

AMENDED IN ASSEMBLY JUNE 15, 2011

AMENDED IN SENATE MAY 24, 2011

AMENDED IN SENATE APRIL 28, 2011

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 427

Introduced by Senator De León

February 16, 2011

An act to amend Section 3479 of the Civil Code, and to amend Sections 16650, 30312, 30352, 30355, 30357, and 30362 of the Penal Code, relating to ammunition and firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 427, as amended, De León. Ammunition.

(1) Existing law authorizes issuance of an injunction prohibiting specified criminal gang activity for purposes of abating a nuisance.

This bill would require the court issuing an injunction against gang activity, as specified, to state on the record whether any or all of the defendants are enjoined from possessing a firearm as a term of the injunction.

(2) *Existing law defines "handgun ammunition" for most purposes as ammunition principally for use in handguns, notwithstanding that the ammunition may also be used in some rifles.*

This bill would instead define "handgun ammunition" for those purposes as any variety of ammunition of a specified caliber, notwithstanding that the ammunition may also be used by some rifles.

(2)

(3) Existing law prohibits a vendor from selling or otherwise transferring 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 require that the information described above in connection with the transfer of handgun ammunition be legibly or electronically recorded. The bill would provide that commencing February 1, 2012, except for investigatory and enforcement purposes described above, no ammunition vendor shall provide the information described above to any 3rd party without the written consent of the purchaser or transferee and would require the records to be maintained in a manner that protects the privacy of the purchaser or transferee who is the subject of the record. The bill would also permit records containing that information to be copied for investigatory or enforcement purposes by any person authorized to inspect those records, as specified. The bill would provide that anyone who uses, copies, or discloses any of the information for any purpose that is unauthorized by these provisions is guilty of a misdemeanor. Any required ammunition records that are no longer required to be maintained would 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 creating new crimes, and 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, 2012, 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.

(3)

(4) Existing law provides that 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.

This bill would also provide that handgun ammunition may be purchased over the Internet or through other means of remote ordering if a handgun ammunition vendor in California initially receives the ammunition and processes the transfer, as specified.

(4)

(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:

1 SECTION 1. Section 3479 of the Civil Code is amended to
2 read:

3 3479. (a) Anything which is injurious to health, including, but
4 not limited to, the illegal sale of controlled substances, or is
5 indecent or offensive to the senses, or an obstruction to the free
6 use of property, so as to interfere with the comfortable enjoyment
7 of life or property, or unlawfully obstructs the free passage or use,
8 in the customary manner, of any navigable lake, or river, bay,
9 stream, canal, or basin, or any public park, square, street, or
10 highway, is a nuisance.

11 (b) In every case in which a court orders an injunction pursuant
12 to this section to abate a nuisance related to gang activity, the court
13 shall state on the record whether any or all defendants shall be
14 enjoined from possessing a firearm as a term of the injunction.

15 SEC. 2. Section 16650 of the Penal Code is amended to read:

16 16650. (a) ~~As used in this part, "handgun ammunition" means~~
17 ~~ammunition principally for use in pistols, revolvers, and other~~
18 ~~firearms capable of being concealed upon the person,~~
19 ~~notwithstanding that the ammunition may also be used in some~~
20 ~~rifles.~~

21 (a) "Handgun ammunition," means any variety of ammunition
22 in the following calibers, notwithstanding that the ammunition
23 may also be used in some rifles:

- 1 (1) .22 rimfire.
- 2 (2) .25.
- 3 (3) .32.
- 4 (4) .38.
- 5 (5) 9mm.
- 6 (6) 10mm.
- 7 (7) .40.
- 8 (8) .44.
- 9 (9) .45.
- 10 (10) 5.7x28mm.
- 11 (11) .357.
- 12 (12) .380.

13 (b) As used in Section 30312 and in Article 3 (commencing
14 with Section 30345) of Chapter 1 of Division 10 of Title 4,
15 “handgun ammunition” does not include either of the following:

- 16 (1) Ammunition designed and intended to be used in an antique
17 firearm, *as defined in Section 921(a)(16) of Title 18 of the United*
18 *States Code.*
- 19 (2) Blanks.

20 ~~SEC. 2.~~

21 *SEC. 3.* Section 30312 of the Penal Code is amended to read:

22 30312. (a) The delivery or transfer of ownership of handgun
23 ammunition may only occur in a face-to-face transaction with the
24 deliverer or transferor being provided bona fide evidence of identity
25 from the purchaser or other transferee, provided, however, that
26 handgun ammunition may be purchased over the Internet or
27 through other means of remote ordering if a handgun ammunition
28 vendor in California initially receives the ammunition and
29 processes the transfer in compliance with this section and Article
30 3 (commencing with Section 30345) of Chapter 1 of Division 10
31 of Title 4 of Part 6.

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

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

1 and authorizing the transaction for the exclusive use of the agency
2 employing the individual.

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

7 (3) An importer or manufacturer of handgun ammunition or
8 firearms who is licensed to engage in business pursuant to Chapter
9 44 (commencing with Section 921) of Title 18 of the United States
10 Code and the regulations issued pursuant thereto.

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

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

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

24 (7) A handgun ammunition vendor.

25 (8) A consultant-evaluator.

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

27 ~~SEC. 3.~~

28 *SEC. 4.* Section 30352 of the Penal Code is amended to read:

29 30352. (a) A vendor shall not sell or otherwise transfer
30 ownership of any handgun ammunition without, at the time of
31 delivery, legibly or electronically recording the following
32 information:

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

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

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

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

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

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

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

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

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

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

11 (2) A handgun ammunition vendor.

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

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

16 (5) A gunsmith.

17 (6) A wholesaler.

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

21 (8) An authorized law enforcement representative of a city,
22 county, city and county, or state or federal government, if the sale
23 or other transfer of ownership is for exclusive use by that
24 government agency, and, prior to the sale, delivery, or transfer of
25 the handgun ammunition, written authorization from the head of
26 the agency authorizing the transaction is presented to the person
27 from whom the purchase, delivery, or transfer is being made.
28 Proper written authorization is defined as verifiable written
29 certification from the head of the agency by which the purchaser,
30 transferee, or person otherwise acquiring ownership is employed,
31 identifying the employee as an individual authorized to conduct
32 the transaction, and authorizing the transaction for the exclusive
33 use of the agency by which that individual is employed.

34 ~~SEC. 4.~~

35 *SEC. 5.* Section 30355 of the Penal Code is amended to read:

36 30355. The records required by this article shall be maintained
37 on the premises of the vendor for a period of not less than five
38 years from the date of the recorded transfer. Commencing February
39 1, 2012, except for the purposes set forth in Section 30357, no
40 vendor shall provide the information specified in subdivision (a)

1 of Section 30352 to any third party without the written consent of
2 the purchaser or transferee, and all records shall be maintained in
3 a manner that protects the privacy of the purchaser or transferee
4 who is the subject of the record. Anyone who uses, copies, or
5 discloses any of the information contained in the records for any
6 purpose that is not authorized by this article shall be guilty of a
7 misdemeanor, punishable by imprisonment in a county jail not to
8 exceed six months, by a fine not to exceed one thousand dollars
9 (\$1,000), or by both that fine and imprisonment. Any records
10 required by this section that are no longer required to be maintained
11 shall be destroyed in a manner that protects the privacy of the
12 purchaser or transferee who is the subject of the record.

13 ~~SEC. 5.~~

14 *SEC. 6.* Section 30357 of the Penal Code is amended to read:

15 30357. (a) The records referred to in Section 30352 shall be
16 subject to inspection at any time during normal business hours by
17 any peace officer employed by a sheriff, city police department,
18 or district attorney as provided in subdivision (a) of Section 830.1,
19 or employed by the department as provided in subdivision (b) of
20 Section 830.1, provided that the officer is conducting an
21 investigation where access to those records is or may be relevant,
22 is seeking information about persons prohibited from owning a
23 firearm or ammunition, or is engaged in ensuring compliance with
24 the Dangerous Weapons Control Law, as defined in Section 23500,
25 or any other laws pertaining to firearms or ammunition.

26 (b) The records referred to in Section 30352 shall also be subject
27 to inspection at any time during normal business hours by any
28 other employee of the department, provided that the employee is
29 conducting an investigation where access to those records is or
30 may be relevant, is seeking information about persons prohibited
31 from owning a firearm or ammunition, or is engaged in ensuring
32 compliance with the Dangerous Weapons Control Law, as defined
33 in Section 23500, or any other laws pertaining to firearms or
34 ammunition. Records may be copied for investigatory or
35 enforcement purposes by any person authorized to inspect those
36 records pursuant to this section.

37 ~~SEC. 6.~~

38 *SEC. 7.* Section 30362 of the Penal Code is amended to read:

39 30362. (a) No vendor shall, during any inspection conducted
40 pursuant to this article, refuse to permit a person authorized under

1 Section 30357 to examine any record prepared in accordance with
2 this article.

3 (b) No vendor shall refuse to permit the use of any record or
4 information by a person authorized under Section 30357.

5 (c) Commencing February 1, 2012, a vendor shall provide
6 written notice to the local police chief, or if the vendor is in an
7 unincorporated area, to the county sheriff, of the vendor's intent
8 to conduct business in the jurisdiction, and shall obtain any
9 regulatory or business license required by the jurisdiction for
10 ammunition sellers.

11 ~~SEC. 7.~~

12 *SEC. 8.* No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.