

AMENDED IN ASSEMBLY APRIL 12, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 362

Introduced by Assembly Member De Leon
(Coauthor: Senator Scott)

February 14, 2007

An act to *amend Sections 11106, 12010, 12011, and 12012 of, and to add Sections 12315, 12316.5, 12317, and ~~12318~~ to 12318, and 12326 to, the Penal Code, relating to ammunition.*

LEGISLATIVE COUNSEL'S DIGEST

AB 362, as amended, De Leon. Ammunition.

Existing law requires the Department of Justice to maintain records pertaining to firearms transactions.

This bill would require the department to maintain additional information relating to ammunition transfers, as specified.

Existing law establishes the Prohibited Armed Persons File, which lists persons who are prohibited from possessing firearms, as specified.

This bill would expand those provisions to include persons prohibited from possessing ammunition.

Existing law generally regulates the sale of ammunition.

This bill would require that commencing July 1, 2008, unless specifically excluded, no person shall sell or transfer more than 50 rounds of handgun ammunition in any month unless they are registered as a handgun ammunition vendor, as defined. The bill would also require these vendors to obtain a background clearance for those employees who would handle ammunition in the course and scope of their employment. The bill would require the Department of Justice to maintain a registry of registered handgun ammunition vendors, as

specified. Violation of these provisions, as specified, would be a misdemeanor.

The bill would also provide that no retail seller of ammunition shall sell, offer for sale, or display for sale, any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser without the assistance of the retailer or employee thereof. Violation of these provisions would be punishable as an infraction with a fine of \$500, or as a misdemeanor.

The bill would further provide that ~~no handgun ammunition or reloaded ammunition may be delivered by a common or contract carrier pursuant to a retail only be purchased in a face-to-face transaction unless and only if~~ certain conditions exist. ~~A violation of these provisions would be punishable as a misdemeanor, with enhancements for prior violations.~~

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

Existing law provides that it is a crime to sell ammunition to a minor, or to sell handgun ammunition to a person who is under 21 years of age.

This bill would provide that any person under 21 years of age who purchases, or who attempts to purchase, handgun ammunition by using a false identification document, or by otherwise misrepresenting the person's age, and any minor who purchases, or attempts to purchase, any ammunition by using a false identification document, or otherwise misrepresenting the person's age, is guilty of a misdemeanor.

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

Existing law generally regulates what information is required to be obtained in connection with the transfer of ammunition.

This bill would, subject to exceptions, require certain ammunition vendors to obtain a thumb print and other information from ammunition purchasers, and would require submission of that information to the Department of Justice, as specified. A violation of these provisions would be a misdemeanor.

By creating a new crime, this bill 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 11106 of the Penal Code is amended to
2 read:

3 11106. (a) In order to assist in the investigation of crime, the
4 prosecution of civil actions by city attorneys pursuant to paragraph
5 (3) of subdivision (c), the arrest and prosecution of criminals, and
6 the recovery of lost, stolen, or found property, the Attorney General
7 shall keep and properly file a complete record of all copies of
8 fingerprints, copies of licenses to carry firearms issued pursuant
9 to Section 12050, information reported to the Department of Justice
10 pursuant to Section 12053, *submitted pursuant to Section 12326*,
11 dealers' records of sales of firearms, reports provided pursuant to
12 Section 12072 or 12078, forms provided pursuant to Section 12084,
13 as that section read prior to being repealed by the act that amended
14 this section, reports provided pursuant to Section 12071 that are
15 not dealers' records of sales of firearms, and reports of stolen, lost,
16 found, pledged, or pawned property in any city or county of this
17 state, and shall, upon proper application therefor, furnish this
18 information to the officers referred to in Section 11105.

19 (b) (1) Except as provided in subdivision (d), the Attorney
20 General shall not retain or compile any information from reports
21 filed pursuant to subdivision (a) of Section 12078 for firearms that
22 are not handguns, from forms submitted pursuant to Section 12084,
23 as that section read prior to being repealed by the act that amended
24 this section, for firearms that are not handguns, or from dealers'
25 records of sales for firearms that are not handguns. All copies of
26 the forms submitted, or any information received in electronic
27 form, pursuant to Section 12084, as that section read prior to being
28 repealed by the act that amended this section, for firearms that are
29 not handguns, or of the dealers' records of sales for firearms that
30 are not handguns shall be destroyed within five days of the
31 clearance by the Attorney General, unless the purchaser or
32 transferor is ineligible to take possession of the firearm. All copies
33 of the reports filed, or any information received in electronic form,

1 pursuant to subdivision (a) of Section 12078 for firearms that are
2 not handguns shall be destroyed within five days of the receipt by
3 the Attorney General, unless retention is necessary for use in a
4 criminal prosecution.

5 (2) A peace officer, the Attorney General, a Department of
6 Justice employee designated by the Attorney General, or any
7 authorized local law enforcement employee shall not retain or
8 compile any information from a firearms transaction record, as
9 defined in paragraph (5) of subdivision (c) of Section 12071, for
10 firearms that are not handguns unless retention or compilation is
11 necessary for use in a criminal prosecution or in a proceeding to
12 revoke a license issued pursuant to Section 12071.

13 (3) A violation of this subdivision is a misdemeanor.

14 (c) (1) The Attorney General shall permanently keep and
15 properly file and maintain all information reported to the
16 Department of Justice pursuant to Sections 12071, 12072, 12078,
17 12082, and former Section 12084 or any other law, as to handguns
18 and maintain a registry thereof.

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

20 (A) The name, address, identification of, place of birth (state
21 or country), complete telephone number, occupation, sex,
22 description, and all legal names and aliases ever used by the owner
23 or person being loaned the particular handgun as listed on the
24 information provided to the department on the Dealers' Record of
25 Sale, the Law Enforcement Firearms Transfer (LEFT), as defined
26 in former Section 12084, or reports made to the department
27 pursuant to Section 12078 or any other law.

28 (B) The name and address of, and other information about, any
29 person (whether a dealer or a private party) from whom the owner
30 acquired or the person being loaned the particular handgun and
31 when the firearm was acquired or loaned as listed on the
32 information provided to the department on the Dealers' Record of
33 Sale, the LEFT, or reports made to the department pursuant to
34 Section 12078 or any other law.

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

38 (D) The manufacturer's name if stamped on the firearm, model
39 name or number if stamped on the firearm, and, if applicable, the
40 serial number, other number (if more than one serial number is

1 stamped on the firearm), caliber, type of firearm, if the firearm is
2 new or used, barrel length, and color of the firearm.

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

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

20 (d) (1) Any officer referred to in paragraphs (1) to (6), inclusive,
21 of subdivision (b) of Section 11105 may disseminate the name of
22 the subject of the record, the number of the firearms listed in the
23 record, and the description of any firearm, including the make,
24 model, and caliber, from the record relating to any firearm's sale,
25 transfer, registration, or license record, or any information reported
26 to the Department of Justice pursuant to Section 12021.3, 12053,
27 12071, 12072, 12077, 12078, 12082, or 12285, *or information*
28 *reported to the Department of Justice pursuant to Section 12326*
29 *as to the brand, type, and amount of ammunition transferred* if the
30 following conditions are met:

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

1 (B) The information is disseminated only to the victim of the
2 crime or to the person who has obtained the emergency protective
3 order, the temporary restraining order, or the order after hearing
4 issued by the family court.

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

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

15 *SEC. 2. Section 12010 of the Penal Code is amended to read:*

16 12010. (a) The Attorney General shall establish and maintain
17 an online database to be known as the Prohibited Armed Persons
18 File. The purpose of the file is to cross-reference persons who have
19 ownership or possession of a firearm *or ammunition* on or after
20 January 1, 1991, as indicated by a record in the Consolidated
21 Firearms Information System, *or as indicated in reports submitted*
22 *to the Department of Justice pursuant to Section 12326*, and who,
23 subsequent to the date of that ownership or possession of a firearm
24 *or ammunition*, fall within a class of persons who are prohibited
25 from owning or possessing a firearm *or ammunition*.

26 (b) The information contained in the Prohibited Armed Persons
27 File shall only be available to those entities specified in, and
28 pursuant to, subdivision (b) or (c) of Section 11105, through the
29 California Law Enforcement Telecommunications System, for the
30 purpose of determining if persons are armed and prohibited from
31 possessing firearms *or ammunition*.

32 *SEC. 3. Section 12011 of the Penal Code is amended to read:*

33 12011. The Prohibited Armed Persons File database shall
34 function as follows:

35 (a) Upon entry into the Automated Criminal History System of
36 a disposition for a conviction of any felony, a conviction for any
37 firearms-prohibiting charge specified in Section 12021, a
38 conviction for an offense described in Section 12021.1, a firearms
39 prohibition pursuant to Section 8100 or 8103 of the Welfare and
40 Institutions Code, *an ammunition prohibition pursuant to*

subdivision (b) of Section 12316, or any firearms possession prohibition identified by the federal National Instant Check System, the Department of Justice shall determine if the subject has an entry in the Consolidated Firearms Information System indicating possession or ownership of a firearm on or after January 1, 1991, or an assault weapon registration, or a .50 BMG rifle registration, or ammunition as indicated in reports submitted to the Department of Justice pursuant to Section 12326.

(b) Upon an entry into any department automated information system that is used for the identification of persons who are prohibited from acquiring, owning, or possessing firearms or ammunition, the department shall determine if the subject has an entry in the Consolidated Firearms Information System indicating ownership or possession of a firearm on or after January 1, 1991, or an assault weapon registration, or a .50 BMG rifle registration, or acquired ammunition as indicated in reports submitted to the Department of Justice pursuant to Section 12326.

(c) If the department determines that, pursuant to subdivision (a) or (b), the subject has an entry in the Consolidated Firearms Information System indicating possession or ownership of a firearm on or after January 1, 1991, or an assault weapon registration, or a .50 BMG rifle registration, or acquired ammunition as indicated in reports submitted to the Department of Justice pursuant to Section 12326, the following information shall be entered into the Prohibited Armed Persons File:

- (1) The subject's name.
- (2) The subject's date of birth.
- (3) The subject's physical description.
- (4) Any other identifying information regarding the subject that is deemed necessary by the Attorney General.
- (5) The basis of the firearms or ammunition possession prohibition.
- (6) A description of all firearms owned or possessed by the subject, as reflected by the Consolidated Firearms Information System or ammunition acquired as indicated in reports submitted to the Department of Justice pursuant to Section 12326.

SEC. 4. Section 12012 of the Penal Code is amended to read: 12012. The Attorney General shall provide investigative assistance to local law enforcement agencies to better ensure the

1 investigation of individuals who are armed and prohibited from
2 possessing a firearm *or ammunition*.

3 **SECTION 1.**

4 *SEC. 5.* Section 12315 is added to the Penal Code, to read:

5 12315. (a) ~~(1) As used in this section “registered handgun~~
6 ~~ammunition vendor” means any person or business that is engaged~~
7 ~~in the retail sale of handgun ammunition and has all of the~~
8 ~~following: As used in this section, the following terms apply:~~

9 (1) “Handgun ammunition” means handgun ammunition as
10 defined in subdivision (a) of Section 12323.

11 (2) “Registered handgun ammunition vendor” means any person
12 or business that has all of the following:

13 (A) Any regulatory or business license, or licenses, required by
14 local government.

15 (B) A valid seller’s permit issued by the State Board of
16 Equalization.

17 (C) Is among those recorded in the centralized ammunition
18 vendor’s registry specified in subdivision (c).

19 (D) A certificate of eligibility issued pursuant to Section 12071.

20 (3) “Immediate family member” has the same meaning as set
21 forth in subdivision (c) of Section 12078.

22 ~~(2)~~

23 (b) Commencing July 1, 2008, no person shall sell or transfer
24 more than 50 rounds of handgun ammunition in any month unless
25 the person is registered as a handgun ammunition vendor as
26 described in paragraph (1).

27 ~~(b)~~

28 (c) A registered handgun ammunition vendor shall not permit
29 any employee who *the registered handgun ammunition vendor*
30 *knows or reasonably should know* is a person described in Section
31 12021 or 12021.1 of this code or Section 8100 or 8103 of the
32 Welfare and Institutions Code to handle handgun ammunition in
33 the course and scope of his or her employment. A registered
34 handgun ammunition vendor is authorized to request a background
35 clearance from the Department of Justice pursuant to subdivision
36 (d) of Section 12076 to determine if an employee or potential
37 employee is a person described in any of the specified sections.
38 The department may require the registered handgun ammunition
39 vendor to charge a fee sufficient to reimburse it for the background
40 clearance authorized pursuant to subdivision (e) of Section 12076.

Fees received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund.

(c)

(d) The Department of Justice shall keep a centralized registry of all persons, businesses, and corporations who are registered handgun ammunition vendors. The department may remove from this registry any vendor who violates the provisions of this chapter. Upon removal of a registered handgun ammunition vendor from this registry, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the vendor's business is located.

(d)

(e) This section does not apply to any of the following:

~~(1) Wholesale sellers of handgun ammunition who have a business license to sell ammunition.~~

(1) Wholesale sellers of handgun ammunition who sell or transfer handgun ammunition to persons or entities as set forth in paragraphs (2) to (8), inclusive.

(2) Sales or transfers of handgun ammunition by a target facility which holds a business or regulatory license to persons who are on the premises of the target facility or sales of handgun ammunition to persons who are on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the sale of the ammunition occurs at the premises of the target range or on the premises of the club or organization and is sold to a person who is using ammunition primarily at the facility.

(3) Sales or transfers of handgun ammunition by persons licensed pursuant to Section 12071.

(4) Sales or transfers of handgun ammunition by commercial hunting clubs, game bird clubs, or pheasant clubs licensed by the Department of Fish and Game.

(5) Sales or transfers of handgun ammunition by a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(A) The nonprofit public benefit or mutual benefit corporation is selling ammunition to assist the corporation or local chapters of

1 the corporation in conducting auctions or similar events at which
2 firearms are auctioned off and to fund the activities of the
3 corporation or the local chapters of the corporation.

4 (B) The firearms being auctioned off at the corporation's
5 auctions or events are not primarily handguns.

6 (6) *A person who is on the centralized list maintained by the*
7 *Department of Justice pursuant to Section 12083.*

8 (7) *Sales or transfers of handgun ammunition to authorized law*
9 *enforcement representatives of cities, counties, cities and counties,*
10 *or state or federal governments for exclusive use by those*
11 *government agencies if, prior to the delivery, transfer, or sale of*
12 *these firearms, written authorization from the head of the agency*
13 *authorizing the transaction is presented to the person from whom*
14 *the purchase, delivery, or transfer is being made. Proper written*
15 *authorization is defined as verifiable written certification from the*
16 *head of the agency by which the purchaser or transferee is*
17 *employed, identifying the employee as an individual authorized to*
18 *conduct the transaction, and authorizing the transaction for the*
19 *exclusive use of the agency by which he or she is employed.*

20 (8) *Sales or transfers of handgun ammunition to authorized*
21 *representatives of cities, counties, cities and counties, or state or*
22 *federal governments for those government agencies in which the*
23 *entity is acquiring the ammunition as part of an authorized,*
24 *voluntary program in which the entity is buying or receiving*
25 *ammunition from private individuals.*

26 (9) *Sales or transfers of handgun ammunition between*
27 *immediate family members or spouses or registered domestic*
28 *partners.*

29 (10) *Sales or transfers of handgun ammunition at a target*
30 *facility which holds a business or regulatory license to persons*
31 *who are on the premises of the target facility between persons who*
32 *are on the premises of any club or organization organized for the*
33 *purposes of practicing shooting at targets upon established ranges,*
34 *whether public or private, if the sale or transfer of the ammunition*
35 *occurs on the premises of the target range or on the premises of*
36 *the club or organization and is sold to a person who is using*
37 *ammunition primarily at the facility.*

38 (e)

39 (f) A violation of this section is punishable as a misdemeanor.

1 ~~SEC. 2.~~

2 ~~SEC. 6.~~ Section 12316.5 is added to the Penal Code, to read:

3 12316.5. (a) Any person under 21 years of age who purchases,
4 or who attempts to purchase, handgun ammunition by using a false
5 identification document, or by otherwise misrepresenting the
6 person's age, and any minor who purchases, or attempts to
7 purchase, any ammunition by using a false identification document,
8 or otherwise misrepresenting the person's age, is guilty of a
9 misdemeanor.

10 (b) *As used in this section, "handgun ammunition" means*
11 *handgun ammunition as defined in subdivision (a) of Section*
12 *12323.*

13 ~~SEC. 3.~~ ~~Section 12317 is added to the Penal Code, to read:~~

14 ~~12317. (a) No retail seller of ammunition shall sell, offer for~~
15 ~~sale, or display for sale, any handgun ammunition in a manner that~~
16 ~~allows that ammunition to be accessible to a purchaser without the~~
17 ~~assistance of the retailer or employee thereof.~~

18 ~~(b) Violation of this section is punishable as an infraction with~~
19 ~~a fine of five hundred dollars (\$500), or as a misdemeanor.~~

20 ~~(c) The Attorney General is authorized to adopt regulations to~~
21 ~~implement the provisions of this section.~~

22 ~~SEC. 7.~~ Section 12317 is added to the Penal Code, to read:

23 ~~12317. (a) As used in this section, the following terms apply:~~

24 ~~(1) "Handgun ammunition" means handgun ammunition as~~
25 ~~defined in subdivision (a) of Section 12323.~~

26 ~~(2) "Seller of ammunition" means any of the following:~~

27 ~~(A) A person licensed pursuant to Section 12071.~~

28 ~~(B) A person registered as a registered handgun ammunition~~
29 ~~vendor with the Department of Justice pursuant to Section 12315.~~

30 ~~(C) A commercial hunting club, game bird club, or pheasant~~
31 ~~club licensed by the Department of Fish and Game.~~

32 ~~(D) A target facility which holds a regulatory or business~~
33 ~~license.~~

34 ~~(E) A person who is on the centralized list maintained by the~~
35 ~~Department of Justice pursuant to Section 12083.~~

36 ~~(b) No seller of ammunition shall sell, offer of sale, or display~~
37 ~~for sale, any handgun ammunition in a manner that allows that~~
38 ~~ammunition to be accessible to a purchaser without the assistance~~
39 ~~of the seller or employee thereof.~~

1 (c) Violation of this section is punishable as an infraction with
2 a fine of five hundred dollars (\$500), or as a misdemeanor.

3 (d) The Attorney General is authorized to adopt regulations to
4 implement the provisions of this section.

5 SEC. 4.

6 SEC. 8. Section 12318 is added to the Penal Code, to read:

7 12318. (a) ~~(1) Handgun ammunition may not be delivered by~~
8 ~~a seller to a purchaser via a common or contract carrier pursuant~~
9 ~~to a retail transaction except as provided in paragraph (2).~~

10 ~~(2) A seller of handgun ammunition may deliver handgun~~
11 ~~ammunition to a retail purchaser via a common or contract carrier~~
12 ~~if all of the following occurs:~~

13 ~~(i) The seller ensures that a common carrier or contract carrier~~
14 ~~obtains the signature of the purchaser and views bona fide evidence~~
15 ~~of the identity of the purchaser.~~

16 ~~(ii) The carrier ensures the purchaser is 21 years of age or older~~
17 ~~before delivering the handgun ammunition to the purchaser within~~
18 ~~this state.~~

19 ~~(iii) The seller ensures that the contract carrier or common~~
20 ~~carrier returns a copy of the signed receipt to the seller.~~

21 ~~(iv) The seller retains the copy of the signed receipt for three~~
22 ~~years as evidence of compliance with this section.~~

23 ~~(v) The container being delivered by the common or contract~~
24 ~~carrier has the following language, in at least 14-point type,~~
25 ~~conspicuously placed on the container, stating: "SIGNATURE~~
26 ~~AND BONA FIDE EVIDENCE OF IDENTITY REQUIRED.~~
27 ~~PURCHASER MUST BE AGE 21 YEARS OR OLDER FOR~~
28 ~~DELIVERY."~~

29 ~~(b) (1) Except as provided in paragraph (2), any person,~~
30 ~~corporation, or dealer who delivers handgun ammunition in~~
31 ~~violation of this section shall be punishable by imprisonment in a~~
32 ~~county jail for a term not to exceed six months, or by a fine not to~~
33 ~~exceed one thousand dollars (\$1,000), or by both imprisonment~~
34 ~~and a fine.~~

35 ~~(2) Common carriers and contract carriers shall not be held~~
36 ~~liable for any violation of this section and shall not be subject to~~
37 ~~the penalties provided for in this subdivision and subdivision (c).~~

38 ~~(c) A second and subsequent violation of this section is~~
39 ~~punishable by imprisonment in a county jail not to exceed one~~
40 ~~year, by a fine not to exceed two thousand dollars (\$2,000), or by~~

1 ~~both imprisonment and a fine. only be purchased in a face-to-face~~
2 ~~transaction, provided that the seller view a bona fide evidence of~~
3 ~~identity from the retail purchaser and act in accordance with~~
4 ~~existing law.~~

5 (d)

6 (b) (1) “Bona fide evidence of identity” means a document issued
7 by a federal, state, county, or municipal government, or subdivision
8 or agency thereof, including, but not limited to, a motor vehicle
9 operator’s license, state identification card, identification card
10 issued to a member of the armed forces, or other form of
11 identification that bears the name, date of birth, description, and
12 picture of the person.

13 (2) “Handgun ammunition” means handgun ammunition as
14 defined in subdivision (a) of Section 12323.

15 (e)

16 (c) Subdivision (a) shall not apply to or effect the deliveries,
17 transfers, or sales of, handgun ammunition to any of the following:

18 (1) Authorized law enforcement representatives of cities,
19 counties, cities and counties, or state and federal governments for
20 exclusive use by those government agencies if, prior to the delivery,
21 transfer, or sale of the handgun ammunition, written authorization
22 from the head of the agency employing the purchaser or transferee,
23 is obtained identifying the employee as an individual authorized
24 to conduct the transaction, and authorizing the transaction for the
25 exclusive use of the agency employing the individual.

26 (2) Sworn peace officers, as defined in Chapter 4.5 (commencing
27 with Section 830) of Title 3 of Part 2 who are authorized to carry
28 a firearm in the course and scope of their duties.

29 (3) Rimfire ammunition.

30 SEC. 9. Section 12326 is added to the Penal Code, to read:

31 12326. (a) For purposes of this section, the following terms
32 apply:

33 (1) “Seller of handgun ammunition” means any of the following:

34 (A) Persons licensed pursuant to Section 12071.

35 (B) A person registered with the Department of Justice pursuant
36 to Section 12315 as a registered handgun ammunition seller.

37 (C) A person who is on the centralized list maintained by the
38 Department of Justice pursuant to Section 12083.

39 (D) A target facility which holds a business or regulatory
40 license.

1 (E) Commercial hunting clubs, game bird clubs, or pheasant
2 clubs licensed by the Department of Fish and Game.

3 (F) Gunsmiths.

4 (G) Wholesalers.

5 (H) Manufacturers or importers of firearms licensed pursuant
6 to Chapter 44 (commencing with Section 921) of Title 18 of the
7 United States Code, and the regulations issued pursuant thereto.

8 (2) “Handgun ammunition” means assembled live ammunition,
9 other than .22 caliber, primarily for use in a handgun.

10 (b) Commencing July 1, 2008, no seller of handgun ammunition
11 shall sell or otherwise transfer ownership of any handgun
12 ammunition without at the time of purchase recording the following
13 information in a format to be prescribed by the Department of
14 Justice:

15 (1) The date of the transaction.

16 (2) The name, address, and date of birth of the transferee.

17 (3) The transferee’s driver’s license or other identification
18 number and the state in which it was issued.

19 (4) The brand, type, and amount of ammunition transferred.

20 (5) The transferee’s signature.

21 (6) The name of the salesperson who processed the transaction.

22 (c) Commencing July 1, 2008, the seller of handgun ammunition
23 shall also at the time of purchase or transfer obtain the right thumb
24 print of the purchaser or transferee on the above form, unless the
25 purchaser or transferee presents a valid hunting or sportsman’s
26 license issued pursuant to Section 714, paragraphs (1) to (3),
27 inclusive, of subdivision (a) of Section 3031, or Section 3031.2 of
28 the Fish and Game Code, in which case the seller of handgun
29 ammunition shall record the number of the license.

30 (d) (1) Commencing July 1, 2008, the records required by this
31 section shall be maintained on the premises of the seller of handgun
32 ammunition for a period of not less than two years from the date
33 of the recorded transfer.

34 (2) Commencing July 1, 2008, the records shall be subject to
35 inspection at any time during normal business hours by any peace
36 officer employed by a sheriff, city police department, or district
37 attorney as provided in subdivision (a) of Section 830.1, or
38 employed by the Department of Justice as provided in subdivision
39 (b) of Section 830.1, provided the officer is conducting an
40 investigation where access to those records is or may be relevant

1 to that investigation, is seeking information about persons
2 prohibited from owning a firearm or ammunition, or is engaged
3 in ensuring compliance with the Dangerous Weapons Control Law
4 (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4),
5 or any other laws pertaining to firearms. The records shall also
6 be subject to inspection at any time during normal business hours
7 by any other employee of the Department of Justice, provided that
8 employee is conducting an investigation where access to those
9 records is or may be relevant to that investigation, is seeking
10 information about persons prohibited from owning a firearm or
11 ammunition, or is engaged in ensuring compliance with the
12 Dangerous Weapons Control Law (Chapter 1 (commencing with
13 Section 12000) of Title 2 of Part 4), or any other laws pertaining
14 to firearms.

15 (3) Commencing July 1, 2008, on the date of delivery of the
16 handgun ammunition, the seller of handgun ammunition shall
17 submit a report to the Department of Justice in such manner as
18 the department may prescribe containing the information set forth
19 in subdivision (b).

20 (e) (1) Commencing July 1, 2008, no person shall knowingly
21 make a false entry in, fail to make a required entry in, fail to obtain
22 the required thumbprint, or fail to maintain in the required manner
23 records prepared in accordance with subdivision (d). If the right
24 thumbprint is not available, then the seller of handgun ammunition
25 shall have the purchaser or transferee use his or her left thumb,
26 or any available finger, and shall so indicate on the form. If the
27 purchaser or transferee is physically unable to provide a
28 thumbprint or fingerprint, the seller of handgun ammunition shall
29 so indicate on the form.

30 (2) Commencing July 1, 2008, no person shall refuse to permit
31 a person authorized under paragraph (2) of subdivision (d) to
32 examine any record prepared in accordance with this section
33 during any inspection conducted pursuant to this section, or refuse
34 to permit the use of any record or information by those persons.

35 (f) A violation of this section shall constitute a misdemeanor.

36 (g) This section shall not apply to any of the following:

37 (1) Sales or transfer of handgun ammunition to or between any
38 of the following:

39 (A) Persons licensed pursuant to Section 12071.

- 1 (B) A person registered with the Department of Justice pursuant
2 to Section 12315 as a registered handgun ammunition seller.
- 3 (C) A person who is on the centralized list maintained by the
4 Department of Justice pursuant to Section 12083.
- 5 (D) A target facility which holds a business or regulatory
6 license.
- 7 (E) Commercial hunting clubs, game bird clubs, or pheasant
8 clubs licensed by the Department of Fish and Game.
- 9 (F) Gunsmiths.
- 10 (G) Wholesalers.
- 11 (H) Manufacturers or importers of firearms licensed pursuant
12 to Chapter 44 (commencing with Section 921) of Title 18 of the
13 United States Code, and the regulations issued pursuant thereto.
- 14 (I) A nonprofit public benefit or mutual benefit corporation
15 organized pursuant to Part 2 (commencing with Section 5110) or
16 Part 3 (commencing with Section 7110) of Division 2 of the
17 Corporations Code, if both of the following conditions are satisfied:
- 18 (i) The nonprofit public benefit or mutual benefit corporation
19 is selling ammunition to assist the corporation or local chapters
20 of the corporation in conducting auctions or similar events at
21 which firearms are auctioned off and to fund the activities of the
22 corporation or the local chapters of the corporation.
- 23 (ii) The firearms being auctioned off at the corporation's
24 auctions or events are not primarily handguns.
- 25 (2) Sales or transfers made to authorized law enforcement
26 representatives of cities, counties, cities and counties, or state or
27 federal governments for exclusive use by those government
28 agencies if, prior to the delivery, transfer, or sale of these firearms,
29 written authorization from the head of the agency authorizing the
30 transaction is presented to the person from whom the purchase,
31 delivery, or transfer is being made. Proper written authorization
32 is defined as verifiable written certification from the head of the
33 agency by which the purchaser or transferee is employed,
34 identifying the employee as an individual authorized to conduct
35 the transaction, and authorizing the transaction for the exclusive
36 use of the agency by which he or she is employed.
- 37 (3) Sales or transfers of handgun ammunition by a nonprofit
38 public benefit or mutual benefit corporation organized pursuant
39 to Part 2 (commencing with Section 5110) or Part 3 (commencing

1 with Section 7110) of Division 2 of the Corporations Code, if both
2 of the following conditions are satisfied:

3 (A) The nonprofit public benefit or mutual benefit corporation
4 is selling ammunition to assist the corporation or local chapters
5 of the corporation in conducting auctions or similar events at
6 which firearms are auctioned off and to fund the activities of the
7 corporation or the local chapters of the corporation.

8 (B) The firearms being auctioned off at the corporation's
9 auctions or events are not primarily handguns.

10 SEC. 10. (a) The Legislature finds and declares all of the
11 following:

12 (1) Although Section 12316 of the Penal Code bars various
13 categories of persons from possessing ammunition, there is no
14 instantaneous means of verifying whether those persons are
15 endeavoring to acquire handgun ammunition from persons
16 authorized to transfer handgun ammunition, and an instantaneous
17 check would be beneficial for both public safety and registered
18 owners of handguns.

19 (2) The Legislature on an overwhelming basis in 2001 enacted
20 legislation to identify registered owners of handguns and assault
21 weapons who subsequently became ineligible to possess the same
22 and set forth procedures for those persons to dispose of their
23 firearms and thereby avoid criminal liability for possessing or
24 disposing of their firearms.

25 (3) California driver's license number and identification
26 information is contained in all firearms transactions records
27 maintained by the state and the identification number is a
28 permanent and unique number which identifies who owns what
29 handgun and where he or she resides.

30 (b) The Attorney General shall prepare and submit to the
31 Legislature, on or before January 1, 2009, a report concerning
32 all of the following:

33 (1) Recommending a clear and succinct general procedure
34 whereby instantaneous background checks can be conducted on
35 persons wishing to acquire handgun ammunition.

36 (2) Integration of that system into the current handgun
37 registration process.

38 (3) The feasibility and cost of creating the type of background
39 check system referred to in this section.

1 (4) *The costs overall and to individual users of creating that*
2 *system.*

3 (5) *The effect of the system on overall efforts by the Department*
4 *of Justice in terms of information and computerized upgrades that*
5 *the department is currently undertaking.*

6 (6) *Specific statutory changes to implement the system.*

7 (c) *It is the intent of the Legislature to enact legislation, based*
8 *on the Attorney General's report required by subdivision (b),*
9 *providing that commencing July 1, 2011, prior to the delivery of*
10 *handgun ammunition by a "seller of handgun ammunition," as*
11 *described in Section 12326, an instantaneous background check*
12 *will be conducted in order to determine that the recipient of the*
13 *ammunition is not prohibited from possessing ammunition pursuant*
14 *to subdivision (b) of Section 12316.*

15 ~~SEC. 5.~~

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