employing the purchaser or transferee is obtained identifying the
23 employee as an individual authorized to conduct the transaction,
24 and authorizing the transaction for the exclusive use of the agency
25 employing the individual.

26 (2) A sworn peace officer, as defined in Chapter 4.5
27 (commencing with Section 830) of Title 3 of Part 2 who is
28 authorized to carry a firearm in the course and scope of his or her
29 duties.

30 *SEC. 5. Section 30302 is added to the Penal Code, to read:*

31 *30302. (a) A person may request an ammunition license from*
32 *the Department of Justice.*

33 *(b) The Department of Justice shall examine its records and*
34 *records available to the department in the National Instant*
35 *Criminal Background Check System in order to determine if the*
36 *applicant is prohibited by state or federal law from possessing,*
37 *receiving, owning, or purchasing a firearm.*

38 *(c) The department shall issue a license to sell ammunition to*
39 *an applicant if the department's records indicate that the applicant*

1 *is not a person who is prohibited by state or federal law from*
2 *possessing firearms.*

3 *(d) The department shall adopt regulations to administer this*
4 *program and shall recover the reasonable costs of administering*
5 *and enforcing this program, by imposing fees assessed to*
6 *applicants who apply for those licenses.*

7 *(e) All funds collected shall be deposited in the Ammunition*
8 *Dealer License Fund, which is hereby created.*

9 *SEC. 6. Section 30303 is added to the Penal Code, to read:*

10 *30303. (a) The Department of Justice shall create the*
11 *California Ammunition Database.*

12 *(b) Ammunition dealers shall collect each ammunition*
13 *purchaser's name, date of birth, address, and the number of rounds*
14 *of ammunition to be sold, transferred, or furnished, and report*
15 *that information electronically to the Department of Justice. An*
16 *ammunition dealer who fails to report that information*
17 *electronically to the department is subject to an administrative*
18 *enforcement action by the department to revoke or suspend the*
19 *dealer's license to sell ammunition.*

20 *(c) Upon receipt of the information described in subdivision*
21 *(a), the Department of Justice shall immediately cross-reference*
22 *the purchaser's information with the Prohibited Armed Persons*
23 *File. If a purchaser's name appears in the Prohibited Armed*
24 *Persons File, the Department of Justice shall forward that*
25 *individual's information to local law enforcement through a secure*
26 *mail box.*

27 *(d) The department shall record the information in subdivision*
28 *(a) in the database for every purchaser and make the information*
29 *readily available to ammunition dealers in an electronic format.*
30 *The department shall also make the information in the database*
31 *accessible to state and local law enforcement if that access does*
32 *not increase the cost of the database.*

33 *(e) Prior to each sale or transfer of ammunition, an ammunition*
34 *dealer shall, in a manner determined by the department, check the*
35 *ammunition purchaser's information against the California*
36 *Ammunition Database.*

37 *(f) This section and the reporting requirement in Section 30301*
38 *shall not become effective until the Department of Justice creates*
39 *the California Ammunition Database, which shall occur on or*
40 *before January 1, 2016.*

1 (g) *The department shall adopt regulations to administer this*
2 *program, and shall recover the reasonable costs of administering*
3 *and enforcing this program by imposing fees assessed to*
4 *ammunition dealers based upon the number of rounds of*
5 *ammunition sold or transferred to the ammunition purchaser.*

6 (h) *For purposes of this section, an “ammunition purchaser”*
7 *includes any individual or business entity who receives*
8 *ammunition, whether by sale or transfer, or is otherwise furnished*
9 *with ammunition. An ammunition purchaser does not include any*
10 *individual or entity described in subdivision (d) of Section 30301.*

11 ~~SEC. 5.~~

12 SEC. 7. Section 32311 is added to the Penal Code, to read:

13 32311. Except as provided in Article 2 (commencing with
14 Section 32400) of this chapter and in Chapter 1 (commencing with
15 Section 17700) of Division 2 of Title 2, commencing January 1,
16 2014, any person in this state who knowingly manufactures or
17 causes to be manufactured, imports into the state, keeps for sale,
18 or offers or exposes for sale, or who gives or lends any device that
19 is capable of converting an ammunition feeding device into a
20 large-capacity magazine is punishable by a fine of not more than
21 one thousand dollars (\$1,000) or imprisonment in a county jail not
22 to exceed six months, or by both that fine and imprisonment.

23 ~~SEC. 6.~~

24 SEC. 8. Section 32390 of the Penal Code is amended to read:

25 32390. (a) Except as provided in Article 2 (commencing with
26 Section 32400) of this chapter and in Chapter 1 (commencing with
27 Section 17700) of Division 2 of Title 2, and in subdivision (b),
28 any large-capacity magazine is a nuisance and is subject to Section
29 18010.

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

35 ~~SEC. 7.~~

36 SEC. 9. No reimbursement is required by this act pursuant to
37 Section 6 of Article XIII B of the California Constitution because
38 the only costs that may be incurred by a local agency or school
39 district will be incurred because this act creates a new crime or
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of
2 the Government Code, or changes the definition of a crime within
3 the meaning of Section 6 of Article XIII B of the California
4 Constitution.

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