SENATE BILL No. 53

Introduced by Senator De León
(Principal coauthor: Senator Yee)
(Coauthor: Senator Steinberg)
(Coauthor: Assembly Member Skinner)

December 20, 2012

An act to amend Sections 11106, 17315, 30312, 30347, 30350, 30352, and 30365 of, to amend the heading of Article 3 (commencing with Section 30345) of Chapter 1 of Division 10 of Title 4 of Part 6 of, to add Section 16663 to, and to add Article 4 (commencing with Section 30370) to Chapter 1 of Division 10 of Title 4 of Part 6 of, the Penal Code, relating to ammunition.

LEGISLATIVE COUNSEL'S DIGEST

SB 53, as introduced, De León. Ammunition: purchase permits.

(1) Existing law requires the Attorney General to maintain records, including among other things, fingerprints, licenses to carry concealed firearms, and information from firearms dealers pertaining to firearms, for purposes of assisting in the investigation of crimes, and specified civil actions.

This bill would require the Attorney General to also maintain copies of ammunition purchase permits for those purposes.

(2) Existing law, subject to exceptions, requires that the delivery or transfer of ownership of handgun ammunition occur only in a face-to-face transaction. Existing law provides that the term "vendor" for purposes of ammunition sales is a "handgun ammunition vendor" as defined for those and other purposes.

This bill would extend those provisions to any ammunition. The bill would provide that the term "vendor" for purposes of ammunition sales

means “ammunition vendor” as defined for those and other purposes. The bill would make additional conforming changes.

(3) Existing law prohibits an ammunition vendor from allowing a person the vendor knows or should know is a person who is prohibited from possessing firearms for specified reasons, from handling, selling, or delivering handgun ammunition in the course and scope of their employment. Existing law prohibits an ammunition vendor from selling or otherwise transferring ownership of, offering for sale or otherwise offering to transfer ownership of, or displaying for sale or displaying for transfer of ownership of, any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or an employee of the vendor.

This bill would extend those prohibitions to any ammunition. The bill would provide that a violation of those provisions is a misdemeanor.

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

(4) Existing law subject to exceptions, requires a handgun ammunition vendor to record specified information at the time of delivery of handgun ammunition to a purchaser, as specified.

This bill would extend those provisions to transactions of any ammunition. The bill would, commencing September 1, 2014, and subject to exceptions, require the purchaser of ammunition to hold an ammunition purchase permit, or other specified permit, license, or certificate pertaining to acquisition, possession, or carrying firearms, as provided, or other specified documentation for a person who is not a state resident. The bill would, commencing September 1, 2014, require the vendor to submit to the Department of Justice information demonstrating compliance with that verification requirement, as specified. The bill would, commencing June 1, 2014, authorize issuance of ammunition purchase permits by the Department of Justice to applicants who are residents of this state, at least 18 years of age, not prohibited from acquiring or possessing ammunition, and who pay the required fees, as specified. The bill would establish an application process and specify the information to be displayed on the permit. The bill would provide that the permit authorizes the holder to purchase ammunition from an ammunition vendor.

(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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Section 11106 of the Penal Code, as added by Section 2.5 of Chapter 745 of the Statutes of 2011, is amended to read:

11106. (a) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision ~~(c)~~ *(b)*, the arrest and prosecution of criminals, and the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215, information reported to the Department of Justice pursuant to Section 26225, *copies of permits authorized in Section 30370,* dealers' records of sales of firearms, reports provided pursuant to Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, or pursuant to any provision listed in subdivision (a) of Section 16585, forms provided pursuant to Section 12084, as that section read prior to being repealed, reports provided pursuant to Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish this information to the officers referred to in Section 11105.

(b) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to the following provisions as to firearms and maintain a registry thereof:

(A) Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6.

(B) Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6.

(C) Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6.

(D) Any provision listed in subdivision (a) of Section 16585.

(E) Former Section 12084.

(F) Any other law.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular firearm as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular firearm and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to any provision listed in subdivision (a) of Section 16585 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular firearm acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm, or, if the firearm is not a handgun and does not have a serial number or any identification number or mark assigned to it, that shall be noted.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular firearm.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

(c) (1) Any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to Section 26225, Article 1 (commencing with Section 26700) and Article 2 (commencing with Section 26800) of Chapter 2 of Division 6 of Title 4 of Part 6, Article 1 (commencing with Section 27500) of Chapter 4 of Division 6 of Title 4 of Part 6, Chapter 5 (commencing with Section 28050) of Division 6 of Title 4 of Part 6, Article 2 (commencing with Section 28150) of Chapter 6 of Division 6 of Title 4 of Part 6, Article 5 (commencing with Section 30900) of Chapter 2 of Division 10 of Title 4 of Part 6, Chapter 2 (commencing with Section 33850) of Division 11 of Title 4 of Part 6, or any provision listed in subdivision (a) of Section 16585, if the following conditions are met:

(A) The subject of the record has been arraigned for a crime in which the victim is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after hearing, which is in effect and has been issued by a family court under the Domestic Violence Protection Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

(B) The information is disseminated only to the victim of the crime or to the person who has obtained the emergency protective

order, the temporary restraining order, or the order after hearing issued by the family court.

(C) Whenever a law enforcement officer disseminates the information authorized by this subdivision, that officer or another officer assigned to the case shall immediately provide the victim of the crime with a "Victims of Domestic Violence" card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701.

(2) The victim or person to whom information is disseminated pursuant to this subdivision may disclose it as he or she deems necessary to protect himself or herself or another person from bodily harm by the person who is the subject of the record.

(d) This section shall become operative January 1, 2014.

SEC. 2. Section 16663 is added to the Penal Code, to read:

16663. As used in this part, "ammunition vendor" means any person, firm, corporation, dealer, or any other business enterprise that is engaged in the retail sale of any ammunition, or that holds itself out as engaged in the business of selling any ammunition.

SEC. 3. Section 17315 of the Penal Code is amended to read:

17315. As used in Article 3 (commencing with Section 30345) of Chapter 1 of Division 10 of Title 4, "vendor" means ~~a handgun~~ *an* ammunition vendor.

SEC. 4. Section 30312 of the Penal Code is amended to read:

30312. (a) ~~Commencing February 1, 2011, the~~ *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.

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

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

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

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

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

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

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

(7) ~~A handgun~~ *An* ammunition vendor.

(8) A consultant-evaluator.

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

SEC. 5. The heading of Article 3 (commencing with Section 30345) of Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code is amended to read:

Article 3. ~~Handgun~~ Ammunition Vendors

SEC. 6. Section 30347 of the Penal Code is amended to read:

30347. A vendor shall not permit any employee who the vendor knows or reasonably should know is a person described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title or Section 8100 or 8103 of the Welfare and Institutions Code to handle, sell, or deliver ~~handgun~~ ammunition in the course and scope of employment.

SEC. 7. Section 30350 of the Penal Code is amended to read:

30350. A vendor shall not sell or otherwise transfer ownership of, offer for sale or otherwise offer to transfer ownership of, or

display for sale or display for transfer of ownership of any ~~handgun~~ ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or an employee of the vendor.

SEC. 8. Section 30352 of the Penal Code is amended to read:

30352. (a) ~~Commencing February 1, 2011, a~~ *A* vendor shall not sell or otherwise transfer ownership of any ~~handgun~~ ammunition without, at the time of delivery, legibly recording the following information:

(1) The date of the sale or other transaction.

(2) The purchaser's or transferee's driver's license or other identification number and the state in which it was issued.

(3) The brand, type, and amount of ammunition sold or otherwise transferred.

(4) The purchaser's or transferee's signature.

(5) The name of the salesperson who processed the sale or other transaction.

(6) The right thumbprint of the purchaser or transferee on the above form.

(7) The purchaser's or transferee's full residential address and telephone number.

(8) The purchaser's or transferee's date of birth.

(b) Commencing September 1, 2014, an ammunition vendor shall submit information in a format prescribed by the department to show compliance with subdivision (c).

(c) Commencing on September 1, 2014, only those persons listed below or those persons or entities listed in subdivision (d) shall be permitted to purchase ammunition. Prior to the delivery of the ammunition, the vendor shall verify that the person who is receiving delivery of the ammunition is a properly identified person or entity listed in subdivision (d) or one of the following:

(1) A holder of a valid ammunition purchase permit issued pursuant to Section 30370.

(2) A person who is authorized to carry loaded firearms pursuant to Section 25900, 25905, 25910, 25925, 26010, 26015, 26025, or 26030.

(3) A holder of a special weapons permit issued by the department pursuant to Section 32650 or 33300, pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of

Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of this division.

(4) A holder of a current certificate of eligibility issued pursuant to Section 26710.

(5) A holder of a valid entertainment firearms permit issued pursuant to Chapter 2 (commencing with Section 29500) of Division 8.

(6) If a person is not the holder of an ammunition purchase permit because he or she is not a resident of this state, then pursuant to procedures prescribed by the department, the person presents documentation to the vendor that shows that the person would not be prohibited from acquiring or possessing ammunition within this state.

~~(b)~~

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

(1) A person licensed pursuant to Sections 26700 to 26915, inclusive.

(2) ~~A handgun~~ *An* ammunition vendor.

(3) A person who is on the centralized list maintained by the department pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.

(4) A target facility that holds a business or regulatory license.

(5) A gunsmith.

(6) A wholesaler.

(7) A manufacturer or importer of firearms *or ammunition* licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.

(8) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale or other transfer of ownership is for exclusive use by that government agency, and, prior to the sale, delivery, or transfer of the ~~handgun~~ ammunition, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser, transferee, or person otherwise acquiring ownership is employed,

identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that individual is employed.

SEC. 9. Section 30365 of the Penal Code is amended to read:

30365. (a) A violation of Section *30347, 30350,* 30352, 30355, 30360, or 30362 is a misdemeanor.

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

SEC. 10. Article 4 (commencing with Section 30370) is added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code, to read:

Article 4. Ammunition Purchase Permits

30370. (a) (1) Commencing on June 1, 2014, any person who is a resident of this state and who is 18 years of age or older may apply to the department for an ammunition purchase permit, in a format to be prescribed by the department.

(2) The ammunition purchase permit shall entitle the permitholder to purchase or otherwise acquire ownership of ammunition from an ammunition vendor as that term is defined in Section 16663 and shall have no other force or effect.

(b) The department shall issue an ammunition purchase permit to the applicant if all of the following conditions are met:

(1) The applicant is 18 years of age or older.

(2) The applicant is not prohibited from acquiring or possessing ammunition by the laws of this state.

(3) The applicant pays the fees set forth in subdivision (i).

(c) (1) Upon receipt of an initial or renewal application, the department shall examine its records and is authorized to request records from the State Department of Mental Health, pursuant to Section 8104 of the Welfare and Institutions Code, and if authorized, the National Instant Criminal Background Check System, as described in of Section 922(t) of Title 18 of the United States Code, in order to determine if the applicant is prohibited from possessing or acquiring ammunition.

(2) The applicant shall be approved or denied within 30 days of the date of the application. If the application is denied, the department shall state the reasons for doing so and provide the applicant an appeal process to challenge that denial.

(d) The ammunition purchase permit shall be valid for one year from the date of issuance.

(e) The department shall send a notice of the expiration of an ammunition purchase permit, by first-class mail or other means that are equivalent, including electronic mail, to the address of the person as shown by the records of the department, not less than 90 days before the expiration date, and shall enclose or contain a form for the renewal of the permit.

(f) The ammunition purchase permit shall be revoked by the department upon the occurrence of any event which would have disqualified the holder from being issued the ammunition purchase permit pursuant to this section.

(g) The ammunition purchase permit shall be in a tamper-proof form prescribed by the department and shall include the name, address, photograph, date of birth, a unique identifying number, expiration date from the date of issuance, physical characteristics, including the height, weight, eye color, and hair color of the permitholder, and other information that may be prescribed by the department.

(h) The department shall recover the reasonable cost of administering this section by charging applicants an initial application and annual renewal application fee.

(i) All fees received pursuant to this section shall be deposited into the Dealer's Record of Sale Special Account of the General Fund.

(j) The implementation of this section by the department is exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(k) The department shall annually review and shall adjust the fees specified in subdivision (h), if necessary, to fully fund, but not to exceed the reasonable costs of, the permit program provided by this section, including the enforcement of this program.

(*l*) The Attorney General is authorized to adopt regulations to implement the provisions of this section.

SEC. 11. 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.

O