

BILL NUMBER: SB 357 AMENDED

BILL TEXT

AMENDED IN ASSEMBLY JUNE 22, 2005

AMENDED IN SENATE MAY 18, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 18, 2005

INTRODUCED BY Senator Dunn

(Principal coauthor: Senator Perata)

(Coauthors: Senators Alquist and Cedillo)

(Coauthors: Assembly Members Klehs and Ridley-Thomas)

FEBRUARY 16, 2005

An act to amend Section 11106 of, and to add Sections 12313, 12314, 12315, 12315.1, 12315.2, and 12315.3 to, the Penal Code, relating to ammunition.

LEGISLATIVE COUNSEL'S DIGEST

SB 357, as amended, Dunn. Ammunition: serialized handgun

ammunition.

Existing law generally regulates the sale of ammunition.

This bill would establish a program requiring serialization of handgun ammunition, as defined, to be enforced by the Department of Justice. The bill would require, commencing ~~July 1, 2007~~

January 1, 2009 , that handgun ammunition be serialized. The bill would specify the nature of the serialization and provide various exceptions to certain prohibitions in the bill.

Manufacture ~~—~~ *and* transfer, ~~and possession, as specified,~~ of nonserialized handgun ammunition after that date would be an offense, as specified.

Possession of nonserialized ammunition, subject to exceptions, after January 1, 2016, would be an infraction or a misdemeanor. The bill would require ammunition vendors and manufacturers to register with the Department of Justice, as specified. The bill would require specified information in connection with handgun ammunition transactions be recorded and maintained by the vendor and manufacturer. Willful failure to comply with certain record requirements by a vendor would be an offense. Provision of false information to a vendor by a prospective ammunition purchaser would be an offense. The bill would impose a fee of \$.005 per bullet or round of ammunition, and a \$50 annual registration fee for handgun ammunition vendors. The Department of Justice would be authorized to adopt regulations relating to assessing and collecting those fees.

The fees would be deposited in the Serialize Handgun Ammunition Fund,

which would be established by the bill. Manufacturers who fail to comply with certain registry and recordkeeping requirements would be liable for civil penalties, as specified. Persons who obliterate the serialization on assembled ammunition or bullets would be guilty of an offense.

By creating new crimes, the bill 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11106 of the Penal Code is amended to read:

11106.

(a) In order to assist in the investigation of crime, the prosecution of civil actions by city attorneys pursuant to paragraph (3) of subdivision (c), the arrest and prosecution of criminals, and

the recovery of lost, stolen, or found property, the Attorney General shall keep and properly file a complete record of all copies of fingerprints, copies of licenses to carry firearms issued pursuant to Section 12050, information reported to the Department of Justice pursuant to Section 12053, dealers' records of sales of firearms, reports provided pursuant to Section 12072 or 12078, forms provided pursuant to Section 12084, reports provided pursuant to Section 12071 that are not dealers' records of sales of firearms, and reports of stolen, lost, found, pledged, or pawned property in any city or county of this state, and shall, upon proper application therefor, furnish this information to the officers referred to in Section 11105.

(b) (1) Notwithstanding subdivision (a), the Attorney General shall not retain or compile any information from reports filed pursuant to subdivision (a) of Section 12078 for firearms that are not handguns, from forms submitted pursuant to Section 12084 for firearms that are not handguns, or from dealers' records of sales for firearms that are not handguns. All copies of the forms submitted, or any information received in electronic form, pursuant to Section 12084 for firearms that are not handguns, or of the dealers' records of sales for firearms that are not handguns shall be destroyed within five days of the clearance by the Attorney General, unless the purchaser or transferor is ineligible to take possession of the firearm. All copies of the reports filed, or any information received in electronic form, pursuant to subdivision (a) of Section 12078 for

firearms that are not handguns shall be destroyed within five days of the receipt by the Attorney General, unless retention is necessary for use in a criminal prosecution.

(2) A peace officer, the Attorney General, a Department of Justice employee designated by the Attorney General, or any authorized local law enforcement employee shall not retain or compile any information from a firearms transaction record, as defined in paragraph (5) of subdivision (c) of Section 12071, for firearms that are not handguns unless retention or compilation is necessary for use in a criminal prosecution or in a proceeding to revoke a license issued pursuant to Section 12071.

(3) A violation of this subdivision is a misdemeanor.

(c) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to Sections 12071, 12072, 12078, 12082, and 12084 or any other law, as to handguns and maintain a registry thereof.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular handgun as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in Section 12084, or reports made to the department pursuant to Section 12078 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular handgun and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to Section 12078 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular handgun acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm.

(3) Information in the registry referred to in this subdivision shall, upon proper application therefor, be furnished to the officers referred to in Section 11105, to a city attorney prosecuting a civil action, solely for use in prosecuting that civil action and not for any other purpose, or to the person listed in the registry as the owner or person who is listed as being loaned the particular handgun.

(4) If any person is listed in the registry as the owner of a firearm through a Dealers' Record of Sale prior to 1979, and the person listed in the registry requests by letter that the Attorney

General store and keep the record electronically, as well as in the record's existing photographic, photostatic, or nonerasable optically stored form, the Attorney General shall do so within three working days of receipt of the request. The Attorney General shall, in writing, and as soon as practicable, notify the person requesting electronic storage of the record that the request has been honored as required by this paragraph.

(d) Commencing July 1, 2007, the Department of Justice shall maintain a centralized registry of all reports of handgun ammunition transactions reported to the department pursuant to Section 12315, in a manner prescribed by the department. Information in the registry shall, upon proper application therefor, be furnished to the officers listed in Section 11105, or to the person listed in the registry as the owner of the particular handgun ammunition.

SEC. 2. Section 12313 is added to the Penal Code, to read:

12313.

(a) In an effort to better ensure public safety, commencing ~~July 1, 2007~~ *January 1, 2009*, except as provided in this chapter, all handgun ammunition, as defined in Section 12314, that is manufactured, imported into the state for sale or personal use, kept for sale, offered or exposed for sale, sold, given, lent, or possessed shall be serialized as provided in Section 12314.

(b) The Department of Justice shall enforce the requirements of the handgun serialization program and other provisions of this

chapter. The department shall have authority to prescribe the manner in which handgun ammunition is serialized in order to comply with the requirements of Section 12314, including, but not limited to, determining how ammunition that is loose, packaged, in lots, series, or otherwise aggregated for purposes of manufacture or sale shall be serialized with a unique identifier, pursuant to Section 12314. The department shall adopt regulations implementing this section no later than January 1, 2007.

(c) The department shall have authority to do the following:

(1) Adopt regulations relating to the assessment and collection of end-user fees in an amount not to exceed one-half of one cent (\$0.005) per round of ammunition or per bullet, where the accumulated fee amount will not exceed the cost to pay for the infrastructure, implementation, operational, enforcement, and future development costs of this chapter, adjusted for inflation as required at the discretion of the department, but in no case more than once annually, based upon the California Consumer Price Index as compiled and reported by the Department of Industrial Relations.

(2) Adopt regulations relating to the implementation and furtherance of a retail ammunition vendor's registry and the assessment and collection of fees associated with the registration program in an amount not to exceed fifty dollars (\$50) per year per retail location, adjusted annually for inflation based upon the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations, where the accumulated

fee amount will not exceed the cost to pay for the infrastructure, implementation, operational, enforcement, and future development costs of this chapter.

(3) Adopt or amend regulations relating to this section in an effort to incorporate new technologies as they become available.

SEC. 3. Section 12314 is added to the Penal Code, to read:

12314.

(a) Commencing ~~July 1, 2007~~ *January 1, 2009*, and except as provided in subdivision (g), any person who manufactures, causes to be manufactured, imports into the state for sale or personal use, keeps for sale, offers or exposes for sale, or who gives or lends any handgun ammunition that is not serialized pursuant to this section is punishable by imprisonment in a county jail not to exceed one year or in the state prison.

(b) Commencing ~~July 1, 2007~~ *January 1, 2016*, and except as provided in subdivision (g), any person who possesses in any public place any handgun ammunition that is not serialized is guilty of an infraction punishable by a fine not exceeding five hundred dollars (\$500), or is punishable as a misdemeanor.

(c) (1) For purposes of this chapter, "serialized handgun ammunition" means any of the following, which are subject to serialization pursuant to subdivision (d):

(A) Ammunition as defined in subdivision (a) of Section 12323.

(B) .22 caliber rimfire ammunition.

(C) Assembled handgun ammunition packaged for retail sale.

(D) Bullets used for reloading or handloading handgun ammunition that are packaged for retail sale.

(2) Serialized handgun ammunition does not include blank cartridges, shot-shells, or projectiles used in black powder handguns.

(d) For purposes of this chapter, "serialized" means all of the following have been met:

(1) The ammunition has been identified in a manner prescribed by the Department of Justice so that all assembled ammunition contained within a package provided for retail sale, or as otherwise specified by the department, is uniquely identified.

(2) Bullets used for reloading or handloading contained within a package provided for retail sale, or as otherwise specified by the department, are uniquely identified.

(3) Identification of the manufacturer of the items described in paragraphs (1) and (2).

(4) Identification on the exterior of the items described in paragraphs (1) and (2) in a manner that permits visual inspection for the purpose of determining if the assembled ammunition or bullet complies with the provisions of this section.

(5) Identification on the exterior of the items described in paragraphs (1) and (2) in a manner that is maintained subsequent to the discharge of the ammunition and subsequent to the impact of the bullet, based on standards prescribed by the department.

(6) Identification on the exterior of every package or container of serialized ammunition, as prescribed by the department, with the same unique identifiers used on the assembled ammunition or bullets contained within the packaging or container. No package or container shall be labeled with the same unique identifiers as any other package or container by the same manufacturer.

(e) For purposes of this chapter, every 50 pieces or fewer of assembled ammunition or bullets used for reloading or handloading shall constitute a separate and distinct offense.

(f) For purposes of this chapter, the term "public place" means an area open to the public and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, front yards, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those that serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings.

(g) Subdivisions (a) and (b) do not apply to the following:

(1) The possession, for purposes of investigation or disposition of any nonserialized handgun ammunition by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

(2) The possession, for purposes of investigation, evidence, or disposition, of any nonserialized handgun ammunition by any state, county, city, or city and county agency charged with law enforcement or the administration of justice or by any authorized agent or

employee thereof, within the course and scope of their official duties.

(3) The possession, for purposes of disposal, or the disposal, of nonserialized handgun ammunition by an executor or administrator of an estate if all of the following are met:

(A) The nonserialized ammunition was lawfully possessed, included within the estate, and the executor or administrator possesses or disposes of the nonserialized handgun ammunition in a manner consistent with this chapter.

(B) The disposition is to a person or entity that may possess the nonserialized handgun ammunition in a manner consistent with this chapter and possession is otherwise lawful.

(C) The disposition transfers the nonserialized handgun ammunition out of the state or to a law enforcement agency for disposition.

(4) The possession of nonserialized ammunition for purposes of transporting it to a law enforcement agency for disposition, if possession is otherwise lawful, and if the law enforcement agency has been notified prior to delivery of the ammunition.

(5) Possession by peace officers from other states during the discharge of their official duties in California.

(6) Possession by members of the California National Guard during the discharge of their official duties.

(7) The transportation of nonserialized ammunition during the change of a person's domicile so long as the transportation occurs directly from a person's prior domicile to the new domicile and so

long as the transportation of ammunition is otherwise lawful. For purposes of this chapter, the domicile of a person is that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At any given time, a person may have only one domicile.

(8) The importation of 50 or fewer rounds of ammunition by a nonresident of California for personal protection during a temporary visit to California so long as the transportation is otherwise lawful and the caliber of ammunition matches the caliber of a firearm lawfully possess and simultaneously transported.

SEC. 4. Section 12315 is added to the Penal Code, to read:

12315.

(a) (1) Commencing July 1, 2007, no person engaged in the retail sale of handgun ammunition shall sell, lease, or transfer serialized handgun ammunition unless he or she is a registered handgun ammunition vendor as described in paragraph (2). Any person that is not a registered ammunition vendor and engages in the retail sale of ammunition shall be guilty of an infraction or a misdemeanor.

(2) As used in this section, "vendor," "ammunition vendor," or "registered handgun ammunition vendor" means any person, business, or corporation that is engaged in the retail sale of handgun ammunition as defined by Section 12314 and has all of the following:

(A) Any regulatory or business license, or licenses, required by local government.

(B) A valid seller's permit issued by the State Board of Equalization.

(C) Is among those recorded in the centralized ammunition vendor's registry specified in subdivision (b).

(b) The Department of Justice shall keep a centralized registry of all persons pursuant to subparagraphs (A) to (C), inclusive, of paragraph (1) of subdivision (a). The department may remove from this registry any person who violates the provisions of this chapter.

Upon removal of a vendor from this registry, notification shall be provided to local law enforcement and licensing authorities in the jurisdiction where the vendor's business is located.

(c) The Department of Justice may inspect ammunition vendors to ensure compliance with this chapter. Nothing in this section shall prohibit any local jurisdiction from adopting one or more ordinances relating to the inspection of ammunition vendors.

(d) Any vendor, agent or employee of the vendor that sells or otherwise transfers ownership of any serialized handgun ammunition shall record the following information in a format prescribed by the Department of Justice:

(1) The date of the transaction.

(2) The name of the transferee.

(3) The transferee's driver's license number or other government issued identification card number and the governmental agency that issued the identification.

(4) In order to validate a transferee's age and ensure compliance

with Section 12316, the date of birth of the transferee.

(5) The unique identifier, as described in Section 12313, of all handgun ammunition or bullets transferred.

(6) All other information prescribed by the Department of Justice.

(e) On the date the vendor delivers the handgun ammunition to the transferee, he or she shall report the information required in subdivision (d) to the Department of Justice in a manner prescribed by the department.

(1) A copy of the records required by this section shall be maintained on the premises of the vendor for a period of not less than three years from the date of the recorded transfer.

(2) The records shall be subject to inspection at any time during normal business hours by any peace officer, or by any authorized employee of the Department of Justice, if the inspection relates to an investigation where access to those records is or may be relevant to that investigation, is seeking information about persons prohibited from owning a firearm or ammunition, or is engaged in ensuring compliance with the Dangerous Weapons Control Law, Chapters 1 (commencing with Section 12000) and 2.6 (commencing with Section 12316), or any other laws pertaining to firearms.

(f) Any vendor or employee or agent of a vendor that willfully fails to comply with, or falsifies the records required to be kept by, subdivision (e) is guilty of a public offense punishable by imprisonment in a county jail not exceeding one year or in the state

prison.

(g) Proof that a vendor or his or her agent or employee demanded, was shown, and acted in reliance upon, bona fide evidence of identity shall be a defense to any criminal prosecution under this subdivision so long as reliance upon the proof of identity was reasonable.

(h) Any person that presents false identification to a vendor with the intent to avoid the recording requirements of this section shall be guilty of a misdemeanor.

(i) Any vendor that refuses to permit a person authorized under paragraph (2) of subdivision (g) to examine any record prepared in accordance with this section during any inspection conducted pursuant to this section shall be guilty of a misdemeanor.

SEC. 5. Section 12315.1 is added to the Penal Code, to read:

12315.1.

(a) Commencing July 1, 2007, no person engaged in the commercial manufacture of serialized handgun ammunition shall sell, loan, or transfer serialized handgun ammunition, unless that person is a registered handgun ammunition manufacturer as defined in paragraph

(b). Violation of this subdivision is punishable as a misdemeanor.

(b) As used in this section, the terms "manufacturer," "ammunition manufacturer," or "registered handgun ammunition manufacturer" mean any person, business, or corporation that manufactures handgun ammunition within California or ~~manufacturers~~

manufactures handgun ammunition with the intent to distribute

that ammunition for purposes, within California, of sale, loan, or transfer.

(c) Manufacturers shall do all of the following:

(1) Register with the Department of Justice in a manner prescribed by the department.

(2) Maintain records on the business premises for a period of seven years concerning all sales, loans, and transfers of ammunition, to, from, or within California.

(3) Comply with all other regulations concerning ammunition manufacture and sale adopted by the department.

(d) Any manufacturer that fails to comply with the provisions of this section shall be liable for a civil fine of not more than one thousand dollars (\$1,000) for a first violation, not more than five thousand dollars (\$5,000) for a second violation, and not more than ten thousand dollars (\$10,000) for a third and subsequent violation.

A civil action to enforce this section may be brought by a city attorney or district attorney, or the Attorney General. This subdivision shall not preclude any other remedy available under California law.

(e) The department may inspect ammunition manufacturers to ensure compliance with this chapter.

SEC. 6. Section 12315.2 is added to the Penal Code, to read:

12315.2.

(a) Commencing July 1, 2007, any person who willfully destroys, obliterates, or otherwise renders unreadable, the serialization

required pursuant to Section 12314, on any bullet or assembled ammunition is punishable by imprisonment in a county jail, not to exceed one year, or in the state prison.

(b) For purposes of this section, every 50 pieces or fewer of assembled ammunition or bullets used for reloading or handloading shall constitute a separate and distinct offense.

SEC. 7. Section 12315.3 is added to the Penal Code, to read:

12315.3.

There is hereby established the Serialized Handgun Ammunition Fund. The fees established in Section 12313 shall be deposited in the Serialized Handgun Ammunition Fund. Moneys in the fund, upon appropriation, shall be available to the Department of Justice for infrastructure, implementation, operational, enforcement, and future development costs of this chapter.

SEC. 8.

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 the meaning of Section 6 of Article XIII B of the California Constitution.

