

AMENDED IN ASSEMBLY MAY 15, 2013
AMENDED IN ASSEMBLY MARCH 19, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 187

Introduced by Assembly Member ~~Members~~ Bonta and Dickinson

January 28, 2013

An act to amend Section 1656.1 of the Civil Code, to add Title 7 (commencing with Section 14001) to Part 4 of the Penal Code, and to add *Section 6012.4 to, and to add Part 14.5* (commencing with Section 33001) to Division 2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 187, as amended, Bonta. Taxation: ammunition: *School-Based Early Mental Health Intervention and Prevention Services Matching Grant Program*: Public Safety Emergency Prevention Fund.

Existing sales and use tax laws impose taxes on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state.

Existing law, the School-Based Early Mental Health Intervention and Prevention Services Matching Grant Program, authorizes the Director of Mental Health, in consultation with the Superintendent of Public Instruction, to award matching grants to local educational agencies to pay the state share of the costs of providing programs that provide school-based early mental health intervention and prevention services

to eligible pupils at schoolsites of eligible pupils, in accordance with specified criteria.

This bill would impose a tax upon retailers for the privilege of selling ammunition at the rate of 10% of the gross receipts of any retailer from the sale of ammunition sold at retail in this state on or after ~~January~~ *July* 1, 2014. It would also impose a comparable excise tax on the storage, use, or other consumption in this state of ammunition purchased from a retailer for the storage, use, or other consumption in this state, as provided. The taxes would be collected pursuant to the Fee Collection Procedures Law. This bill would require that revenues collected pursuant to these taxes be deposited in *the Ammunition Tax Fund, which this bill would create. This bill would require, upon appropriation by the Legislature, moneys in the Ammunition Tax Fund to be allocated in specified percentages to the School-Based Early Mental Health Intervention and Prevention Services Matching Grant Program, and to the Public Safety Emergency Prevention Fund, which the bill would create.* ~~The This bill would require the moneys in the fund would be allocated~~ *Public Safety Emergency Prevention Fund, upon appropriation by the Legislature, to be expended by the Office of Emergency Services to fund public safety programs in high crime municipalities.*

Because this bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, and would create crimes for specified retailer misconduct, it 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.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) (1) California recognizes a clearly defined nexus between
4 the use of guns in violent crime and access to guns and
5 ammunition.

6 ~~(b)~~

7 (2) While many factors can contribute to an increase in gun
8 crime, one important way to reduce crime is through proper funding
9 of public safety services.

10 ~~(c)~~

11 (3) Communities, such as Oakland and Stockton, have been
12 suffering from spikes in violent crime with 131 and 71 homicides
13 reported in 2012, respectively, in conjunction with reductions in
14 public safety budgets and street-level police forces. There is a clear
15 and compelling risk to the safety of the public in these
16 communities.

17 ~~(d)~~

18 (4) The Legislature, therefore, finds and declares that providing
19 a source of stable revenue through a tax on the sale of ammunition
20 to fund vital public safety programs in high crime municipalities
21 will serve California's best interest by likely reducing acts of
22 violence committed with a deadly weapon in the state and thereby
23 promoting the health and safety of the state's residents.

24 (b) (1) *People with mental illness are no more likely to commit*
25 *violent acts than are others. California law, however, does restrict*
26 *the ownership of guns by individuals who have been adjudicated*
27 *as being a danger to themselves or others because of mental illness.*

28 (2) *The ability of mental health professionals to predict any*
29 *particular mental disorder or disordered individual as being likely*
30 *responsible for or likely to commit an act of violence with a deadly*
31 *weapon is weak. Nonetheless, recent tragic events involving mass*
32 *shootings in Connecticut, Colorado, Arizona, and elsewhere are*
33 *revealing a pattern of young individuals who are suffering from*
34 *some form of mental illness that progressed from mild or moderate*
35 *to more serious conditions, when those individuals' mental illness*
36 *was not identified and treated at an early age.*

37 (3) *Research has found that there is a clear relationship between*
38 *early adjustment problems and later adolescent problems, and*

1 *that many of these adjustment problems are due to mild to*
2 *moderate mental disorders among schoolage children. In many*
3 *cases, signs of these problems can be detected in early school*
4 *grades.*

5 *(4) Treating mental illness in a timely manner before conditions*
6 *become more severe, in conjunction with restricting gun ownership*
7 *by individuals adjudicated as being a danger to themselves or*
8 *others, may be a productive approach for reducing the extent to*
9 *which some people suffering from mental illness commit a violent*
10 *act with the use of a deadly weapon.*

11 *(5) In 1991 California enacted the School-Based Early Mental*
12 *Health Intervention and Prevention Services Matching Grant*
13 *Program (EMHI). This program is intended to ensure that pupils*
14 *will receive the benefits of school-based early mental health*
15 *intervention and prevention services that will enhance the mental*
16 *health and social development of children.*

17 *(6) Scientific evaluation of EMHI has shown dramatic*
18 *improvements in adjustment behavior among children in grades*
19 *1 to 3, inclusive, and success in reducing the incidence of early*
20 *mild to moderate mental illness. Further, the improvement in*
21 *children's behavior has been shown to continue through their later*
22 *school years.*

23 *(7) Due to state budget constraints EMHI was defunded in the*
24 *2012–13 Budget Act. The Legislature, therefore, finds and declares*
25 *that providing a source of stable revenue to continue the EMHI*
26 *matching grants is in California's best interest, both in economic*
27 *and human terms, to identify and treat the minor and moderate*
28 *mental difficulties that children experience before they become*
29 *serious mental disorders. The Legislature further finds and*
30 *declares that a reduction in the incidence of mental illness is likely*
31 *to reduce acts of violence committed with a deadly weapon in our*
32 *state, and therefore a tax on the sale of ammunition is a means of*
33 *refunding the EMHI program.*

34 SEC. 2. Section 1656.1 of the Civil Code is amended to read:

35 1656.1. (a) Whether a retailer may add sales tax reimbursement
36 to the sales price of the tangible personal property sold at retail to
37 a purchaser depends solely upon the terms of the agreement of
38 sale. It shall be presumed that the parties agreed to the addition of
39 sales tax reimbursement to the sales price of tangible personal
40 property sold at retail to a purchaser if:

1 (1) The agreement of sale expressly provides for ~~such~~ *that*
2 addition of sales tax reimbursement;

3 (2) Sales tax reimbursement is shown on the sales check or other
4 proof of sale; or

5 (3) The retailer posts in his or her premises in a location visible
6 to purchasers, or includes on a price tag or in an advertisement or
7 other printed material directed to purchasers, a notice to the effect
8 that reimbursement for sales tax will be added to the sales price
9 of all items or certain items, whichever is applicable.

10 (b) It shall be presumed that the property, the gross receipts
11 from the sale of which is subject to the sales tax, is sold at a price
12 which includes tax reimbursement if the retailer posts in his or her
13 premises, or includes on a price tag or in an advertisement,
14 whichever is applicable, one of the following notices:

15 (1) "All prices of taxable items include sales tax reimbursement
16 computed to the nearest mill."

17 (2) "The price of this item includes sales tax reimbursement
18 computed to the nearest mill."

19 (c) (1) The State Board of Equalization shall prepare and make
20 available for inspection and duplication or reproduction a sales
21 tax reimbursement schedule which shall set forth the various rates
22 of tax then in effect as applied to price ranges from one cent (\$0.01)
23 to at least one dollar (\$1).

24 (2) Reimbursement on sales prices in excess of those shown in
25 the schedules prepared pursuant to paragraph (1) may be computed
26 by applying the applicable tax rate to the sales price, rounded off
27 to the nearest cent by eliminating any fraction less than one-half
28 cent and increasing any fraction of one-half cent or over to the
29 next higher cent.

30 (3) If sales tax reimbursement is added to the sales price of
31 tangible personal property sold at retail, the retailer shall use a
32 schedule provided by the board, or a schedule approved by the
33 board.

34 (d) The presumptions created by this section are rebuttable
35 presumptions.

36 (e) For purposes of this section, as applied to Part 14.5
37 (commencing with Section 33001) of Division 2 of the Revenue
38 and Taxation Code, sales tax reimbursement shall refer to
39 reimbursement for the tax imposed by that part, and tangible

1 personal property shall include ammunition as defined under that
2 part.

3 SEC. 3. Title 7 (commencing with Section 14001) is added to
4 Part 4 of the Penal Code, to read:

5
6 TITLE 7. PUBLIC SAFETY EMERGENCY PREVENTION
7 FUND
8

9 14001. The Public Safety Emergency Prevention Fund is hereby
10 created in the State Treasury. ~~All moneys raised pursuant to the~~
11 ~~taxes imposed by Sections 33021 and 33022 of the Revenue and~~
12 ~~Taxation Code shall be deposited in the Public Safety Emergency~~
13 ~~Prevention Fund.~~

14 14002. All moneys in the fund shall, upon appropriation by
15 the Legislature, be expended by the Office of Emergency Services
16 to support public safety programs in high crime municipalities.

17 SEC. 4. *Section 6012.4 is added to the Revenue and Taxation*
18 *Code, to read:*

19 *6012.4. For purposes of this part, “gross receipts” shall not*
20 *include the amount of any tax imposed upon ammunition pursuant*
21 *to Part 14.5 (commencing with Section 33001).*

22 ~~SEC. 4.~~

23 SEC. 5. Part 14.5 (commencing with Section 33001) is added
24 to Division 2 of the Revenue and Taxation Code, to read:

25
26 PART 14.5. AMMUNITION TAX LAW
27

28 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS
29

30 33001. This part shall be known and may be cited as the
31 Ammunition Tax Law.

32 33002. For purposes of this part:

33 (a) “Ammunition” includes, but is not limited to, any bullet,
34 cartridge, or projectile capable of being fired from a firearm with
35 a deadly consequence. “Ammunition” does not include blanks.

36 (b) “Firearm” means a device, designed to be used as a weapon,
37 from which is expelled through a barrel, a projectile by the force
38 of an explosion or other form of combustion.

39 (c) “Retailer engaged in business in this state” has the same
40 meaning as defined in Section 6203.

1 33012. Unless the context otherwise requires, the definitions
2 provided in Chapter 1 (commencing with Section 6001) of Part 1
3 govern the construction of this part.

4
5 CHAPTER 2. IMPOSITION OF TAX
6

7 33021. In addition to the tax imposed under Chapter 2
8 (commencing with Section 6051) of Part 1, for the privilege of
9 selling ammunition at retail there is hereby imposed a tax upon all
10 retailers at the rate of 10 percent of the gross receipts of any retailer
11 from the sale of all ammunition sold at retail in this state on or
12 after ~~January~~ *July* 1, 2014.

13 33022. (a) In addition to the tax imposed under Chapter 3
14 (commencing with Section 6201) of Part 1, an excise tax is hereby
15 imposed on the storage, use, or other consumption in this state of
16 ammunition purchased from any retailer on or after ~~January~~ *July*
17 1, 2014, for storage, use, or other consumption in this state at the
18 rate of 10 percent of the sales price of the ammunition.

19 (b) Every person storing, using, or otherwise consuming in this
20 state ammunition purchased from a retailer is liable for the tax.
21 His or her liability is not extinguished until the tax has been paid
22 to this state except that a receipt from a retailer engaged in business
23 in this state or from a retailer who is authorized by the board, under
24 the rules and regulations as it may prescribe, to collect the tax and
25 who is, for the purposes of this part relating to the use tax, regarded
26 as a retailer engaged in business in this state, given to the purchaser
27 pursuant to subdivision (c) is sufficient to relieve the purchaser
28 from further liability for the tax to which the receipt refers.

29 (c) Every retailer engaged in business in this state and making
30 sales for storage, use, or other consumption in this state, not
31 exempted under Chapter 3 (commencing with Section 33031),
32 shall, at the time of making the sales or, if the storage, use, or other
33 consumption of ammunition is not then taxable hereunder, at the
34 time the storage, use, or other consumption becomes taxable,
35 collect the tax from the purchaser and give to the purchaser a
36 receipt therefor in the manner and form prescribed by the board.

37 (d) The tax required to be collected by the retailer and any
38 amount unreturned to the customer which is not tax but was
39 collected from the customer under the representation by the retailer
40 that it was tax constitutes debts owed by the retailer to this state.

1 (e) It is unlawful for any retailer to advertise or hold out or state
 2 to the public or to any customer, directly or indirectly, that the tax
 3 or any part thereof will be assumed or absorbed by the retailer or
 4 that it will not be added to the selling price of the ~~property~~
 5 *ammunition* sold or that if added it or any part thereof will be
 6 refunded.

7 (f) The tax required to be collected by the retailer from the
 8 purchaser shall be displayed separately from the list price, the price
 9 advertised in the premises, the marked price, or other price on the
 10 sales check or other proof of sales.

11 (g) Any person violating subdivision (c), (e), or (f) is guilty of
 12 a misdemeanor.

13

14 CHAPTER 3. EXEMPTION

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16 33031. There are exempted from the taxes imposed by this
 17 part, the sale of, or the storage, use, or other consumption of,
 18 ~~ammunition purchased by any peace officer required to carry or~~
 19 ~~use a firearm that uses ammunition while on duty, or by any~~
 20 governmental law enforcement agency employing ~~that a peace~~
 21 ~~officer, officer~~ for use *by that peace officer* in the normal course
 22 of employment.

23

24 CHAPTER 4. COLLECTION AND ADMINISTRATION

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26 33041. The board shall administer and collect the ~~tax~~ *taxes*
 27 imposed by this part pursuant to the Fee Collection Procedures
 28 Law (Part 30 (commencing with Section 55001)). For purposes
 29 of this part, the references in the Fee Collection Procedures Law
 30 to “fee” shall include the ~~tax~~ *taxes* imposed by this part and
 31 references to “feepayer” shall mean any person liable for the
 32 payment of the taxes imposed under this part and collected pursuant
 33 to that law.

34 33042. The taxes imposed by this part are due and payable to
 35 the board quarterly on or before the last day of the month next
 36 succeeding each quarterly period of three months.

37 33043. On or before the last day of the month following each
 38 quarterly period a return for the preceding quarterly period shall
 39 be filed with the board.

CHAPTER 5. DISPOSITION OF PROCEEDS

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33051. All amounts required to be paid under this part shall be made in remittances to the board, and those revenues, net of refunds and costs of administration, and shall be deposited in the ~~Public Safety Emergency Prevention Fund, established pursuant to Section 14001 of the Penal Code.~~ *Ammunition Tax Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, the moneys in the fund shall be allocated as follows:*

(a) Thirty-three and one-third percent to the School-Based Early Mental Health Intervention and Prevention Services Matching Grant Program (Chapter 2 (commencing with Section 4380) of Part 4 of Division 4 of the Welfare and Institutions Code).

(b) Sixty-six and two-thirds percent to the Public Safety Emergency Prevention Fund, established pursuant to Section 14001 of the Penal Code for the purposes described in Section 14002 of the Penal Code.

~~SEC. 5.~~

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

~~SEC. 6.~~

SEC. 7. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

O