

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 187

Introduced by Assembly Member Bonta

January 28, 2013

An act ~~relating to ammunition~~ to amend Section 1656.1 of the Civil Code, to add Title 7 (commencing with Section 14001) to Part 4 of the Penal Code, and to add Part 14.5 (commencing with Section 33001) to Division 2 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 187, as amended, Bonta. ~~Ammunition~~–Taxation: ammunition: Public Safety Emergency Prevention Fund.

Existing sales and use tax laws impose taxes on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state.

This bill would impose a tax upon retailers for the privilege of selling ammunition at the rate of 10% of the gross receipts of any retailer from the sale of ammunition sold at retail in this state on or after January 1, 2014. It would also impose a comparable excise tax on the storage, use, or other consumption in this state of ammunition purchased from a retailer for the storage, use, or other consumption in this state, as provided. The taxes would be collected pursuant to the Fee Collection Procedures Law. This bill would require that revenues collected pursuant to these taxes be deposited in the Public Safety Emergency Prevention Fund, which the bill would create. The moneys in the fund

would be allocated, upon appropriation by the Legislature, to the Office of Emergency Services to fund public safety programs in high crime municipalities.

Because this bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, and would create crimes for specified retailer misconduct, 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.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

~~Existing law prohibits that a handgun ammunition vendor, as defined, from selling, offering for sale, or displaying for sale, any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser without the assistance of the vendor or employee thereof. Existing law requires, subject to exceptions, that handgun ammunition vendors obtain a thumbprint and other information from ammunition purchasers, as specified.~~

~~This bill would state the intent of the Legislature to enact legislation that would establish a tax on all ammunition sold in retail stores and gun shows in the state and direct tax revenue to a fund to prevent crime in high-crime areas of the state.~~

Vote: ~~majority~~ ^{$\frac{2}{3}$} . Appropriation: no. Fiscal committee: ~~no~~^{yes}. State-mandated local program: ~~no~~^{yes}.

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California recognizes a clearly defined nexus between the
- 4 use of guns in violent crime and access to guns and ammunition.

1 (b) While many factors can contribute to an increase in gun
2 crime, one important way to reduce crime is through proper
3 funding of public safety services.

4 (c) Communities, such as Oakland and Stockton, have been
5 suffering from spikes in violent crime with 131 and 71 homicides
6 reported in 2012, respectively, in conjunction with reductions in
7 public safety budgets and street-level police forces. There is a
8 clear and compelling risk to the safety of the public in these
9 communities.

10 (d) The Legislature, therefore, finds and declares that providing
11 a source of stable revenue through a tax on the sale of ammunition
12 to fund vital public safety programs in high crime municipalities
13 will serve California's best interest by likely reducing acts of
14 violence committed with a deadly weapon in the state and thereby
15 promoting the health and safety of the state's residents.

16 SEC. 2. Section 1656.1 of the Civil Code is amended to read:

17 1656.1. (a) Whether a retailer may add sales tax reimbursement
18 to the sales price of the tangible personal property sold at retail to
19 a purchaser depends solely upon the terms of the agreement of
20 sale. It shall be presumed that the parties agreed to the addition of
21 sales tax reimbursement to the sales price of tangible personal
22 property sold at retail to a purchaser if:

23 (1) The agreement of sale expressly provides for such addition
24 of sales tax reimbursement;

25 (2) Sales tax reimbursement is shown on the sales check or other
26 proof of sale; or

27 (3) The retailer posts in his or her premises in a location visible
28 to purchasers, or includes on a price tag or in an advertisement or
29 other printed material directed to purchasers, a notice to the effect
30 that reimbursement for sales tax will be added to the sales price
31 of all items or certain items, whichever is applicable.

32 (b) It shall be presumed that the property, the gross receipts
33 from the sale of which is subject to the sales tax, is sold at a price
34 which includes tax reimbursement if the retailer posts in his or her
35 premises, or includes on a price tag or in an ~~advertisement~~
36 ~~(whichever is applicable)~~ advertisement, whichever is applicable,
37 one of the following notices:

38 (1) "All prices of taxable items include sales tax reimbursement
39 computed to the nearest mill."

1 (2) “The price of this item includes sales tax reimbursement
2 computed to the nearest mill.”

3 (c) (1) The State Board of Equalization shall prepare and make
4 available for inspection and duplication or reproduction a sales
5 tax reimbursement schedule which shall be identical with the
6 following tables up to the amounts specified therein: *set forth the*
7 *various rates of tax then in effect as applied to price ranges from*
8 *one cent (\$0.01) to at least one dollar (\$1).*
9

10 4 ³/₄ percent

Price	Tax
.01—.10 .....	.00
.11—.31 .....	.01
.32—.52 .....	.02
.53—.73 .....	.03
.74—.94 .....	.04
.95—1.15 .....	.05

18 5 percent

Price	Tax
.01—.09 .....	.00
.10—.29 .....	.01
.30—.49 .....	.02
.50—.69 .....	.03
.70—.89 .....	.04
.90—1.09 .....	.05

27 5 ¹/₄ percent

Price	Tax
.01—.09 .....	.00
.10—.28 .....	.01
.29—.47 .....	.02
.48—.66 .....	.03
.67—.85 .....	.04
.86—1.04 .....	.05

36 5 ¹/₂ percent

Price	Tax
.01—.09 .....	.00
.10—.27 .....	.01

1	.28 .45 .....	.02
2	.46 .63 .....	.03
3	.64 .81 .....	.04
4	.82 .99 .....	.05
5	1.00 1.18 .....	.06

5 ³/₄ percent

8	Price	Tax
9	.01 .08 .....	.00
10	.09 .26 .....	.01
11	.27 .43 .....	.02
12	.44 .60 .....	.03
13	.61 .78 .....	.04
14	.79 .95 .....	.05
15	.96 1.13 .....	.06

6 percent

18	Price	Tax
19	.01 .08 .....	.00
20	.09 .24 .....	.01
21	.25 .41 .....	.02
22	.42 .58 .....	.03
23	.59 .74 .....	.04
24	.75 .91 .....	.05
25	.92 1.08 .....	.06

6 ¹/₄ percent

28	Price	Tax
29	.01 .07 .....	.00
30	.08 .23 .....	.01
31	.24 .39 .....	.02
32	.40 .55 .....	.03
33	.56 .71 .....	.04
34	.72 .87 .....	.05
35	.88 1.03 .....	.06

6 ¹/₂ percent

38	Price	Tax
39	.01 .07 .....	.00
40	.08 .23 .....	.01

1	.24 .38 .....	.02
2	.39 .53 .....	.03
3	.54 .69 .....	.04
4	.70 .84 .....	.05
5	.85 .99 .....	.06
6	1.00 1.15 .....	.07

6 3/4 percent

9	Price	Tax
10	.01 .07 .....	.00
11	.08 .22 .....	.01
12	.23 .37 .....	.02
13	.38 .51 .....	.03
14	.52 .66 .....	.04
15	.67 .81 .....	.05
16	.82 .96 .....	.06
17	.97 1.11 .....	.07

7 percent

20	Price	Tax
21	.01 .07 .....	.00
22	.08 .21 .....	.01
23	.22 .35 .....	.02
24	.36 .49 .....	.03
25	.50 .64 .....	.04
26	.65 .78 .....	.05
27	.79 .92 .....	.06
28	.93 1.07 .....	.07

7 1/4 percent

31	Price	Tax
32	.01 .06 .....	.00
33	.07 .20 .....	.01
34	.21 .34 .....	.02
35	.35 .48 .....	.03
36	.49 .62 .....	.04
37	.63 .75 .....	.05
38	.76 .89 .....	.06
39	.90 1.03 .....	.07

40

7½ percent

	Price	Tax
1		
2		
3	.01 .06 .....	.00
4	.07 .19 .....	.01
5	.20 .33 .....	.02
6	.34 .46 .....	.03
7	.47 .59 .....	.04
8	.60 .73 .....	.05
9	.74 .86 .....	.06
10	.87 .99 .....	.07
11	1.00 1.13 .....	.08
12		

13 (2) Reimbursement on sales prices in excess of those shown in
 14 the schedules prepared pursuant to paragraph (1) may be
 15 computed by applying the applicable tax rate to the sales price,
 16 rounded off to the nearest cent by eliminating any fraction less
 17 than one-half cent and increasing any fraction of one-half cent or
 18 over to the next higher cent.

19 (3) If sales tax reimbursement is added to the sales price of
 20 tangible personal property sold at retail, the retailer shall use a
 21 schedule provided by the board, or a schedule approved by the
 22 board.

23 (d) The presumptions created by this section are rebuttable
 24 presumptions.

25 (e) For purposes of this section, as applied to Part 14.5
 26 (commencing with Section 33001) of Division 2 of the Revenue
 27 and Taxation Code, sales tax reimbursement shall refer to
 28 reimbursement for the tax imposed by that part, and tangible
 29 personal property shall include ammunition as defined under that
 30 part.

31 SEC. 3. Title 7 (commencing with Section 14001) is added to
 32 Part 4 of the Penal Code, to read:

33
 34 TITLE 7. PUBLIC SAFETY EMERGENCY PREVENTION
 35 FUND
 36

37 14001. The Public Safety Emergency Prevention Fund is hereby
 38 created in the State Treasury. All moneys raised pursuant to the
 39 taxes imposed by Sections 33021 and 33022 of the Revenue and

1 *Taxation Code shall be deposited in the Public Safety Emergency*
2 *Prevention Fund.*

3 *14002. All moneys in the fund shall, upon appropriation by*
4 *the Legislature, be expended by the Office of Emergency Services*
5 *to support public safety programs in high crime municipalities.*

6 *SEC. 4. Part 14.5 (commencing with Section 33001) is added*
7 *to Division 2 of the Revenue and Taxation Code, to read:*

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9

PART 14.5. AMMUNITION TAX LAW

10

11

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

12

13 *33001. This part shall be known and may be cited as the*
14 *Ammunition Tax Law.*

15 *33002. For purposes of this part:*

16 *(a) "Ammunition" includes, but is not limited to, any bullet,*
17 *cartridge, or projectile capable of being fired from a firearm with*
18 *a deadly consequence. "Ammunition" does not include blanks.*

19 *(b) "Firearm" means a device, designed to be used as a weapon,*
20 *from which is expelled through a barrel, a projectile by the force*
21 *of an explosion or other form of combustion.*

22 *(c) "Retailer engaged in business in this state" has the same*
23 *meaning as defined in Section 6203.*

24 *33012. Unless the context otherwise requires, the definitions*
25 *provided in Chapter 1 (commencing with Section 6001) of Part 1*
26 *govern the construction of this part.*

27

28

CHAPTER 2. IMPOSITION OF TAX

29

30 *33021. In addition to the tax imposed under Chapter 2*
31 *(commencing with Section 6051) of Part 1, for the privilege of*
32 *selling ammunition at retail there is hereby imposed a tax upon*
33 *all retailers at the rate of 10 percent of the gross receipts of any*
34 *retailer from the sale of all ammunition sold at retail in this state*
35 *on or after January 1, 2014.*

36 *33022. (a) In addition to the tax imposed under Chapter 3*
37 *(commencing with Section 6201) of Part 1, an excise tax is hereby*
38 *imposed on the storage, use, or other consumption in this state of*
39 *ammunition purchased from any retailer on or after January 1,*

1 2014, for storage, use, or other consumption in this state at the
2 rate of 10 percent of the sales price of the ammunition.

3 (b) Every person storing, using, or otherwise consuming in this
4 state ammunition purchased from a retailer is liable for the tax.
5 His or her liability is not extinguished until the tax has been paid
6 to this state except that a receipt from a retailer engaged in
7 business in this state or from a retailer who is authorized by the
8 board, under the rules and regulations as it may prescribe, to
9 collect the tax and who is, for the purposes of this part relating to
10 the use tax, regarded as a retailer engaged in business in this state,
11 given to the purchaser pursuant to subdivision (c) is sufficient to
12 relieve the purchaser from further liability for the tax to which the
13 receipt refers.

14 (c) Every retailer engaged in business in this state and making
15 sales for storage, use, or other consumption in this state, not
16 exempted under Chapter 3 (commencing with Section 33031),
17 shall, at the time of making the sales or, if the storage, use, or
18 other consumption of ammunition is not then taxable hereunder,
19 at the time the storage, use, or other consumption becomes taxable,
20 collect the tax from the purchaser and give to the purchaser a
21 receipt therefor in the manner and form prescribed by the board.

22 (d) The tax required to be collected by the retailer and any
23 amount unreturned to the customer which is not tax but was
24 collected from the customer under the representation by the retailer
25 that it was tax constitutes debts owed by the retailer to this state.

26 (e) It is unlawful for any retailer to advertise or hold out or
27 state to the public or to any customer, directly or indirectly, that
28 the tax or any part thereof will be assumed or absorbed by the
29 retailer or that it will not be added to the selling price of the
30 property sold or that if added it or any part thereof will be
31 refunded.

32 (f) The tax required to be collected by the retailer from the
33 purchaser shall be displayed separately from the list price, the
34 price advertised in the premises, the marked price, or other price
35 on the sales check or other proof of sales.

36 (g) Any person violating subdivision (c), (e), or (f) is guilty of
37 a misdemeanor.

CHAPTER 3. EXEMPTION

33031. There are exempted from the taxes imposed by this part, the sale of, or the storage, use, or other consumption of, ammunition purchased by any peace officer required to carry or use a firearm that uses ammunition while on duty, or by any governmental law enforcement agency employing that peace officer, for use in the normal course of employment.

CHAPTER 4. COLLECTION AND ADMINISTRATION

33041. The board shall administer and collect the tax imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, the references in the Fee Collection Procedures Law to “fee” shall include the tax imposed by this part and references to “feepayer” shall mean any person liable for the payment of the taxes imposed under this part and collected pursuant to that law.

33042. The taxes imposed by this part are due and payable to the board quarterly on or before the last day of the month next succeeding each quarterly period of three months.

33043. On or before the last day of the month following each quarterly period a return for the preceding quarterly period shall be filed with the board.

CHAPTER 5. DISPOSITION OF PROCEEDS

33051. All amounts required to be paid under this part shall be made in remittances to the board, and those revenues, net of refunds and costs of administration, and shall be deposited in the Public Safety Emergency Prevention Fund, established pursuant to Section 14001 of the Penal Code.

SEC. 5. 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

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

3 *SEC. 6. This act provides for a tax levy within the meaning of*
4 *Article IV of the Constitution and shall go into immediate effect.*

5 ~~SECTION 1. It is the intent of the Legislature that would enact~~
6 ~~legislation to establish a tax on all ammunition sold in retail stores~~
7 ~~and gun shows in the state and direct the revenue from the tax to~~
8 ~~a high-crime prevention fund for crime prevention efforts in~~
9 ~~high-crime areas of the state.~~

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