

ASSEMBLY BILL

No. 2358

Introduced by Assembly Member De Leon

February 19, 2010

An act to amend Section 12061 of the Penal Code, relating to ammunition.

LEGISLATIVE COUNSEL'S DIGEST

AB 2358, as introduced, De Leon. Ammunition.

Existing law provides that commencing February 1, 2011, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without, at the time of delivery, legibly recording specified information regarding the purchaser or transferee, and maintaining the record for a period of not less than 5 years, as specified. Existing law provides that violation of these provisions is a misdemeanor. Existing law also provides that the records shall be subject to inspection by any peace officer and certain others, as specified, for purposes of an investigation where access to those records is or may be relevant to that investigation, when seeking information about persons prohibited from owning a firearm or ammunition, or when engaged in ensuring compliance with laws pertaining to firearms or ammunition, as specified.

This bill would provide that commencing February 1, 2011, except for investigatory and enforcement purposes described above, no ammunition vendor shall provide the required information to any 3rd party without the written consent of the purchaser or transferee. The bill would also provide that records may be removed from the premises for purposes of copying or other investigatory or enforcement purposes by any person authorized to inspect those records, as specified, and that copies shall be transmitted to local law enforcement if required by local

law. The bill would also provide that any required ammunition records that are no longer required to be maintained shall be destroyed in a manner that protects the privacy of the purchaser or transferee who is the subject of the record. The bill would provide that violation of these provisions is a misdemeanor.

By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

The bill would require ammunition vendors, commencing February 1, 2011, to provide written notice to the local police chief, or if the vendor is in an unincorporated area, to the county sheriff, of the vendor's intent to conduct business in the jurisdiction, and to obtain any regulatory or business license required by the jurisdiction for ammunition sellers.

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 12061 of the Penal Code is amended to
2 read:
3 12061. (a) A vendor shall comply with all of the following
4 conditions, requirements and prohibitions:
5 (1) A vendor shall not permit any employee who the vendor
6 knows or reasonably should know is a person described in Section
7 12021 or 12021.1 of this code or Section 8100 or 8103 of the
8 Welfare and Institutions Code to handle, sell, or deliver handgun
9 ammunition in the course and scope of his or her employment.
10 (2) A vendor shall not sell or otherwise transfer ownership of,
11 offer for sale or otherwise offer to transfer ownership of, or display
12 for sale or display for transfer of ownership of any handgun
13 ammunition in a manner that allows that ammunition to be
14 accessible to a purchaser or transferee without the assistance of
15 the vendor or employee thereof.

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

4 (A) The date of the sale or other transaction.

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

7 (C) The brand, type, and amount of ammunition sold or
8 otherwise transferred.

9 (D) The purchaser's or transferee's signature.

10 (E) The name of the salesperson who processed the sale or other
11 transaction.

12 (F) The right thumbprint of the purchaser or transferee on the
13 above form.

14 (G) The purchaser's or transferee's full residential address and
15 telephone number.

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

17 (4) Commencing February 1, 2011, the records required by this
18 section shall be maintained on the premises of the vendor for a
19 period of not less than five years from the date of the recorded
20 transfer. *Copies of these records shall be transmitted to the county*
21 *sheriff or chief of police if required by local law. Commencing*
22 *February 1, 2011, except for the purposes set forth in paragraph*
23 *(5), no vendor shall provide the information specified in paragraph*
24 *(3) to any third party without the written consent of the purchaser*
25 *or transferee. Any records required by this section that are no*
26 *longer required to be maintained shall be destroyed in a manner*
27 *that protects the privacy of the purchaser or transferee who is the*
28 *subject of the record.*

29 (5) Commencing February 1, 2011, the records referred to in
30 paragraph (3) shall be subject to inspection at any time during
31 normal business hours by any peace officer employed by a sheriff,
32 city police department, or district attorney as provided in
33 subdivision (a) of Section 830.1, or employed by the department
34 as provided in subdivision (b) of Section 830.1, provided the officer
35 is conducting an investigation where access to those records is or
36 may be relevant to that investigation, is seeking information about
37 persons prohibited from owning a firearm or ammunition, or is
38 engaged in ensuring compliance with the Dangerous Weapons
39 Control Law (Chapter 1 (commencing with Section 12000) of Title
40 2 of Part 4), or any other laws pertaining to firearms or ammunition.

1 The records shall also be subject to inspection at any time during
2 normal business hours by any other employee of the department,
3 provided that employee is conducting an investigation where access
4 to those records is or may be relevant to that investigation, is
5 seeking information about persons prohibited from owning a
6 firearm or ammunition, or is engaged in ensuring compliance with
7 the Dangerous Weapons Control Law (Chapter 1 (commencing
8 with Section 12000) of Title 2 of Part 4), or any other laws
9 pertaining to firearms or ammunition. *Records may be removed*
10 *from the premises for purposes of copying or other investigatory*
11 *or enforcement purposes by any person authorized to inspect those*
12 *records pursuant to this subdivision.*

13 (6) Commencing February 1, 2011, the vendor shall not
14 knowingly make a false entry in, fail to make a required entry in,
15 fail to obtain the required thumbprint, or otherwise fail to maintain
16 in the required manner records prepared in accordance with
17 paragraph (2). If the right thumbprint is not available, then the
18 vendor shall have the purchaser or transferee use his or her left
19 thumb, or any available finger, and shall so indicate on the form.
20 If the purchaser or transferee is physically unable to provide a
21 thumbprint or fingerprint, the vendor shall so indicate on the form.

22 (7) Commencing February 1, 2011, no vendor shall refuse to
23 permit a person authorized under paragraph (5) to examine any
24 record prepared in accordance with this section during any
25 inspection conducted pursuant to this section, or refuse to permit
26 the use of any record or information by those persons.

27 (8) *Commencing February 1, 2011, a vendor shall provide*
28 *written notice to the local police chief, or if the vendor is in an*
29 *unincorporated area, to the county sheriff, of the vendor's intent*
30 *to conduct business in the jurisdiction, and shall obtain any*
31 *regulatory or business license required by the jurisdiction for*
32 *ammunition sellers.*

33 (b) Paragraph (3) of subdivision (a) shall not apply to or affect
34 sales or other transfers of ownership of handgun ammunition by
35 handgun ammunition vendors to any of the following, if properly
36 identified:

37 (1) A person licensed pursuant to Section 12071.

38 (2) A handgun ammunition vendor.

39 (3) A person who is on the centralized list maintained by the
40 department pursuant to Section 12083.

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

2 (5) Gunsmiths.

3 (6) Wholesalers.

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

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

20 (c) (1) A violation of paragraph (3), (4), (6), or (7) of
21 subdivision (a) is a misdemeanor.

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

27 SEC. 2. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.