

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 760**

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**Introduced by Assembly Member Dickinson**  
(Principal coauthor: Senator Steinberg)

February 21, 2013

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An act to amend Section 1656.1 of the Civil 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 760, as amended, Dickinson. Taxes: ammunition sales.

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, as defined, at the rate of \$0.05 per item of ammunition sold *at retail* in this state on or after January 1, 2014. It would also impose a complementary excise tax on the storage, use, or other consumption in this state of ammunition purchased from a retailer for storage, use, or other consumption in this state, as provided. The tax would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. This bill would require that revenues collected pursuant to these taxes be allocated to the School-Based Early Mental Health Intervention and Prevention Services Matching Grant Program.

Because this bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a 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.

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.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: 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 has long recognized the relationship between~~  
4 ~~mental health and gun violence by enacting several laws restricting~~  
5 ~~the ownership of guns by individuals who have been identified as~~  
6 ~~suffering from mental disorders or as not in control of all of their~~  
7 ~~mental faculties.~~

8 ~~(b) There is evidence that people with severe mental illness~~  
9 ~~have a higher risk of committing violent acts than the general~~  
10 ~~population. The National Institute of Mental Health found that the~~  
11 ~~lifetime prevalence of violence among people with serious mental~~  
12 ~~illness was 16 percent, compared with 7 percent among people~~  
13 ~~without any mental disorder.~~

14 ~~(a) People with mental illness are no more likely to commit~~  
15 ~~violent acts than are others. California law, however, does restrict~~  
16 ~~the ownership of guns by individuals who have been adjudicated~~  
17 ~~as being a danger to themselves or others because of mental illness.~~

18 ~~(c) However, the~~

19 ~~(b) The ability of mental health professionals to predict any~~  
20 ~~particular mental disorder or disordered individual as being likely~~  
21 ~~responsible for and likely to commit an act of violence with a~~  
22 ~~deadly weapon is weak. Nonetheless, recent tragic events involving~~

1 *mass shootings in Connecticut, Colorado, Arizona, and elsewhere*  
2 *are revealing a pattern of young individuals who are suffering*  
3 *from some form of mental illness that progressed from mild or*  
4 *moderate to more serious conditions when those individuals'*  
5 *mental illness was not identified and treated at an early age.*

6 ~~(d) Reducing mental illness, in conjunction with restricting~~  
7 ~~mentally disordered persons from owning guns, has been seen as~~  
8 ~~a productive approach for reducing the risk of mentally disordered~~  
9 ~~individuals to commit acts of violence with a deadly weapon.~~

10 (e)

11 (c) Research has found that there is a clear relationship between  
12 early adjustment problems and later adolescent problems, and  
13 many of these adjustment problems are due to mild to moderate  
14 mental disorders among school age children. In many cases, signs  
15 of these problems can be detected in early school grades.

16 (d) *Treating mental illness in a timely manner before conditions*  
17 *become more severe, in conjunction with restricting gun ownership*  
18 *from individuals adjudicated as being a danger to themselves or*  
19 *others, may be a productive approach for reducing the extent to*  
20 *which some people suffering from mental illness commit a violent*  
21 *act with the use of a deadly weapon.*

22 (f)

23 (e) In 1991 California enacted the School-Based Early Mental  
24 Health Intervention and Prevention Services Matching Grant  
25 program (EMHI). This program is intended to ensure that pupils  
26 will receive the benefits of school-based early mental health  
27 intervention and prevention services that will enhance the mental  
28 health and social development of children.

29 (g)

30 (f) Scientific evaluation of EMHI has shown dramatic  
31 improvements in adjustment behavior among children in grades  
32 1 to 3, inclusive, and success in reducing the incidence of early  
33 mild to moderate mental illness. Further, the improvement in  
34 children's behavior has been shown to continue through their later  
35 school years.

36 (h)

37 (g) Due to state budget constraints EMHI was defunded in the  
38 2012–13 Budget Act. The Legislature, therefore, finds and declares  
39 that providing a source of stable revenue to continue the EMHI  
40 matching grants is in California's best interest, both in economic

1 and human terms, to identify and treat the minor and moderate  
 2 mental difficulties that children experience before they become  
 3 serious mental disorders. The Legislature further finds and declares  
 4 that a reduction in the incidence of mental illness is likely to reduce  
 5 acts of violence committed with a deadly weapon in our state, and  
 6 therefore a tax on the sale of ammunition is a means of refunding  
 7 the EMHI program.

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

9 1656.1. (a) Whether a retailer may add sales tax reimbursement  
 10 to the sales price of the tangible personal property sold at retail to  
 11 a purchaser depends solely upon the terms of the agreement of  
 12 sale. It shall be presumed that the parties agreed to the addition of  
 13 sales tax reimbursement to the sales price of tangible personal  
 14 property sold at retail to a purchaser if:

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

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

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

24 (b) It shall be presumed that the property, the gross receipts  
 25 from the sale of which is subject to the sales tax, is sold at a price  
 26 which includes tax reimbursement if the retailer posts in his or her  
 27 premises, or includes on a price tag or in an advertisement  
 28 (whichever is applicable) one of the following notices:

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

31 (2) "The price of this item includes sales tax reimbursement  
 32 computed to the nearest mill."

33 (c) (1) The State Board of Equalization shall prepare and make  
 34 available for inspection and duplication or reproduction a sales  
 35 tax reimbursement schedule which shall be set fourth the various  
 36 rates of tax then in effect as applied to price ranges from \$.01 to  
 37 at least \$1.00.

38 (2) Reimbursement on sales prices in excess of those shown in  
 39 the schedules prepared pursuant to paragraph (1) may be computed  
 40 by applying the applicable tax rate to the sales price, rounded off

1 to the nearest cent by eliminating any fraction less than one-half  
2 cent and increasing any fraction of one-half cent or over to the  
3 next higher cent.

4 (3) If sales tax reimbursement is added to the sales price of  
5 tangible personal property sold at retail, the retailer shall use a  
6 schedule provided by the board, or a schedule approved by the  
7 board.

8 (d) The presumptions created by this section are rebuttable  
9 presumptions.

10 (e) For purposes of this section, as applied to Part 14.5  
11 (*commencing with Section 33001*) of Division 2 of the Revenue  
12 and Taxation Code, sales tax reimbursement shall refer to  
13 reimbursement for the tax imposed by that part, and tangible  
14 personal property shall include ammunition as defined under that  
15 part.

16 SEC. 3. Part 14.5 (*commencing with Section 33001*) is added  
17 to Division 2 of the Revenue and Taxation Code, to read:

18  
19 PART 14.5. AMMUNITION TAX LAW

20  
21 CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

22  
23 33001. This part is known and may be cited as the  
24 “Ammunition Tax Law.”

25 33011. For purposes of this part:

26 (a) “Ammunition” means projectiles with their fuse, propelling  
27 charges, or primers fired from a weapon, or any of the individual  
28 components thereof, including without limitation shot, sharpel  
29 bullets, or shells. “Ammunition” shall not include a BB or a pellet  
30 commonly used in an air rifle or air pistol.

31 (b) “Retailer engaged in business in this state” has the same  
32 meaning as defined in Section 6203.

33 33012. Unless the context otherwise requires the definition  
34 provided in Chapter 1 (*commencing with Section 6001*) of Part 1  
35 of ~~Division 2~~ govern the construction of this part.

36  
37 CHAPTER 2. IMPOSITION OF TAX AND EXCISE TAX

38  
39 33021. For the privilege of selling ammunition at retail there  
40 is hereby imposed a tax upon all retailers at the rate of five cents

1 (\$0.05) per item of ammunition sold at retail in this state on or  
 2 after January 1, 2014.

3 33022. (a) An excise tax is hereby imposed on the storage,  
 4 use, or other consumption in this state of an item of ammunition  
 5 purchased from any retailer on or after January 1, 2014, for storage,  
 6 use, or other consumption in this state at the rate of five cents  
 7 (\$0.05) per item of ammunition.

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

19 (c) Every retailer engaged in business in this state and making  
 20 sales of ~~tangible personal property~~ *ammunition* for storage, use,  
 21 or other consumption in this state, not exempted under Chapter 3  
 22 (commencing with Section 33031), shall, at the time of making  
 23 the sales or, if the storage, use, or other consumption of the  
 24 ~~munitions~~ *ammunition* is not then taxable hereunder, at the time  
 25 the storage, use, or other consumption becomes taxable, collect  
 26 the tax from the purchaser and give to the purchaser a receipt  
 27 therefor in the manner and form prescribed by the board.

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

32 (e) It is unlawful for any retailer to advertise or hold out or state  
 33 to the public or to any customer, directly or indirectly, that the tax  
 34 or any part thereof will be assumed or absorbed by the retailer or  
 35 that it will not be added to the selling price of the ~~property~~  
 36 *ammunition* sold or that if added it or any part thereof will be  
 37 refunded.

38 (f) The tax required to be collected by the retailer from the  
 39 purchaser shall be displayed separately from the list price, the price

1 advertised in the premises, the marked price, or other price on the  
2 sales check or other proof of sales.

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

5  
6 CHAPTER 3. EXEMPTION  
7

8 33031. There are exempted from the taxes imposed by this  
9 part, the sale of, or the storage, use or other consumption of any  
10 item of ammunition purchased by any peace officer required to  
11 carry a weapon requiring ammunition while on duty, or by any  
12 governmental law enforcement agency employing that peace  
13 officer, for use in the normal course of employment.  
14

15 CHAPTER 4. COLLECTION AND ADMINISTRATION  
16

17 33041. The board shall administer and collect the tax imposed  
18 by this part pursuant to the Fee Collection Procedures Law (Part  
19 30 (commencing with Section ~~55001~~ of Division 2). 55001)). For  
20 purposes of this part, the references in the Fee Collection  
21 Procedures Law to “fee” shall include the tax imposed by this part,  
22 and to “feepayer” shall mean any person liable for the payment of  
23 the taxes collected pursuant to that part.

24 33042. The taxes imposed by this part are due and payable to  
25 the board quarterly on or before the last day of the month next  
26 succeeding each quarterly period.

27 33043. On or before the last day of the month following each  
28 quarterly period of three months, a return for the preceding  
29 quarterly period shall be filed with the board.  
30

31 CHAPTER 5. DISPOSITION OF PROCEEDS  
32

33 33051. All taxes, interest, and penalties imposed and required  
34 to be paid under this part shall be made in remittances to the board.

35 33052. All taxes, interest, and penalties, less refunds and costs  
36 of collection, in this fund shall, upon appropriation by the  
37 Legislature, only be allocated to the School-Based Early Mental  
38 Health Intervention and Prevention Services Matching Grant  
39 Program (Chapter 2 (commencing with Section 4380) of Part 4 of  
40 Division 4 of the Welfare and Institutions Code).

1 SEC. 4. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.  
10 SEC. 5. This act provides for a tax levy within the meaning of  
11 Article IV of the Constitution and shall go into immediate effect.