
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 2213 **Hearing Date:** June 19, 2018
Author: Cooley
Version: June 4, 2018
Urgency: Yes **Fiscal:** Yes
Consultant: GC

Subject: *Firearms: Ammunition Sales*

HISTORY

Source: Author

Prior Legislation: AB 693, Stats. of 2017. Ch. 783

Support: Allied Universal; Brink's; California Association of Licensed Security Agencies, Guards and Associates; California Association of Code Enforcement Officers; California College and University Police Chiefs Association; California Narcotic Officers Association; California Statewide Law Enforcement Association; Dooley Enterprises; Los Angeles County Professional Peace Officers Association; Miwall Corporation; National Shooting Sports Foundation; North American Security, Inc.; individuals

Opposition: None known

Assembly Floor Vote: 74 - 0

PURPOSE

The purpose of this bill is to exempt a person licensed as a private patrol operator (including their agents and employees) or registered as security guard who also holds a valid firearms permit from the requirement that the sale or delivery of ammunition be conducted by, or processed through a licensed ammunition vendor.

Existing law requires the DOJ to maintain ammunition vendor license information, ammunition transaction information, and authorizes specified agencies, officials, and officers to disseminate the name of a person and specified ammunition purchase information by that person if the subject of the record has been arraigned, is being prosecuted, or is serving a sentence for conviction of domestic violence or is the subject of a protective order, as specified.

Existing law defines "ammunition" to one or more loaded cartridges consisting of primer case, propellant, and with one or more projectiles. Ammunition does not include blanks. (Pen Code, § 16150, subd. (a).)

Existing law states that effective January 1, 2018, "ammunition vendor" means "any person, firm, corporation, dealer, or any other business that has a current ammunition vendor license, as specified." (Pen. Code, § 16151.)

Existing law requires commencing January 1, 2019, that information contained in the Armed Prohibited Persons File (APPS) be used to cross-reference persons who attempt to acquire ammunition to determine if those persons fall within a class of persons who are prohibited from owning or possessing ammunition. (Pen. Code § 30000, subd. (b).)

Existing law provides that any person, corporation, firm, or other business enterprise who supplies, delivers, sells, or gives possession or control of, any ammunition to any person who the person, corporation, firm, or other business enterprise knows or has cause to believe is not the actual purchaser or transferee or has cause to believe is not the actual purchaser or transferee of the ammunition, with knowledge or cause to believe that the ammunition is to be subsequently sold or transferred to a person who is prohibited from owning, possessing, or having under custody or control any ammunition or reloaded ammunition is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment. (Pen. Code, § 30306.)

Existing law states that commencing January 1, 2018, only an ammunition vendor that is licensed by the DOJ shall be authorized to sell ammunition in this state, except for the following entities:

- 1) A commercial hunting club, as defined, provided the ammunition is used and consumed on the licensed premises while engaged in lawful hunting activity;
- 2) A domesticated game bird hunting club, as defined, provided the ammunition is used and consumed on the licensed premises while engaged in lawful hunting activity;
- 3) A domesticated migratory game bird shooting club, as defined, provided the ammunition is used and consumed on the licensed premises while engaged in lawful hunting activity;
- 4) A nonprofit mutual or public benefit corporation organized, as specified, that engages in recreational shooting and lawful hunting activity provided that the ammunition is used and consumed during the shooting or hunting event conducted by that nonprofit or public benefit corporation;
- 5) A target facility that holds a business or regulatory license provided that the ammunition is at all times kept within the facility's premises and used on the premises; and,
- 6) A person who sells no more than 50 rounds of ammunition to one vendor in one month or cumulatively sells no more than 250 rounds per year to vendors in this state. (Pen. Code, § 30345, subd. (b).)

Existing law authorizes the DOJ to issue ammunition vendor licenses pursuant to this article. The department shall, commencing July 1, 2017, accept applications for ammunition vendor licenses. The department shall issue a license or deny the application for a license within 60 days of receipt of the application in the first two years of implementation, and within 30 days thereafter. If the application is denied, the department shall inform the applicant of the reason for denial in writing. The ammunition vendor license shall be issued in a form prescribed by the Attorney General and shall be valid for a period of one year. The license shall allow the licensee to sell ammunition from a fixed location, except as specified. (Pen. Code, 30345, subds. (c) & (d).)

Existing law requires the DOJ to issue ammunition vendor licenses to ammunition vendors who are not prohibited by law from possessing, receiving, owning, or purchasing a firearm and possess a certificate of eligibility (COE), and requires any agent or employee of a vendor who handles, sells, or delivers ammunition to possess a COE. (Pen. Code, § 30346, subds. (a) & (b).)

Existing law requires the DOJ, upon request, to issue ammunition vendor licenses to the following:

- 1) Firearms dealers;
- 2) Federal firearms licensees;
- 3) A gunsmith;
- 4) A wholesaler, and,
- 5) A licensed manufacturer or importer of firearms or ammunition. (Pen. Code, § 30347, subd. (d).)

Existing law states that commencing July 1, 2019, the department shall electronically approve the purchase or transfer of ammunition through a vendor, except as otherwise specified. This approval shall occur at the time of purchase or transfer, prior to the purchaser or transferee taking possession of the ammunition. (Pen. Code, § 30370, subd. (a).)

Existing law provides that to determine if the purchaser or transferee is eligible to purchase or possess ammunition, the department shall cross-reference the ammunition purchaser's or transferee's name, date of birth, current address, and driver's license or other government identification number with the information maintained in the Automated Firearms System (AFS). If the purchaser's or transferee's information does not match an AFS entry, the transaction shall be denied. If the purchaser's or transferee's information matches an AFS entry, the department shall determine if the purchaser or transferee falls within a class of persons who are prohibited from owning or possessing ammunition by cross-referencing the APPS File. If the purchaser or transferee is prohibited from owning or possessing a firearm, the transaction shall be denied. (Pen. Code, § 30370, subd. (b).)

Existing law prohibits a vendor from providing a purchaser or transferee ammunition without department approval. If a vendor cannot electronically verify a person's eligibility to purchase or possess ammunition via an Internet connection, the DOJ shall provide a phone line to verify eligibility. This option is available to ammunition vendors who can demonstrate legitimate geographical and telecommunications limitations in submitting the information electronically, and who are approved by the DOJ to use the phone line verification. (Pen. Code, 30356, subd. (c).)

Existing law allows the DOJ shall recover the reasonable cost of regulatory and enforcement activities related to this article by charging ammunition purchasers and transferees a per-transaction fee not to exceed one dollar (\$1), provided, however, that the fees may be increased at a rate not to exceed any increases in the California Consumer Price Index as compiled and reported by the Department of Industrial Relations, not to exceed the reasonable regulatory and enforcement costs. The fees shall be deposited in the Ammunition Special Account, to be available upon appropriation by the Legislature, for use by the Department of Justice for the purpose of implementing and enforcing this Act. (Pen. Code, § 30356, subd. (d).)

Existing law provides that the following are exempt from the ammunition purchase requirements:

- 1) Firearms dealers;
- 2) A person on the centralized list of federal firearms licensees;
- 3) A gunsmith;
- 4) A wholesaler;
- 5) A licensed manufacturer or importer of firearms or ammunition;

- 6) A person whose licensed premises are outside the state, and the person is federally licensed as a dealer or collector of firearms;
- 7) A person who is a federally licensed as a collector of firearms whose licensed premises are within the state and who has a current COE issued by DOJ;
- 8) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale or other transfer is for exclusive use by that government agency, and, prior to the sale, delivery, or transfer of the ammunition, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency, or designee, by which the purchaser, transferee, or person otherwise acquiring ownership is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that individual is employed;
- 9) A properly identified sworn federal, state, or local peace officer;
- 10) A target facility that holds a business or regulatory license;
- 11) A person who purchases or receives ammunition at a target facility holding a business license or other regulatory license, provided that the ammunition is at all times kept within the facility's premises and used on the premises.
- 12) A commercial hunting club, as defined;
- 13) A domesticated game bird hunting club, as defined;
- 14) A domesticated migratory game bird hunting club, as defined;
- 15) A domesticated migratory game bird shooting club, as defined;
- 16) A participant at a shooting or hunting event conducted by any of the following:
 - a) A commercial hunting club, as defined, provided the ammunition is used and consumed on the licensed premises while engaged in lawful hunting activity;
 - b) A domesticated game bird hunting club, as defined, provided the ammunition is used and consumed on the licensed premises while engaged in lawful hunting activity;
 - c) A domesticated migratory game bird shooting club, as defined, provided the ammunition is used and consumed on the licensed premises while engaged in lawful hunting activity;
- 17) A nonprofit mutual or public benefit corporation organized, as specified, that engages in recreational shooting and lawful hunting activity;
- 18) A nonprofit mutual or public benefit corporation organized, as specified, that engages in recreational shooting and lawful hunting activity provided that the ammunition is used and consumed during the shooting or hunting event conducted by that nonprofit or public benefit corporation;
- 19) A peace officer, retired peace officer, or holder of a concealed weapons permit who is authorized to carry a loaded weapon;
- 20) A holder of a special weapons permit issued by the DOJ;
- 21) A holder of a valid entertainment firearms permit issued by the DOJ; and,
- 22) A person who is not prohibited from purchasing or possessing a firearm who has been approved for a single ammunition transaction or purchase. (Pen. Code, § 30356, subd. (e).)

Existing law states that a vendor shall not permit an employee who the vendors knows or reasonably should know is a person that is prohibited from purchasing or owning a firearm to handle, sell or deliver ammunition in the course and scope of employment. (Pen. Code, § 30347, subd. (c).)

Existing law provides that a vendor shall not sell or otherwise transfer ownership of, offer for sale, or otherwise offer to transfer ownership of, display for sale, or display for transfer any ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee

without the assistance of the vendor or an employee of the vendor. (Pen. Code, § 30350.)

Existing law requires the sale, delivery, or transfer of ammunition to occur only in a face-to-face transaction with the seller, deliverer, or transferor being provided bona fide evidence of identity from the purchaser or other transferee, provided, however, that ammunition may be purchased over the Internet or through other means of remote ordering if an ammunition vendor in this state initially receives the ammunition and processes the transfer as required by law. An ammunition vendor is required to promptly and properly process those transactions. An ammunition vendor may charge a fee to process the transfer not to exceed ten dollars (\$10) per transaction. An ammunition vendor is not required to house ammunition orders longer than 30 days. (Pen. Code, § 30364, subd. (a).)

Existing law provides that the following persons are exempt from the ammunition sales requirements:

- 1) Firearms dealers;
- 2) A person on the centralized list of federal firearms licensees;
- 3) A gunsmith;
- 4) A wholesaler;
- 5) A licensed manufacturer or importer of firearms or ammunition;
- 6) A person whose licensed premises are outside the state, and the person is federally licensed as a dealer or collector of firearms;
- 7) A person who is a federally licensed as a collector of firearms whose licensed premises are within the state and who has a current COE issued by DOJ;
- 8) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale or other transfer is for exclusive use by that government agency, and, prior to the sale, delivery, or transfer of the ammunition, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency, or designee, by which the purchaser, transferee, or person otherwise acquiring ownership is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that individual is employed;
- 9) A properly identified sworn federal, state, or local peace officer;
- 10) A target facility that holds a business or regulatory license;
- 11) A commercial hunting club, as defined;
- 12) A domesticated game bird hunting club, as defined;
- 13) A domesticated migratory game bird hunting club, as defined;
- 14) A domesticated migratory game bird shooting club, as defined;
- 15) A nonprofit mutual or public benefit corporation organized, as specified, that engages in recreational shooting and lawful hunting activity; and,
- 16) A consultant-evaluator; and,
- 17) A contract or common carrier or an authorized agent or employee thereof. (Pen. Code, § 30364, subd. (b).)

Existing law requires that ammunition sales be conducted at the location specified in the license, but a vendor may sell ammunition at a gun show or event, as specified. (Pen. Code, § 30365.)

Existing law provides that when neither party to an ammunition sales is a licensed vendor, the following shall apply:

- 1) The seller shall deliver the ammunition to a vendor to process the transaction.
- 2) The vendor shall then promptly and properly deliver the ammunition to the purchaser, if the sale is not prohibited, as if the ammunition were the vendor's own merchandise.
- 3) If the vendor cannot legally deliver the ammunition to the purchaser, the vendor shall forthwith return the ammunition to the seller. This return is not subject to Section 30356.
- 4) The vendor may charge the purchaser an administrative fee to process the transaction, not to exceed ten dollars (\$10) per transaction processed.
- 5) A person selling ammunition pursuant to this section is exempt from the requirement to be licensed as an ammunition vendor. (Pen. Code, § 30366.)

Existing law states that notwithstanding the purchase and sale requirements of this act, the sale of ammunition between the following is authorized so long as it does not exceed 50 rounds per month:

- 1) The sale of ammunition between licensed hunters while engaged in lawful hunting activity.
- 2) The sale of ammunition between immediate family members, spouses, or registered domestic partners. (Pen. Code, § 30367.)

Existing law provides that commencing July 1, 2019, a resident of this state shall not bring into this state any ammunition that he or she purchased from outside this state unless he or she first has that ammunition delivered to an ammunition vendor in this state for delivery to the resident, as specified. (Pen. Code,

Existing law provides that the following persons are exempt from the requirements related to bringing into this state any ammunition:

- 1) Firearms dealers;
- 2) A person on the centralized list of federal firearms licensees;
- 3) A gunsmith;
- 4) A wholesaler;
- 5) A licensed manufacturer or importer of firearms or ammunition;
- 6) An ammunition vendor;
- 7) A person who is a federally licensed collector of firearms whose licensed premises are within the state and who has a current COE issued by DOJ;
- 8) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale or other transfer is for exclusive use by that government agency, and, prior to the sale, delivery, or transfer of the ammunition, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency, or designee, by which the purchaser, transferee, or person otherwise acquiring ownership is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that individual is employed;
- 9) A properly identified sworn federal, state, or local peace officer;
- 10) A contract or common carrier or an authorized agent or employee thereof, when acting in conformance of federal law;
- 11) A person who purchases the ammunition from an immediate family member, spouse, or registered domestic partner if the person brings or transports into this state no more than 50 rounds.
- 12) The executor or administrator of an estate that includes ammunition.
- 13) A person that at the time he or she acquired the ammunition was not a resident of this state;

- 14) Ammunition that is imported into this country, as specified;
- 15) A licensed hunter who purchased the ammunition outside of this state for use in a lawful hunting activity that occurred outside of this state if the person brings or imports no more than 50 rounds into this state and the ammunition is designed and intended for use in the firearm the hunter used in that hunting activity.
- 16) A person who attended and participated in an organized competitive match or league competition that involves the use of firearms in a match or competition; sponsored by, conducted under the auspices of, or approved by, a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms, and the person brings or imports into this state no more than 50 rounds of ammunition designed and intended to be used in the firearm the person used in the match or competition. (Pen. Code, § 30368, (b).)

Existing law provides that commencing January 1, 2019, a vendor shall not sell or otherwise transfer ownership of any ammunition without, at the time of delivery, legibly recording the following information:

- 1) The purchaser's full name;
- 2) The purchaser's or transferee's driver's license or other identification number and the state in which it was issued;
- 3) The date of the sale or other transaction;
- 4) The brand, type, and amount of ammunition sold or otherwise transferred;
- 5) The name of the salesperson who processed the sale or other transaction;
- 6) The purchaser's or transferee's full residential address and telephone number; and,
- 7) The purchaser's or transferee's date of birth. (Pen. Code, § 30369, subd. (a).)

Existing law states that commencing July 1, 2019, the vendor shall electronically submit to the DOJ ammunition purchase information in a format and a manner prescribed by the department for all sales or other transfers of ammunition. The department shall retain this information for two years in a database to be known as the Ammunition Purchase Records File for the sole purpose of aiding and assisting local and state law enforcement agencies in an active investigation. The vendor shall not share any of the ammunition purchase information for any reason other than for authorized law enforcement purposes. The information in the Ammunition Purchase Records File may be accessed by a state or local law enforcement agency only if the department is provided a case number or other sufficient information as determined by the department that indicates an active investigation, and the information sought is for the investigation or prosecution of that case. (Pen. Code, § 30369, subd. (b).)

Existing law provides that in the case a vendor cannot electronically transmit the required ammunition purchase information via an Internet connection, the DOJ shall provide a telephone line to submit the information the vendor can demonstrate legitimate geographic and telecommunications limitations to submitting the information electronically, and the DOJ approves the vendor's use of the telephone line. (Pen. Code, § 30369, subd. (c).)

Existing law provides that the following persons are exempt from the electronic submission of ammunition purchase information:

- 1) Firearms dealers;
- 2) A person on the centralized list of federal firearms licensees;
- 3) A gunsmith;
- 4) A wholesaler;

- 5) A licensed manufacturer or importer of firearms or ammunition;
- 6) An ammunition vendor;
- 7) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale or other transfer is for exclusive use by that government agency, and, prior to the sale, delivery, or transfer of the ammunition, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency, or designee, by which the purchaser, transferee, or person otherwise acquiring ownership is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that individual is employed;
- 8) A properly identified sworn federal, state, or local peace officer;
- 9) A target facility that holds a business or regulatory license;
- 10) A commercial hunting club, as defined;
- 11) A domesticated game bird hunting club, as defined;
- 12) A domesticated migratory game bird hunting club, as defined;
- 13) A domesticated migratory game bird shooting club, as defined;
- 14) A participant at a shooting or hunting event conducted by any of the following:
 - a) A commercial hunting club, as defined, provided the ammunition is used and consumed on the licensed premises while engaged in lawful hunting activity;
 - b) A domesticated game bird hunting club, as defined, provided the ammunition is used and consumed on the licensed premises while engaged in lawful hunting activity;
 - c) A domesticated migratory game bird shooting club, as defined, provided the ammunition is used and consumed on the licensed premises while engaged in lawful hunting activity;
- 15) A nonprofit mutual or public benefit corporation organized, as specified, that engages in recreational shooting and lawful hunting activity;
- 16) A participant at a shooting or hunting event conducted by a nonprofit mutual or public benefit corporation organized, as specified, that engages in recreational shooting and lawful hunting activity provided that the ammunition is used and consumed during the event. (Pen. Code, § 30369, subd. (d).)

Existing law prohibits a vendor from knowingly making a false entry, or failing to make a required entry of ammunition purchase information. (Pen. Code, § 30370.)

Existing law provides that any person that violates any requirement related to the sale or purchase of ammunition is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both imprisonment and a fine. (Pen. Code, § 30360, subd. (a).)

Existing law provides that selling any ammunition to a person under the age of 18, or selling ammunition designed and intended for a handgun to a person under the age of 21 is a misdemeanor. (Pen. Code, § 30300.)

This bill exempts a person licensed as a private patrol operator (including their agents and employees) or registered as security guard or patrolperson by the Bureau of Security and Investigative Services of the Department of Consumer Affairs (DCA) who holds a valid firearm permit and who purchases or receives ammunition for use in the course or scope of employment from the requirement that the sale or delivery of ammunition be conducted or processed through a licensed ammunition vendor.

This bill authorizes a licensed ammunition vendor to access the Department of Justice (DOJ) centralized list of federal firearms licensees for the purpose of verifying the validity of an ammunition purchase.

This bill clarifies the term "head of the agency" for the purpose of authorizing a law enforcement representative to purchase ammunition for the agency to include the lead procurement officer for an ammunition purchase contract, the head of procurement for the agency, or the head of any local field office of the agency, provided that the authorization is written on the official letterhead and provides a telephone number or other means of verifying its authenticity.

This bill exempts a person licensed as a private patrol operator (including their agents and employees) or registered as security guard or patrolperson by the Bureau of Security and Investigative Services of the Department of Consumer Affairs (DCA) who holds a valid firearm permit and who purchases or receives ammunition for use in the course or scope of employment from the prohibition against transporting ammunition into the state that was purchased or obtained outside the state.

COMMENTS

1. Need for This Bill

According to the author:

The passage of Proposition 63 and subsequent legislation significantly updated and tightened the rules for who may purchase or possess ammunition and firearms. An unintended consequence of these updates is the requirement that an ammunition vendor deliver face-to-face with a verified purchaser such as a law enforcement agency or a security service provider that is licensed to carry a firearm. This has proven to be unworkable for the normal day-to-day activities of law enforcement agencies who have specified procurement officers or departments to handle purchases of ammunition, instead of one designated person.

AB 2213 addresses this issue by amending these code sections to narrowly exempt only those procurement officers for federal, state and local law enforcement or security companies which are already licensed to carry firearms. These changes help streamline and clarify the paperwork process to help law enforcement and these security companies comply with these new laws.

2. Effect of This Bill

Changes to Penal Code § 28475(c)

Authorizes licensed ammunition vendors to access the Department of Justice's centralized list of exempted federal firearms licensees to determine the validity of the license of a firearms dealer for an ammunition sale.

Changes to Penal Code § 30312(c)(1)(a)

Amends the exemption from the “face-to-face” ammunition sales transaction requirement for law enforcement to define “head of the agency” to include the lead procurement officer for an ammunition purchase contract, the head of procurement for the agency, or the head of any local field office of the agency, provided that the authorization to purchase ammunition is written on the official letterhead of the agency and provides a telephone number or other means of verifying its authenticity.

Changes to Penal Code § 30312(c)(12)

Adds an exemption from the “face-to-face” ammunition sales transaction requirement for a person licensed as a private patrol operator or registered as a security guard or patrolperson by the Bureau of Security and Investigative Services of the Department of Consumer Affairs, who holds a valid firearm permit issued pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code and who purchases or receives ammunition for use in the normal course and scope of his or her business or employment.

Changes to Penal Code § 30314(b)(7)

Adds an exemption from the requirement that ammunition purchased outside the state be delivered to a licensed ammunition vendor for processing for a person licensed as a private patrol operator or registered as a security guard or patrolperson by the Bureau of Security and Investigative Services of the Department of Consumer Affairs, who holds a valid firearm permit issued pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code and who purchases or receives ammunition for use in the normal course and scope of his or her business or employment.

-- END --