

ASSEMBLY BILL

No. 760

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

February 21, 2013

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 introduced, 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 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 2/3 of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: 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 (c) However, the ability of mental health professionals to predict
15 any particular mental disorder or disordered individual as being
16 likely responsible for and likely to commit an act of violence with
17 a deadly weapon is weak.

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

1 (e) Research has found that there is a clear relationship between
2 early adjustment problems and later adolescent problems, and
3 many of these adjustment problems are due to mild to moderate
4 mental disorders among school age children. In many cases, signs
5 of these problems can be detected in early school grades.

6 (f) In 1991 California enacted the School-Based Early Mental
7 Health Intervention and Prevention Services Matching Grant
8 program (EMHI). This program is intended to ensure that pupils
9 will receive the benefits of school-based early mental health
10 intervention and prevention services that will enhance the mental
11 health and social development of children.

12 (g) Scientific evaluation of EMHI has shown dramatic
13 improvements in adjustment behavior among children in grades
14 1 to 3, inclusive, and success in reducing the incidence of early
15 mild to moderate mental illness. Further, the improvement in
16 children's behavior has been shown to continue through their later
17 school years.

18 (h) Due to state budget constraints EMHI was defunded in the
19 2012–13 Budget Act. The Legislature, therefore, finds and declares
20 that providing a source of stable revenue to continue the EMHI
21 matching grants is in California's best interest, both in economic
22 and human terms, to identify and treat the minor and moderate
23 mental difficulties that children experience before they become
24 serious mental disorders. The Legislature further finds and declares
25 that a reduction in the incidence of mental illness is likely to reduce
26 acts of violence committed with a deadly weapon in our state, and
27 therefore a tax on the sale of ammunition is a means of refunding
28 the EMHI program.

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

30 1656.1. (a) Whether a retailer may add sales tax reimbursement
31 to the sales price of the tangible personal property sold at retail to
32 a purchaser depends solely upon the terms of the agreement of
33 sale. It shall be presumed that the parties agreed to the addition of
34 sales tax reimbursement to the sales price of tangible personal
35 property sold at retail to a purchaser if:

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

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

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

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

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

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

15 (c) (1) The State Board of Equalization shall prepare and make
16 available for inspection and duplication or reproduction a sales
17 tax reimbursement schedule which shall be ~~identical with the~~
18 ~~following tables up to the amounts specified therein:~~ *set fourth the*
19 *various rates of tax then in effect as applied to price ranges from*
20 *\$.01 to at least \$1.00.*

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22 $4\frac{3}{4}$ percent

Price	Tax
.01—.1000
.11—.3101
.32—.5202
.53—.7303
.74—.9404
.95—1.1505

30

31 5 percent

Price	Tax
.01—.0900
.10—.2901
.30—.4902
.50—.6903
.70—.8904
.90—1.0905

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40 $5\frac{1}{4}$ percent

	Price	Tax
1		
2	.01 .0900
3	.10 .2801
4	.29 .4702
5	.48 .6603
6	.67 .8504
7	.86 1.0405

5 1/2 percent

	Price	Tax
10		
11	.01 .09 .....	.00
12	.10 .27 .....	.01
13	.28 .45 .....	.02
14	.46 .63 .....	.03
15	.64 .81 .....	.04
16	.82 .99 .....	.05
17	1.00 1.18 .....	.06

5 3/4 percent

	Price	Tax
20		
21	.01 .08 .....	.00
22	.09 .26 .....	.01
23	.27 .43 .....	.02
24	.44 .60 .....	.03
25	.61 .78 .....	.04
26	.79 .95 .....	.05
27	.96 1.13 .....	.06

6 percent

	Price	Tax
30		
31	.01 .08 .....	.00
32	.09 .24 .....	.01
33	.25 .41 .....	.02
34	.42 .58 .....	.03
35	.59 .74 .....	.04
36	.75 .91 .....	.05
37	.92 1.08 .....	.06

6 1/4 percent

	Price	Tax
40		

1	.01 .07 .....	.00
2	.08 .23 .....	.01
3	.24 .39 .....	.02
4	.40 .55 .....	.03
5	.56 .71 .....	.04
6	.72 .87 .....	.05
7	.88 1.03 .....	.06

6½ percent

10	Price	Tax
11	.01 .07 .....	.00
12	.08 .23 .....	.01
13	.24 .38 .....	.02
14	.39 .53 .....	.03
15	.54 .69 .....	.04
16	.70 .84 .....	.05
17	.85 .99 .....	.06
18	1.00 1.15 .....	.07

6¾ percent

21	Price	Tax
22	.01 .07 .....	.00
23	.08 .22 .....	.01
24	.23 .37 .....	.02
25	.38 .51 .....	.03
26	.52 .66 .....	.04
27	.67 .81 .....	.05
28	.82 .96 .....	.06
29	.97 1.11 .....	.07

7 percent

32	Price	Tax
33	.01 .0700
34	.08 .2101
35	.22 .3502
36	.36 .4903
37	.50 .6404
38	.65 .7805
39	.79 .9206
40	.93 1.0707

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7¼ percent

Price	Tax
.01—.06	.00
.07—.20	.01
.21—.34	.02
.35—.48	.03
.49—.62	.04
.63—.75	.05
.76—.89	.06
.90—1.03	.07

7½ percent

Price	Tax
.01—.06	.00
.07—.19	.01
.20—.33	.02
.34—.46	.03
.47—.59	.04
.60—.73	.05
.74—.86	.06
.87—.99	.07
1.00—1.13	.08

(2) Reimbursement on sales prices in excess of those shown in the schedules prepared pursuant to paragraph (1) may be computed by applying the applicable tax rate to the sales price, rounded off to the nearest cent by eliminating any fraction less than one-half cent and increasing any fraction of one-half cent or over to the next higher cent.

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

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

(e) For purposes of this section, as applied to Part 14.5 of Division 2 of the Revenue and Taxation Code, sales tax reimbursement shall refer to reimbursement for the tax imposed

1 *by that part, and tangible personal property shall include*
 2 *ammunition as defined under that part.*

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

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PART 14.5. AMMUNITION TAX LAW

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CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

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10 33001. This part is known and may be cited as the
 11 “Ammunition Tax Law.”

12 33011. For purposes of this part:

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

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

20 33012. Unless the context otherwise requires the definition
 21 provided in Chapter 1 (commencing with Section 6001) of Part 1
 22 of Division 2 govern the construction of this part.

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CHAPTER 2. IMPOSITION OF TAX AND EXCISE TAX

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26 33021. For the privilege of selling ammunition at retail there
 27 is hereby imposed a tax upon all retailers at the rate of five cents
 28 (\$0.05) per item of ammunition sold at retail in this state on or
 29 after January 1, 2014.

30 33022. (a) An excise tax is hereby imposed on the storage,
 31 use, or other consumption in this state of an item of ammunition
 32 purchased from any retailer on or after January 1, 2014, for storage,
 33 use, or other consumption in this state at the rate of five cents
 34 (\$0.05) per item of ammunition.

35 (b) Every person storing, using, or otherwise consuming in this
 36 state munitions purchased from a retailer is liable for the tax. His
 37 or her liability is not extinguished until the tax has been paid to
 38 this state except that a receipt from a retailer engaged in business
 39 in this state or from a retailer who is authorized by the board, under
 40 the rules and regulations as it may prescribe, to collect the tax and

1 who is, for the purposes of this part relating to the use tax, regarded
2 as a retailer engaged in business in this state, given to the purchaser
3 pursuant to subdivision (c) is sufficient to relieve the purchaser
4 from further liability for the tax to which the receipt refers.

5 (c) Every retailer engaged in business in this state and making
6 sales of tangible personal property for storage, use, or other
7 consumption in this state, not exempted under Chapter 3
8 (commencing with Section 33031), shall, at the time of making
9 the sales or, if the storage, use, or other consumption of the
10 munitions is not then taxable hereunder, at the time the storage,
11 use, or other consumption becomes taxable, collect the tax from
12 the purchaser and give to the purchaser a receipt therefor in the
13 manner and form prescribed by the board.

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

18 (e) It is unlawful for any retailer to advertise or hold out or state
19 to the public or to any customer, directly or indirectly, that the tax
20 or any part thereof will be assumed or absorbed by the retailer or
21 that it will not be added to the selling price of the property sold or
22 that if added it or any part thereof will be refunded.

23 (f) The tax required to be collected by the retailer from the
24 purchaser shall be displayed separately from the list price, the price
25 advertised in the premises, the marked price, or other price on the
26 sales check or other proof of sales.

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

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30 CHAPTER 3. EXEMPTION

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32 33031. There are exempted from the taxes imposed by this
33 part, the sale of, or the storage, use or other consumption of any
34 item of ammunition purchased by any peace officer required to
35 carry a weapon requiring ammunition while on duty, or by any
36 governmental law enforcement agency employing that peace
37 officer, for use in the normal course of employment.

CHAPTER 4. COLLECTION AND ADMINISTRATION

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3 33041. The board shall administer and collect the tax imposed
4 by this part pursuant to the Fee Collection Procedures Law (Part
5 30 (commencing with Section 55001) of Division 2). For purposes
6 of this part, the references in the Fee Collection Procedures Law
7 to “fee” shall include the tax imposed by this part, and to
8 “feepayer” shall mean any person liable for the payment of the
9 taxes collected pursuant to that part.

10 33042. The taxes imposed by this part are due and payable to
11 the board quarterly on or before the last day of the month next
12 succeeding each quarterly period.

13 33043. On or before the last day of the month following each
14 quarterly period of three months, a return for the preceding
15 quarterly period shall be filed with the board.

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17 CHAPTER 5. DISPOSITION OF PROCEEDS
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19 33051. All taxes, interest, and penalties imposed and required
20 to be paid under this part shall be made in remittances to the board.

21 33052. All taxes, interest, and penalties, less refunds and costs
22 of collection, in this fund shall, upon appropriation by the
23 Legislature, only be allocated to the School-Based Early Mental
24 Health Intervention and Prevention Services Matching Grant
25 Program (Chapter 2 (commencing with Section 4380) of Part 4 of
26 Division 4 of the Welfare and Institutions Code).

27 SEC. 4. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

36 SEC. 5. This act provides for a tax levy within the meaning of
37 Article IV of the Constitution and shall go into immediate effect.

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