

May 3, 2016

L E G I S L A T I V E A N A L Y S T ' S O F F I C E

LAO
75
YEARS OF
SERVICE

Firearms. Ammunition Sales. Initiative Statute.

Presented to:

Assembly Public Safety Committee

Hon. Reginald B. Jones-Sawyer, Sr., Chair

and

Senate Public Safety Committee

Hon. Loni Hancock, Chair





LAO Role in Initiative Process



Fiscal Analysis Prior to Signature Collection

- State law requires our office to work with the Department of Finance to prepare a joint impartial fiscal analysis of each initiative before it can be circulated for signatures. State law requires that this analysis provide an estimate of the measure's fiscal impact on the state and local governments.
- The fiscal analysis must be submitted to the Attorney General within 50 calendar days from the initiative's submission date. A summary of the estimated fiscal impact is included on petitions that are circulated for signatures.



Analyses After Measure Receives Sufficient Signatures to Qualify for the Ballot

- State law requires our office to provide impartial analyses of all statewide ballot propositions for the statewide voter information guide, including a description of the measure and its fiscal effects.
- We are currently in the process of preparing these materials.



Background on Current Regulation of Firearm and Ammunition Sales



Prohibitions on Firearm and Ammunition Ownership

- Under federal and state law, certain individuals are prohibited from owning or possessing firearms. Such “prohibited persons” include individuals convicted of felonies and certain misdemeanors, those found by a court to be a danger to themselves or others due to mental illness, and those subject to a restraining order.
- In California, individuals prohibited from owning firearms are also prohibited from owning ammunition.



Regulation of Firearms Sales

- Under federal law, firearms dealers must request background checks from the National Instant Criminal Background Check System (NICS) of individuals seeking to purchase firearms. The NICS searches a number of federal databases to ensure that the purchaser is not a prohibited person.
- As permitted by federal law, California chooses to process these requests, which also allows it to use various state databases to ensure that individuals seeking to obtain firearms are not prohibited.
- The California Department of Justice (DOJ) also maintains a database that matches the state’s prohibited persons list against the state’s list of firearm owners. This allows agents from DOJ to seize firearms from individuals who have become prohibited after legally obtaining firearms.
- Other state regulations related to firearms include a ten-day waiting period before a firearm may be transferred to a purchaser and reporting requirements related to firearms purchases. Fees charged to firearms vendors and purchasers generally offset DOJ’s costs to regulate firearm sales.



Background on Current Regulation of Firearm and Ammunition Sales *(Continued)*



Regulation of Ammunition Sales

- Federal and state laws generally do not regulate ammunition sales in the same manner as firearm sales.
- However, there are some state regulations that apply to ammunition. For example, since 2000, state law has banned large capacity magazines (ammunition feeding devices with a capacity to hold more than ten rounds). However, individuals who possessed large capacity magazines before 2000 are allowed to keep them for their own use.



Major Provisions of Proposed Initiative



Regulates All Ammunition Sales Similar to Firearm Sales

- ***Ammunition Vendor Licenses.*** The measure generally requires that individuals or businesses obtain a one-year ammunition vendor license from DOJ to sell more than 500 rounds of ammunition in a 30-day period. Firearms dealers licensed by the state and federal government would be automatically deemed licensed ammunition vendors. DOJ could charge a fee to offset its costs related to these provisions.
- ***Ammunition Purchase Authorizations.*** Individuals who purchase ammunition would be required to obtain a four-year ammunition purchase authorization from DOJ, and must be 18 or over and not a prohibited person. DOJ could charge up to a \$50 fee per person (adjusted annually for inflation) to offset its costs for these licensing requirements. Before a transaction, ammunition vendors would be required to verify with DOJ that an individual has an ammunition purchase authorization. Vendors would also be required to report information—such as the purchasers' identification and the type of ammunition purchased—to DOJ for retention in a centralized database.
- ***Other Requirements Related to Ammunition.*** The measure also includes other ammunition-related regulations. For example, it requires that nearly all ammunition sales (including Internet and out-of-state purchases) be conducted through a licensed ammunition vendor.



Major Provisions of Proposed Initiative

(Continued)



Implements New Court Process to Ensure Surrender of Firearms at Conviction

- The measure implements a new court process to ensure that individuals convicted of offenses that prohibit them from owning firearms surrender their firearms. For example, it requires probation officers to report to courts on whether offenders have surrendered their firearms.
- If a court finds that an offender did not surrender his or her firearms within 14 days of sentencing, it is required to order that the firearms be seized. Local government or state agencies would be authorized to charge a fee to reimburse their costs related to the seizure of firearms.



Other Major Provisions

- ***Expands Existing Ban on Large Capacity Magazines.*** The measure would generally ban all large capacity magazines. Individuals who possess such magazines would be required to (1) remove them from the state, (2) sell them to a licensed firearms dealer, or (3) surrender them to law enforcement.
- ***Increases Reporting Requirements.*** The measure includes a number of reporting requirements related to firearms and ammunition. For example, the measure requires that ammunition vendors report the loss or theft of ammunition within 48 hours, similar to current requirements related to firearms.
- ***Changes Penalty for Theft of Firearms.*** Currently, theft of firearms worth \$950 or less is generally a misdemeanor punishable by up to one year in county jail. Under this measure, theft of any firearm would be a felony crime punishable by up to three years in state prison. Additionally, individuals convicted of a misdemeanor for the theft of a firearm, such as those convicted before the measure goes into effect, would be prohibited from owning firearms for ten years.



Major State and Local Fiscal Effects of Proposed Initiative



Increased State Regulatory Costs

- The measure would result in increased state costs to support the new DOJ regulatory responsibilities. These costs would be both one-time (such as for the development of new ammunition databases) and ongoing (such as for staff to process applications). These costs would likely be in the tens of millions of dollars annually, but would likely be offset by various regulatory fees.



Increased Court and Law Enforcement Costs

- State trial courts would experience increased workload due to the newly required court process. In addition, state and local law enforcement would experience workload related to the new court process and the removal of firearms.
- The total magnitude of the costs associated with this workload is unknown, but could be in the tens of millions of dollars annually. Actual costs would depend on how this measure was implemented, such as whether existing resources were reprioritized to accommodate the workload. Additionally, some of these costs would be offset if local governments and state agencies charge and collect fees as authorized by the measure.



Potential Increased Correctional Costs

- The new and increased penalties that are authorized in this measure could result in increased correctional costs to state and local governments. The magnitude of these costs would depend primarily on the number of violations and how the provisions of the measure are enforced.
- Thus, the potential increase in costs is unknown, but would unlikely exceed the low millions of dollars annually.