

ASSEMBLY BILL

No. 772

Introduced by Assembly Member Baker

February 25, 2015

An act to amend Section 11107.1 of, and to add Section 11107.2 to, the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 772, as introduced, Baker. Controlled substances: butane.

Existing law requires a person or entity that sells any quantity of specified substances to record the date of sale, product description, purchaser's identification, and other specified information. Existing law requires the seller to retain this information for a period of 5 years and to present it upon demand by any law enforcement officer or authorized representative of the Attorney General. Existing law requires a person or entity that purchases any quantity of these specified substances to record the date of purchase, product description, and other specified information for a period of 3 years and to present it upon demand by any law enforcement officer or authorized representative of the Attorney General. A violation of these provisions is a crime.

This bill would add butane to the list of specified substances for which these requirements apply. The bill would also prohibit any person from purchasing more than 400 milliliters of butane in a calendar month. Because the bill would create a new crime, 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.

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 11107.1 of the Health and Safety Code
 2 is amended to read:

3 11107.1. (a) ~~Any~~A manufacturer, wholesaler, retailer, or other
 4 person or entity in this state that sells to any person or entity in
 5 this state or any other state any quantity of *butane*, sodium cyanide,
 6 potassium cyanide, cyclohexanone, bromobenzene, magnesium
 7 turnings, mercuric chloride, sodium metal, lead acetate, palladium
 8 black, hydrogen chloride gas, trichlorofluoromethane
 9 (fluorotrichloromethane), dichlorodifluoromethane,
 10 1,1,2-trichloro-1,2,2-trifluoroethane (trichlorotrifluoroethane),
 11 sodium acetate, or acetic anhydride shall do the following:

12 (1) (A) Notwithstanding any other ~~provision of~~ law, in ~~any a~~
 13 face-to-face or will-call sale, the seller shall prepare a bill of sale
 14 ~~which that~~ identifies the date of sale, cost of sale, method of
 15 payment, the specific items and quantities purchased and the proper
 16 purchaser identification information, all of which shall be entered
 17 onto the bill of sale or a legible copy of the bill of sale, and shall
 18 also affix on the bill of sale his or her signature as witness to the
 19 purchase and identification of the purchaser.

20 (B) For the purposes of this paragraph, “proper purchaser
 21 identification” includes a valid driver’s license or other official
 22 and valid state-issued identification of the purchaser that contains
 23 a photograph of the purchaser, and includes the residential or
 24 mailing address of the purchaser, other than a post office box
 25 number, the motor vehicle license number of the motor vehicle
 26 used by the purchaser at the time of purchase, a description of how
 27 the substance is to be used, the Environmental Protection Agency
 28 certification number or resale tax identification number assigned
 29 to the individual or business entity for which the individual is
 30 purchasing any chlorofluorocarbon product, and the signature of
 31 the purchaser.

32 (C) The seller shall retain the original bill of sale containing the
 33 purchaser identification information for five years in a readily

1 presentable manner, and present the bill of sale containing the
2 purchaser identification information upon demand by any law
3 enforcement officer or authorized representative of the Attorney
4 General. Copies of these bills of sale obtained by representatives
5 of the Attorney General shall be maintained by the Department of
6 Justice for a period of not less than five years.

7 (2) (A) Notwithstanding any other law, in all sales other than
8 face-to-face or will-call sales the seller shall maintain for a period
9 of five years the following sales information: the name and address
10 of the purchaser, date of sale, product description, cost of product,
11 method of payment, method of delivery, delivery address, and
12 valid identifying information.

13 (B) For the purposes of this paragraph, “valid identifying
14 information” includes two or more of the following: federal tax
15 identification number; resale tax identification number; city or
16 county business license number; license issued by the State
17 Department of Public Health; registration number issued by the
18 federal Drug Enforcement Administration; precursor business
19 permit number issued by the Department of Justice; driver’s
20 license; or other identification issued by a state.

21 (C) The seller shall, upon the request of any law enforcement
22 officer or any authorized representative of the Attorney General,
23 produce a report or record of sale containing the information in a
24 readily presentable manner.

25 (D) If a common carrier is used, the seller shall maintain a
26 manifest regarding the delivery in a readily presentable manner
27 for a period of five years.

28 (b) ~~Any~~ A manufacturer, wholesaler, retailer, or other person
29 or entity in this state that purchases any item listed in subdivision
30 (a) of Section 11107.1 shall do the following:

31 (1) Provide on the record of purchase information on the source
32 of the items purchased, the date of purchase, a description of the
33 specific items, the quantities of each item purchased, and the cost
34 of the items purchased.

35 (2) Retain the record of purchase for three years in a readily
36 presentable manner and present the record of purchase upon
37 demand to any law enforcement officer or authorized representative
38 of the Attorney General.

39 (c) (1) A first violation of this section is a misdemeanor.

1 (2) ~~Any~~A person who has previously been convicted of a
2 violation of this section shall, upon a subsequent conviction thereof,
3 be punished by imprisonment in a county jail not exceeding one
4 year, by a fine not exceeding one hundred thousand dollars
5 (\$100,000), or both the fine and imprisonment.

6 SEC. 2. Section 11107.2 is added to the Health and Safety
7 Code, to read:

8 11107.2. It is unlawful for a person to purchase more than 400
9 milliliters of butane in a calendar month.

10 SEC. 3. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.