

AMENDED IN ASSEMBLY MAY 7, 2013
AMENDED IN ASSEMBLY APRIL 4, 2013
AMENDED IN ASSEMBLY FEBRUARY 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 48

Introduced by Assembly Member Skinner
**(Coauthors: Assembly Members *Alejo*, *Ammiano*, *Bloom*, *Bonta*,
Ting, and *Williams*)**
(Coauthors: Senators De León and Hancock)

December 20, 2012

An act to amend Sections 16740, 16890, 32310, and 32390 of, and to add Sections 16151, 16740.5, 30301, 30302, 30302.5, 30303, 30304, and 32311 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as amended, Skinner. Firearms: ammunition: sales.

(1) Except as specified, existing law makes it a crime to manufacture, import, keep for sale, offer or expose for sale, or give or lend any large-capacity magazine, and makes a large-capacity magazine a nuisance. Existing law defines "large-capacity magazine" to mean any ammunition feeding device with the capacity to accept more than 10 rounds but excludes, in pertinent part, a feeding device that has been permanently altered so that the magazine cannot accommodate more than 10 rounds.

This bill would make it a misdemeanor, punishable by a fine of not more than \$1,000 or imprisonment in a county jail not to exceed 6 months, or by both that fine and imprisonment, to knowingly manufacture, import, keep for sale, offer or expose for sale, or give or

lend any device that is capable of converting an ammunition feeding device into a large-capacity magazine. The bill would revise the definition of “large-capacity magazine” to mean any ammunition feeding device with the capacity to accept more than 10 rounds, including a ~~readily restorable, as defined,~~ disassembled large-capacity magazine; *that is readily restorable, as defined, to accommodate more than 10 rounds of ammunition*, and an oversize magazine body that appears to hold in excess of 10 rounds *but has not been permanently altered to only accommodate 10 rounds of ammunition or less*. The bill would make related, conforming changes. By creating a new crime, this bill would impose a state-mandated local program.

(2) Existing law prohibits any person, corporation, or dealer from selling ammunition to a person under 18 years of age, selling ammunition designed for use in a handgun to a person under 21 years of age, or providing possession of any ammunition to any minor who the person, corporation, or dealer knows is prohibited from possessing that ammunition at that time. Existing law prohibits a person, corporation, or firm from giving possession or control of ammunition to any person who he or she knows is prohibited by law from possessing ammunition. Existing law also regulates handgun ammunition vendors and provides that a handgun ammunition vendor shall not permit any employee who the vendor knows or reasonably should know is a person who has been convicted of a felony or other specified crimes to handle, sell, or deliver handgun ammunition in the course and scope of employment.

This bill would *require the Department of Justice to keep a centralized list of licensed ammunition vendors who meet certain specified requirements*. The bill would require anyone in the state, prior to selling or otherwise transferring ownership of any ammunition to an individual or business entity in this state or any other state, to ~~possess a license to sell ammunition or a license to sell firearms, as provided,~~ *be an ammunition vendor, defined as a person who is currently on the centralized list of ammunition vendors*, to require proper identification, as prescribed, and to report the sales to the Department of Justice. An individual who ~~fails to make the required report or who knowingly makes a report with false or fictitious information~~ *violates these provisions* would be guilty of a crime, and the ammunition ~~dealer~~ *vendor* would be subject to an administrative enforcement action by the department ~~as specified to remove the vendor from the centralized list of ammunition vendors~~. This bill would exempt an individual in the

state who sells, transfers, or furnishes ammunition to certain specified law enforcement individuals from those identification and reporting requirements. By creating a new crime, this bill would impose a state-mandated local program.

The bill would require the department to alert local law enforcement entities in the community in which the purchaser resides if an individual purchaser who is not a peace officer obtains more than 3,000 rounds within a 5-day period.

The bill would allow a person to request a license to sell ammunition from the Department of Justice *to be an ammunition vendor*, would require the department to conduct a background check to determine if the applicant is prohibited by state or federal law from possessing a firearm, and would require the department to issue a license to ~~sell~~ *be an ammunition vendor* to an applicant if the applicant is not prohibited. The bill would require the department to adopt regulations to recover the costs of administering the program by imposing a fee on applicants.

The bill would require the department to create the California Ammunition Database, and would require the department to cross-reference specified information about ammunition purchasers provided by licensed ammunition ~~dealers~~ *vendors* with the Prohibited Armed Persons File. If the ~~dealer~~ *ammunition vendor* failed to report that information, the bill would authorize an administrative enforcement action against the ~~dealer~~ *vendor* by the department. The bill would make these provisions and the above reporting requirements regarding the sale of ammunition operative upon the creation of the California Ammunition Database by the department. The bill would require the department to adopt regulations and to recover costs of administering the program by imposing a fee on ammunition dealers.

(3) 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 16151 is added to the Penal Code, to
2 read:

1 16151. “Ammunition vendor” means any person who is
 2 currently recorded on the centralized list of ammunition vendors
 3 compiled by the Department of Justice pursuant to Section 30302.5.

4 ~~SECTION 1.~~

5 *SEC. 2.* Section 16740 of the Penal Code is amended to read:

6 16740. (a) As used in this part, “large-capacity magazine”
 7 means any ammunition feeding device with the capacity to accept
 8 more than 10 rounds, including, but not limited to, ~~a readily~~
 9 ~~restorable~~ a disassembled large-capacity magazine *that is readily*
 10 *restorable to accommodate more than 10 rounds of ammunition,*
 11 and an oversize magazine body that appears to hold in excess of
 12 ~~10 rounds.~~ *rounds but has not been permanently altered to only*
 13 *accommodate 10 rounds of ammunition or less.* A magazine body
 14 is not a large-capacity magazine if it is only of sufficient size to
 15 accommodate ~~no more than~~ 10 or fewer rounds of ammunition
 16 and the internal working parts of the magazine, including the
 17 follower and spring.

18 (b) As used in this ~~section~~ part, “readily restorable” ~~means~~
 19 *includes all of the* magazine parts of a fully functioning
 20 *large-capacity magazine, including, but not limited to, the body,*
 21 *spring, follower, and floor plate or end plate,* under the custody
 22 and control of an individual or individuals that can be assembled
 23 into a complete magazine.

24 ~~SEC. 2.~~

25 *SEC. 3.* Section 16740.5 is added to the Penal Code, to read:

26 16740.5. As used in this part, a “large-capacity magazine” shall
 27 not be construed to include any of the following:

28 (a) A .22 caliber tube ammunition feeding device.

29 (b) A tubular magazine that is contained in a lever-action
 30 firearm.

31 ~~SEC. 3.~~

32 *SEC. 4.* Section 16890 of the Penal Code is amended to read:

33 16890. As used in Section 16150, 16740, ~~30305,~~ or 30515,
 34 “magazine” means any ammunition feeding device, including
 35 ~~readily restorable~~ a disassembled ~~magazines.~~ *magazine that is*
 36 *readily restorable to be an ammunition feeding device.* For
 37 purposes of this section, “readily restorable” means ~~magazine~~ *all*
 38 *of the parts of a large-capacity magazine, including, but not limited*
 39 *to, the body, spring, follower, and floor plate or end plate,* under

1 the custody and control of an individual or individuals that can be
2 assembled into a complete *as a fully functioning* magazine.

3 ~~SEC. 4.~~

4 *SEC. 5.* Section 30301 is added to the Penal Code, to read:

5 30301. (a) Anyone in this state, prior to selling, transferring,
6 or otherwise furnishing ammunition to an individual or business
7 entity in this state or any other state, shall do all of the following:

8 ~~(1) Possess a license to sell ammunition, as described in Section~~
9 ~~30302, or a license to sell firearms pursuant to Article 1~~
10 ~~(commencing with Section 26700) and Article 2 (commencing~~
11 ~~with Section 26800) of Chapter 2.~~

12 ~~(1) Be an ammunition vendor as defined in Section 16151.~~

13 ~~(2) Require proper identification from the purchaser in the form~~
14 ~~of a driver's license or other photographic identification issued by~~
15 ~~a state or the federal government.~~

16 ~~(3) Submit a report to the Department of Justice for all of the~~
17 ~~transactions, in a manner to be determined by the department.~~

18 (b) The Department of Justice shall alert local law enforcement
19 entities in the ~~community city, county, or city and county~~ in which
20 the purchaser resides if the purchaser obtains more than 3,000
21 rounds within a five-day period and the purchaser is ~~an individual~~
22 ~~and not an authorized firearms dealer~~ *not an ammunition vendor*.
23 The department is not required to alert local law enforcement of
24 sales of ammunition made to peace officers.

25 (c) ~~(1) Any individual who does not submit the report required~~
26 ~~by paragraph (3) of subdivision (a), or who knowingly submits a~~
27 ~~report with false or fictitious information, A violation of this section~~
28 ~~shall be punished by imprisonment in a county jail not exceeding~~
29 ~~six months, by a fine not exceeding five thousand dollars (\$5,000),~~
30 ~~or by both the fine and imprisonment, and the dealer ammunition~~
31 ~~vendor is subject to an administrative enforcement action by the~~
32 ~~department to revoke or suspend the dealer's license to sell~~
33 ~~ammunition remove the ammunition vendor from the centralized~~
34 ~~list of ammunition vendors.~~

35 (2) Any individual who has previously been convicted of a
36 violation of paragraph (1) shall, upon a subsequent conviction
37 thereof, be punished by imprisonment pursuant to subdivision (h)
38 of Section 1170 of the Penal Code, or by imprisonment in a county
39 jail not exceeding one year, by a fine not exceeding one hundred
40 thousand dollars (\$100,000), or by both the fine and imprisonment.

1 (d) Subdivisions (a), (b), and (c) do not apply to or affect the
 2 sale, delivery, or transfer of ammunition to any of the following:

3 (1) An authorized law enforcement representative of a city,
 4 county, city and county, or state or federal government, if the sale,
 5 delivery, or transfer is for the exclusive use by that government
 6 agency and, prior to the sale, delivery, or transfer of the
 7 ammunition, written authorization from the head of the agency
 8 employing the purchaser or transferee is obtained identifying the
 9 employee as an individual authorized to conduct the transaction,
 10 and authorizing the transaction for the exclusive use of the agency
 11 employing the individual.

12 (2) A sworn peace officer, as defined in Chapter 4.5
 13 (commencing with Section 830) of Title 3 of Part 2 who is
 14 authorized to carry a firearm in the course and scope of his or her
 15 duties.

16 ~~SEC. 5.~~

17 *SEC. 6.* Section 30302 is added to the Penal Code, to read:

18 30302. (a) A person may request ~~an ammunition~~ a license
 19 from the Department of Justice *to be an ammunition vendor.*

20 (b) The Department of Justice shall examine its records ~~and~~
 21 records available to the department in the National Instant Criminal
 22 Background Check System in order to determine if the applicant
 23 is prohibited by state or federal law from possessing, receiving,
 24 owning, or purchasing a firearm.

25 (c) The department shall issue a license ~~to sell ammunition~~ *be*
 26 *an ammunition vendor* to an applicant if the department's records
 27 indicate that the applicant is not a person who is prohibited by
 28 state or federal law from possessing firearms *and the applicant*
 29 *complies with the requirements of subdivision (b) of Section*
 30 *30302.5.*

31 (d) The department shall adopt regulations to administer this
 32 program and shall recover the reasonable costs of administering
 33 and enforcing this program, by imposing fees assessed to applicants
 34 who apply for those licenses.

35 (e) All funds collected shall be deposited in the Ammunition
 36 ~~Dealer License Vendor~~ Fund, which is hereby created.

37 *SEC. 7.* Section 30302.5 is added to the Penal Code, to read:

38 30302.5. (a) *Except as otherwise provided in subdivisions (c),*
 39 *(d), and (e), the Department of Justice shall keep a centralized list*
 40 *of ammunition vendors licensed pursuant to Section 30302.*

1 (b) In order to be listed as an ammunition vendor on the
2 centralized list of ammunition vendors, a person shall satisfy all
3 of the following requirements:

4 (1) Meet at least one of the following criteria:

5 (A) Be recorded on the centralized list of licensed firearms
6 dealers specified in Section 26715.

7 (B) Be recorded on the centralized list of licensed firearms
8 manufacturers specified in Section 29060.

9 (C) Have a certificate of eligibility issued by the Department
10 of Justice pursuant to Section 26710.

11 (2) Have any regulatory or business license, or licenses,
12 required by local government.

13 (3) Have a valid seller's permit issued by the State Board of
14 Equalization.

15 (4) Have paid the annual fee established by the department
16 pursuant to subdivision (d) of Section 30302.

17 (c) The department may remove from the centralized list any
18 person who knowingly or with gross negligence violates a provision
19 of Section 30301.

20 (d) The department shall remove from the centralized list any
21 person who does not satisfy the requirements of subdivision (b).

22 (e) Upon removal of a vendor from the list, notification shall
23 be provided to local law enforcement and licensing authorities in
24 the jurisdiction where the vendor's business is located.

25 (f) Information compiled from the centralized list shall only be
26 made available, upon request, for law enforcement purposes.

27 ~~SEC. 6.~~

28 SEC. 8. Section 30303 is added to the Penal Code, to read:

29 30303. (a) The Department of Justice shall create the California
30 Ammunition Database.

31 (b) Ammunition ~~dealers~~ vendors shall collect each ammunition
32 purchaser's name, date of birth, address, and the number of rounds
33 of ammunition to be sold, transferred, or furnished, and report that
34 information electronically to the Department of Justice. An
35 ammunition ~~dealer~~ vendor who fails to report that information
36 electronically to the department is subject to an administrative
37 enforcement action by the department to revoke or suspend the
38 ~~dealer's~~ vendor's license to sell ammunition.

39 (c) Upon receipt of the information described in subdivision ~~(a)~~
40 (b), the Department of Justice shall immediately cross-reference

1 the purchaser’s information with the Prohibited Armed Persons
 2 File. If a purchaser’s name appears in the Prohibited Armed
 3 Persons File, the Department of Justice shall forward that
 4 individual’s information to local law enforcement through a secure
 5 mail box means.

6 ~~(d) The department shall record the information in subdivision
 7 (a) in the database for every purchaser and make the information
 8 readily available to ammunition dealers in an electronic format.
 9 The department shall also make the information in the database
 10 accessible to state and local law enforcement if that access does
 11 not increase the cost of the database.~~

12 ~~(e) Prior to each sale or transfer of ammunition, an ammunition
 13 dealer shall, in a manner determined by the department, check the
 14 ammunition purchaser’s information against the California
 15 Ammunition Database.~~

16 ~~(f)~~

17 (d) This section and the reporting requirement in Section 30301
 18 shall not become effective until the Department of Justice creates
 19 the California Ammunition Database, which shall occur on or
 20 before January 1, 2016.

21 ~~(g)~~

22 (e) The department shall adopt regulations to administer this
 23 program, and shall recover the reasonable costs of administering
 24 and enforcing this program by imposing fees assessed to
 25 ammunition dealers vendors based upon the number of rounds of
 26 ammunition sold or transferred to the ammunition purchaser.

27 ~~(h)~~

28 (f) For purposes of this section, an “ammunition purchaser”
 29 includes any individual or business entity who receives
 30 ammunition, whether by sale or transfer, or is otherwise furnished
 31 with ammunition. An ammunition purchaser does not include any
 32 individual or entity described in subdivision (d) of Section 30301.

33 *SEC. 9. Section 30304 is added to the Penal Code, to read:*

34 *30304. For purposes of Sections 30301, 30302, 30302.5, and*
 35 *30303, “ammunition” does not include blanks.*

36 *SEC. 10. Section 32310 of the Penal Code is amended to read:*

37 *32310. (a) Except as provided in Article 2 (commencing with*
 38 *Section 32400) of this chapter and in Chapter 1 (commencing with*
 39 *Section 17700) of Division 2 of Title 2, commencing January 1,*
 40 *2000, any person in this state who manufactures or causes to be*

1 manufactured, imports into the state, keeps for sale, or offers or
 2 exposes for sale, or who gives, ~~or lends,~~ *buys, or receives* any
 3 large-capacity magazine is punishable by imprisonment in a county
 4 jail not exceeding one year or imprisonment pursuant to subdivision
 5 (h) of Section 1170.

6 *(b) For purposes of this section, “manufacturing” includes both*
 7 *fabricating a magazine and assembling a magazine from a*
 8 *combination of parts, including, but not limited to, the body, spring,*
 9 *follower, and floor plate or end plate, to be a fully functioning*
 10 *large-capacity magazine.*

11 ~~SEC. 7.~~

12 *SEC. 11.* Section 32311 is added to the Penal Code, to read:

13 32311. Except as provided in Article 2 (commencing with
 14 Section 32400) of this chapter and in Chapter 1 (commencing with
 15 Section 17700) of Division 2 of Title 2, commencing January 1,
 16 2014, any person in this state who knowingly manufactures or
 17 causes to be manufactured, imports into the state, keeps for sale,
 18 or offers or exposes for sale, or who ~~gives or lends~~ *gives, lends,*
 19 *buys, or receives* any device ~~that is~~ *or combination of the parts of*
 20 *a fully functioning large-capacity magazine, including, but not*
 21 *limited to, the body, spring, follower, and floor plate or end plate,*
 22 capable of converting an ammunition feeding device into a
 23 large-capacity magazine is punishable by a fine of not more than
 24 one thousand dollars (\$1,000) or imprisonment in a county jail not
 25 to exceed six months, or by both that fine and imprisonment.

26 ~~SEC. 8.~~

27 *SEC. 12.* Section 32390 of the Penal Code is amended to read:

28 32390. (a) Except as provided in Article 2 (commencing with
 29 Section 32400) of this chapter and in Chapter 1 (commencing with
 30 Section 17700) of Division 2 of Title 2, and in subdivision (b),
 31 any large-capacity magazine is a nuisance and is subject to Section
 32 18010.

33 (b) Subdivision (a) does not apply to the possession of a readily
 34 restorable disassembled large-capacity magazine or an oversize
 35 magazine body that has been permanently altered so that the
 36 magazine cannot accommodate more than 10 rounds by a person
 37 who lawfully possessed the magazine prior to January 1, 2014.

38 ~~SEC. 9.~~

39 *SEC. 13.* No reimbursement is required by this act pursuant to
 40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

O