

CITY OF OAKLAND
AGENDA REPORT

To: Office of the City Administrator
Attn: Deborah A. Edgerly
From: Police Department
Date: April 10, 2008

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 MAR 27 PM 5:26

Re: A Resolution in Support of AB 2566 (Hancock) – Firearms: Prohibitions and AB 2696 (Krekorian) – Firearms: Requiring the California DOJ to Enter into a MOU with the FBI to Provide Information to and Participate in the National Instant Criminal Background Check System; Analyses of these Bills; and

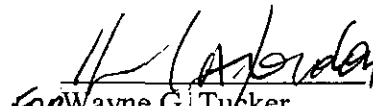
Recommendations for a “Watch” Position and Analyses of AB 2062 (De Leon) – Ammunition: Maintenance of Records for Sales and Transfers and AB 2235 (DeSaulnier) – Firearms: Technical, Non-Substantive Change to Penal Code Section 12126 to Amend the Definition of “Unsafe Handgun”

Attached are Bill Analyses for:

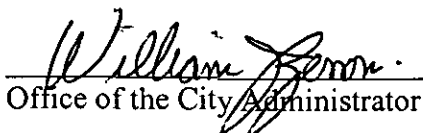
- **AB 2566** (Hancock) – Firearms: Prohibitions
- **AB 2696** (Krekorian) – Firearms: Requiring the CA Department of Justice to Enter into a Memorandum of Understanding with the Federal Bureau of Investigation to Provide Information to and Participate in the National Instant Criminal Background Check System
- **AB 2062** (De Leon) – Ammunition: Maintenance of Records for Sales and Transfers
- **AB 2235** (DeSaulnier) – Firearms: Technical, Non-Substantive Change to Penal Code Section 12126 to Amend the Definition of “Unsafe Handgun”

Staff finds that AB 2566 and AB 2696 are critical priorities for the City of Oakland and has prepared a resolution in support of both pieces of proposed legislation. Staff recommends a “watch” position for AB 2062 and AB 2235.

Respectfully submitted,


FOR Wayne G. Tucker
Chief of Police

APPROVED AND FORWARDED TO THE
RULES & LEGISLATION COMMITTEE:

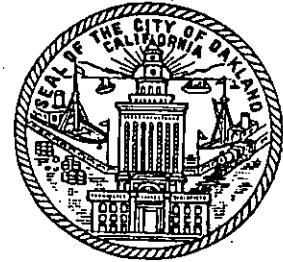

Office of the City Administrator

Prepared by: Lt. K. Parris
Criminal Investigation Division
Bureau of Investigation

Item: _____
Rules & Legislation Comte.
April 10, 2008

CITY OF OAKLAND

BILL ANALYSIS



Date: April 10, 2008
Bill Number: AB 2566
Bill Author: Assembly Member Hancock

DEPARTMENT INFORMATION

Contact: Lieutenant Kenneth W. Parris
Department: Police
Telephone: (510) 238-3770 **FAX #** (510) 238-3030
E-mail: kwparris@oaklandnet.com

RECOMMENDED POSITION: SUPPORT

Summary of the Bill

Existing state law preempts local governments from enacting legislation to regulate firearms within their jurisdictions. Assembly Bill 2566 makes changes to existing law, permitting cities, counties and city and counties to regulate the possession of handguns without preemption by state law.

Positive Factors for Oakland

This bill will enable the City to enact local legislation to regulate the possession of firearms without being preempted by state law. The City could then establish laws to assist the police department in reducing the use of firearms in violent crimes by limiting who and when a firearm may be possessed in the City. This legislation will prevent the preemption experienced by the City and County of San Francisco when it passed an ordinance to outlaw the possession of handguns within its city limits.

There are no local unfunded mandates in this bill.

Negative Factors for Oakland

At present, there are no known negative factors.

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

Critical (top priority for City lobbyist, city position required ASAP)

Very Important (priority for City lobbyist, city position necessary)

Item: _____
Rules & Legislation Comte.
April 10, 2008

___ **Somewhat Important** (City position desirable if time and resources are available)

___ **Minimal or None** (do not review with City Council, position not required)

Known support:

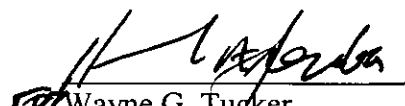
None listed as of the date report submitted.

Known Opposition:

None listed as of the date report submitted.

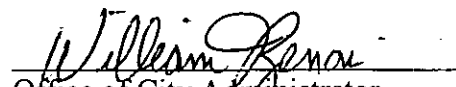
Attach bill text and state/federal legislative committee analysis, if available.

Respectfully Submitted,



Wayne G. Tucker
Chief of Police

Approved for Forwarding to
Rules Committee



Office of City Administrator

Item: _____
Rules & Legislation Comte.
April 10, 2008

BILL NUMBER: AB 2566 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Hancock

FEBRUARY 22, 2008

An act to amend Section 12026 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2566, as introduced, Hancock. Firearms: prohibitions.

Existing law provides that no permit or license to purchase, own, possess, keep, or carry, either openly or concealed, shall be required of any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes, as specified, to purchase, own, possess, keep, or carry, either openly or concealed, a handgun within the citizen's or legal resident's place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident.

This bill would provide that, these provisions may not be construed to prohibit the regulation by a city, county, or city and county of the possession of handguns.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

SECTION 1. Section 12026 of the Penal Code is amended to read:

12026. (a) Section 12025 shall not apply to or affect any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, who carries, either openly or concealed, anywhere within the citizen's or legal resident's place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident any pistol, revolver, or other firearm capable of being concealed upon the person.

(b) No permit or license to purchase, own, possess, keep, or carry, either openly or concealed, shall be required of any citizen of the United States or legal resident over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, to purchase, own, possess, keep, or carry, either openly or concealed, a pistol, revolver, or other firearm capable of being concealed upon the person within the citizen's or legal resident's place of residence, place of business, or on private property owned or lawfully possessed by the citizen or legal resident, provided however, that nothing in this section shall be construed to prohibit the regulation by a city, county, or city and county of the possession of handguns.

(c) Nothing in this section shall be construed as affecting the application of Section 12031.

CITY OF OAKLAND
BILL ANALYSIS



Date: April 10, 2008
Bill Number: AB 2696
Bill Author: Assembly Member Krekorian

DEPARTMENT INFORMATION

Contact: Lieutenant Kenneth W. Parris
Department: Police
Telephone: (510) 238-3770 **FAX #** (510) 238-3030
E-mail: kwparris@oaklandnet.com

RECOMMENDED POSITION: SUPPORT

Summary of the Bill

Assembly Bill 2696 requires the California Department of Justice to enter into a memorandum of understanding with the Federal Bureau of Investigation for the purpose of providing information to the National Instant Criminal Background Check System (NICBCS) and to participate in the system. Furthermore, this bill requires all mental health facilities who admit persons for treatment as being a threat to themselves or someone else to electronically submit this information to NICBCS commencing January 1, 2011.

Positive Factors for Oakland

This bill will provide for faster and more accurate criminal history background checks for all persons desiring to purchase or possess a firearm. It will mandate local mental health facilities electronically notify NICBCS when they admit a patient who has been deemed to be a threat to himself/herself or a threat to another person.

There are no local unfunded mandates in this bill affecting the City.

Negative Factors for Oakland

At present, there are no known negative factors.

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

XXX **Critical** (top priority for City lobbyist, city position required ASAP)

_____ **Very Important** (priority for City lobbyist, city position necessary)

Item: _____
Rules & Legislation Comte.
April 10, 2008

___ **Somewhat Important** (City position desirable if time and resources are available)

___ **Minimal or None** (do not review with City Council, position not required)

Known support:

None posted as of the date report submitted.

Known Opposition:

None posted as of the date report submitted.

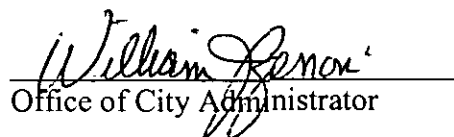
Attach bill text and state/federal legislative committee analysis, if available.

Respectfully Submitted,



FOR Wayne G. Tucker
Chief of Police

Approved for Forwarding to
Rules Committee



Office of City Administrator

Item: _____
Rules & Legislation Comte.
April 10, 2008

BILL NUMBER: AB 2696 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Krekorian

FEBRUARY 22, 2008

An act to amend Section 12076 of the Penal Code, and to amend Section 8103 of the Welfare and Institutions Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2696, as introduced, Krekorian. Firearms.

Existing law requires the Department of Justice to conduct background checks in connection with firearms purchases. Existing law provides that, to the extent funding is available, the department may participate in the National Instant Criminal Background Check System, as specified.

This bill would require the department to enter into a Memorandum of Understanding with the Federal Bureau of Investigation for the purpose of providing information to the National Instant Criminal Background Check System, and to participate in that system, as specified.

Existing law requires mental health facilities that admit persons on the basis of their being a threat to themselves or others, or for intensive treatment, to immediately report specified information to the Department of Justice in regards to those persons.

This bill would require, commencing January 1, 2011, that those reports be submitted electronically, as specified.

By imposing additional duties on local mental health facilities, this 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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 12076 of the Penal Code is amended to read:

12076. (a) (1) Before January 1, 1998, the Department of Justice shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

(A) Submission of the register described in Section 12077.

(B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.

(2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the

exclusive means by which purchaser information is transmitted to the department.

(3) On or after January 1, 2003, except as permitted by the department, electronic transfer shall be the exclusive means by which information is transmitted to the department. Telephonic transfer shall not be permitted for information regarding sales of any firearms.

(b) (1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name and affix his or her residence address and date of birth to the register in quadruplicate. The salesperson shall affix his or her signature to the register in quadruplicate as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any incorrect information or knowingly omitting any information required to be provided for the register and any person violating any provision of this section is guilty of a misdemeanor, provided however, that any person who is prohibited from obtaining a firearm pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code who knowingly furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided for the register shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for a term of 8, 12, or 18 months.

(2) The original of the register shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years from the date of the last transaction and shall be available for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(3) Two copies of the original sheet of the register, on the date of the application to purchase, shall be placed in the mail, postage prepaid, and properly addressed to the Department of Justice in Sacramento.

(4) If requested, a photocopy of the original shall be provided to the purchaser by the dealer.

(5) If the transaction is a private party transfer conducted pursuant to Section 12082, a photocopy of the original shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser's personal information, as required pursuant to paragraph (1) of subdivision (b) and paragraph (1) of subdivision (c) of Section 12077, from the seller's copy, and the seller's personal information from the purchaser's copy.

(c) (1) Where the electronic or telephonic transfer of applicant information is used, the purchaser shall be required to present clear evidence of his or her identity and age, as defined in Section 12071, to the dealer, and the dealer shall require him or her to sign his or her current legal name to the record of electronic or telephonic transfer. The salesperson shall affix his or her signature to the record of electronic or telephonic transfer as a witness to the signature and identification of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing any

incorrect information or knowingly omitting any information required to be provided for the electronic or telephonic transfer and any person violating any provision of this section is guilty of a misdemeanor, provided however, that any person who is prohibited from obtaining a firearm pursuant to Section 12021 or 12021.1 of this code, or Section 8100 or 8103 of the Welfare and Institutions Code who knowingly furnishes a fictitious name or address or knowingly furnishes any incorrect information or knowingly omits any information required to be provided for the register shall be punished by imprisonment in a county jail not exceeding one year or imprisonment in the state prison for a term of 8, 12, or 18 months.

(2) The record of applicant information shall be transmitted to the Department of Justice in Sacramento by electronic or telephonic transfer on the date of the application to purchase.

(3) The original of each record of electronic or telephonic transfer shall be retained by the dealer in consecutive order. Each original shall become the permanent record of the transaction that shall be retained for not less than three years from the date of the last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General, or agent of the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives upon the presentation of proper identification, but no information shall be compiled therefrom regarding the purchasers or other transferees of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person.

(4) If requested, a copy of the record of electronic or telephonic transfer shall be provided to the purchaser by the dealer.

(5) If the transaction is a private party transfer conducted pursuant to Section 12082, a copy shall be provided to the seller or purchaser by the dealer, upon request. The dealer shall redact all of the purchaser's personal information, as required pursuant to paragraph (1) of subdivision (b) and paragraph (1) of subdivision (c) of Section 12077, from the seller's copy, and the seller's personal information from the purchaser's copy.

(d) (1) The department shall examine its records, as well as those records that it is authorized to request from the State Department of Mental Health pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph (9) of subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(2) ~~To the extent that funding is available, the~~
The Department of Justice ~~may~~
shall participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and ~~if that participation is implemented,~~ shall be the point of contact for initiating a background check through NICS, in accordance with the Memorandum of Understanding entered into by the department and the Federal Bureau of Investigation for the purpose of implementing NICS and state and federal law regarding confidentiality. The department shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(3) If the department determines that the purchaser is a person described in Section 12021, 12021.1, or subparagraph (A) of paragraph

(9) of subdivision (a) of Section 12072 of this code or Section 8100 or 8103 of the Welfare and Institutions Code, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(4) If the department determines that the copies of the register submitted to it pursuant to paragraph (3) of subdivision (b) contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the pistol, revolver, or other firearm to be purchased, or if any fee required pursuant to subdivision (e) is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to subdivision (e), or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(5) If the department determines that the information transmitted to it pursuant to subdivision (c) contains inaccurate or incomplete information preventing identification of the purchaser or the pistol, revolver, or other firearm capable of being concealed upon the person to be purchased, or if the fee required pursuant to subdivision (e) is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to subdivision (e), or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 12071 and 12072.

(e) The Department of Justice may require the dealer to charge each firearm purchaser a fee not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations. The fee shall be no more than is necessary to fund the following:

(1) (A) The department for the cost of furnishing this information.

(B) The department for the cost of meeting its obligations under paragraph (2) of subdivision (b) of Section 8100 of the Welfare and Institutions Code.

(2) Local mental health facilities for state-mandated local costs resulting from the reporting requirements imposed by Section 8103 of the Welfare and Institutions Code.

(3) The State Department of Mental Health for the costs resulting from the requirements imposed by Section 8104 of the Welfare and Institutions Code.

(4) Local mental hospitals, sanitariums, and institutions for state-mandated local costs resulting from the reporting requirements imposed by Section 8105 of the Welfare and Institutions Code.

(5) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code.

(6) Local law enforcement agencies for state-mandated local costs resulting from the notification requirements set forth in subdivision

(c) of Section 8105 of the Welfare and Institutions Code.

(7) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(8) The Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code.

(9) The department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.

(10) The department for the costs associated with funding Department of Justice firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (3) of this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (4) of this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (6) of this subdivision, the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, the estimated reasonable costs of the department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, and the estimated reasonable costs of department firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

(f) (1) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

(A) For the actual costs associated with the preparation, sale, processing, and filing of forms or reports required or utilized pursuant to Section 12078.

(B) For the actual processing costs associated with the submission of a Dealers' Record of Sale to the department.

(C) For the actual costs associated with the preparation, sale, processing, and filing of reports utilized pursuant to subdivision (i) of Section 12078 or paragraph (18) of subdivision (b) of Section 12071, or clause (i) of subparagraph (A) of paragraph (2) of subdivision (f) of Section 12072, or paragraph (3) of subdivision (f) of Section 12072.

(D) For the actual costs associated with the electronic or telephonic transfer of information pursuant to subdivision (c).

(2) If the department charges a fee pursuant to subparagraph (B) of paragraph (1) of this subdivision, it shall be charged in the same amount to all categories of transaction that are within that subparagraph.

(3) Any costs incurred by the Department of Justice to implement

this subdivision shall be reimbursed from fees collected and charged pursuant to this subdivision. No fees shall be charged to the dealer pursuant to subdivision (e) for implementing this subdivision.

(g) All money received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund, which is hereby created, to be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to this section, paragraph (1) and subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, Sections 12083 and 12099, subdivision (c) of Section 12131, Sections 12234, 12289, and 12289.5, and subdivisions (f) and (g) of Section 12305.

(h) Where the electronic or telephonic transfer of applicant information is used, the department shall establish a system to be used for the submission of the fees described in subdivision (e) to the department.

(i) (1) Only one fee shall be charged pursuant to this section for a single transaction on the same date for the sale of any number of firearms that are not pistols, revolvers, or other firearms capable of being concealed upon the person or for the taking of possession of those firearms.

(2) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this section for the second and subsequent firearms that are part of that transaction.

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number of firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(l) As used in this section, the following definitions apply:

(1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

(4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

(m) Upon receipt of information demonstrating that a person is prohibited from possessing a firearm pursuant to Section 922(d), (g), or (n) of Title 18 of the United States Code, the Department of Justice shall report the name, date of birth, physical description, and any other reasonably available identifying information about the person, including fingerprint, to the National Instant Criminal Background Check System, Denied Persons Files, in accordance with the Memorandum of Understanding with the Federal Bureau of Investigation regarding NICS.

SEC. 2. Section 8103 of the Welfare and Institutions Code is amended to read:

8103. (a) (1) No person who after October 1, 1955, has been adjudicated by a court of any state to be a danger to others as a result of a mental disorder or mental illness, or who has been

adjudicated to be a mentally disordered sex offender, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession, custody, or control any firearm or any other deadly weapon unless there has been issued to the person a certificate by the court of adjudication upon release from treatment or at a later date stating that the person may possess a firearm or any other deadly weapon without endangering others, and the person has not, subsequent to the issuance of the certificate, again been adjudicated by a court to be a danger to others as a result of a mental disorder or mental illness.

(2) The court shall immediately notify the Department of Justice of the court order finding the individual to be a person described in paragraph (1). The court shall also notify the Department of Justice of any certificate issued as described in paragraph (1).

(b) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of murder, mayhem, a violation of Section 207, 209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, carjacking or robbery in which the victim suffers great bodily injury, a violation of Section 451 or 452 of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of paragraph (1) or (2) of subdivision (a) of Section 262 or paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, or a violation of the law of any other state or the United States that includes all the elements of any of the above felonies as defined under California law, shall purchase or receive, or attempt to purchase or receive, or have in his or her possession or under his or her custody or control any firearm or any other deadly weapon.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1).

(c) (1) No person who has been found, pursuant to Section 1026 of the Penal Code or the law of any other state or the United States, not guilty by reason of insanity of any crime other than those described in subdivision (b) shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon unless the court of commitment has found the person to have recovered sanity, pursuant to Section 1026.2 of the Penal Code or the law of any other state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be a person described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her sanity.

(d) (1) No person found by a court to be mentally incompetent to stand trial, pursuant to Section 1370 or 1370.1 of the Penal Code or the law of any other state or the United States, shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon, unless there has been a finding with respect to the person of restoration to competence to stand trial by the committing court, pursuant to Section 1372 of the Penal Code or the law of any other

state or the United States.

(2) The court shall immediately notify the Department of Justice of the court order finding the person to be mentally incompetent as described in paragraph (1). The court shall also notify the Department of Justice when it finds that the person has recovered his or her competence.

(e) (1) No person who has been placed under conservatorship by a court, pursuant to Section 5350 or the law of any other state or the United States, because the person is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism shall purchase or receive, or attempt to purchase or receive, or shall have in his or her possession, custody, or control any firearm or any other deadly weapon while under the conservatorship if, at the time the conservatorship was ordered or thereafter, the court which imposed the conservatorship found that possession of a firearm or any other deadly weapon by the person would present a danger to the safety of the person or to others. Upon placing any person under conservatorship, and prohibiting firearm or any other deadly weapon possession by the person, the court shall notify the person of this prohibition.

(2) The court shall immediately notify the Department of Justice of the court order placing the person under conservatorship and prohibiting firearm or any other deadly weapon possession by the person as described in paragraph (1). The notice shall include the date the conservatorship was imposed and the date the conservatorship is to be terminated. If the conservatorship is subsequently terminated before the date listed in the notice to the Department of Justice or the court subsequently finds that possession of a firearm or any other deadly weapon by the person would no longer present a danger to the safety of the person or others, the court shall immediately notify the Department of Justice.

(3) All information provided to the Department of Justice pursuant to paragraph (2) shall be kept confidential, separate, and apart from all other records maintained by the Department of Justice, and shall be used only to determine eligibility to purchase or possess firearms or other deadly weapons. Any person who knowingly furnishes that information for any other purpose is guilty of a misdemeanor. All the information concerning any person shall be destroyed upon receipt by the Department of Justice of notice of the termination of conservatorship as to that person pursuant to paragraph (2).

(f) (1) No person who has been (A) taken into custody as provided in Section 5150 because that person is a danger to himself, herself, or to others, (B) assessed within the meaning of Section 5151, and (C) admitted to a designated facility within the meaning of Sections 5151 and 5152 because that person is a danger to himself, herself, or others, shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years after the person is released from the facility. A person described in the preceding sentence, however, may own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm if the superior court has, pursuant to paragraph (5), found that the People of the State of California have not met their burden pursuant to paragraph (6).

(2) (A) For each person subject to this subdivision, the facility shall immediately, on the date of admission, submit a report to the Department of Justice, on a form prescribed by the Department of Justice, containing information that includes, but is not limited to, the identity of the person and the legal grounds upon which the person was admitted to the facility.

Any report prescribed by this subdivision shall be confidential, except for purposes of the court proceedings described in this subdivision and for determining the eligibility of the person to own, possess, control, receive, or purchase a firearm.

(B) Commencing January 1, 2011, facilities shall submit reports required by this paragraph exclusively by electronic means, in a manner prescribed by the Department of Justice.

(3) Prior to, or concurrent with, the discharge, the facility shall inform a person subject to this subdivision that he or she is prohibited from owning, possessing, controlling, receiving, or purchasing any firearm for a period of five years. Simultaneously, the facility shall inform the person that he or she may request a hearing from a court, as provided in this subdivision, for an order permitting the person to own, possess, control, receive, or purchase a firearm. The facility shall provide the person with a form for a request for a hearing. The Department of Justice shall prescribe the form. Where the person requests a hearing at the time of discharge, the facility shall forward the form to the superior court unless the person states that he or she will submit the form to the superior court.

(4) The Department of Justice shall provide the form upon request to any person described in paragraph (1). The Department of Justice shall also provide the form to the superior court in each county. A person described in paragraph (1) may make a single request for a hearing at any time during the five-year period. The request for hearing shall be made on the form prescribed by the department or in a document that includes equivalent language.

(5) Any person who is subject to paragraph (1) who has requested a hearing from the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms shall be given a hearing. The clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be the plaintiff in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the hearing to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after the request for a hearing, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The court shall set the hearing within 30 days of receipt of the request for a hearing. Upon showing good cause, the district attorney shall be entitled to a continuance not to exceed 14 days after the district attorney was notified of the hearing date by the clerk of the court. If additional continuances are granted, the total length of time for continuances shall not exceed 60 days. The district attorney may notify the county mental health director of the hearing who shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other law,

declarations, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section.

(6) The people shall bear the burden of showing by a preponderance of the evidence that the person would not be likely to use firearms in a safe and lawful manner.

(7) If the court finds at the hearing set forth in paragraph (5) that the people have not met their burden as set forth in paragraph (6), the court shall order that the person shall not be subject to the five-year prohibition in this section on the ownership, control, receipt, possession or purchase of firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(8) Where the district attorney declines or fails to go forward in the hearing, the court shall order that the person shall not be subject to the five-year prohibition required by this subdivision on the ownership, control, receipt, possession, or purchase of firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall, within 15 days, delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(9) Nothing in this subdivision shall prohibit the use of reports filed pursuant to this section to determine the eligibility of persons to own, possess, control, receive, or purchase a firearm if the person is the subject of a criminal investigation, a part of which involves the ownership, possession, control, receipt, or purchase of a firearm.

(g) (1) No person who has been certified for intensive treatment under Section 5250, 5260, or 5270.15 shall own, possess, control, receive, or purchase, or attempt to own, possess, control, receive, or purchase any firearm for a period of five years.

Any person who meets the criteria contained in subdivision (e) or (f) who is released from intensive treatment shall nevertheless, if applicable, remain subject to the prohibition contained in subdivision (e) or (f).

(2) (A) For each person certified for intensive treatment under paragraph (1), the facility shall immediately submit a report to the Department of Justice, on a form prescribed by the department, containing information regarding the person, including, but not limited to, the legal identity of the person and the legal grounds upon which the person was certified. Any report submitted pursuant to this paragraph shall only be used for the purposes specified in paragraph (2) of subdivision (f).

(B) *Commencing January 1, 2011, facilities shall submit reports required by this paragraph exclusively by electronic means, in a manner prescribed by the Department of Justice.*

(3) Prior to, or concurrent with, the discharge of each person certified for intensive treatment under paragraph (1), the facility shall inform the person of that information specified in paragraph (3) of subdivision (f).

(4) Any person who is subject to paragraph (1) may petition the superior court of his or her county of residence for an order that he or she may own, possess, control, receive, or purchase firearms. At the time the petition is filed, the clerk of the court shall set a hearing date and notify the person, the Department of Justice, and the district attorney. The People of the State of California shall be

the respondent in the proceeding and shall be represented by the district attorney. Upon motion of the district attorney, or on its own motion, the superior court may transfer the petition to the county in which the person resided at the time of his or her detention, the county in which the person was detained, or the county in which the person was evaluated or treated. Within seven days after receiving notice of the petition, the Department of Justice shall file copies of the reports described in this section with the superior court. The reports shall be disclosed upon request to the person and to the district attorney. The district attorney shall be entitled to a continuance of the hearing to a date of not less than 14 days after the district attorney was notified of the hearing date by the clerk of the court. The district attorney may notify the county mental health director of the petition, and the county mental health director shall provide information about the detention of the person that may be relevant to the court and shall file that information with the superior court. That information shall be disclosed to the person and to the district attorney. The court, upon motion of the person subject to paragraph (1) establishing that confidential information is likely to be discussed during the hearing that would cause harm to the person, shall conduct the hearing in camera with only the relevant parties present, unless the court finds that the public interest would be better served by conducting the hearing in public. Notwithstanding any other provision of law, any declaration, police reports, including criminal history information, and any other material and relevant evidence that is not excluded under Section 352 of the Evidence Code, shall be admissible at the hearing under this section. If the court finds by a preponderance of the evidence that the person would be likely to use firearms in a safe and lawful manner, the court may order that the person may own, control, receive, possess, or purchase firearms. A copy of the order shall be submitted to the Department of Justice. Upon receipt of the order, the Department of Justice shall delete any reference to the prohibition against firearms from the person's state mental health firearms prohibition system information.

(h) For all persons identified in subdivisions (f) and (g), facilities shall report to the Department of Justice as specified in those subdivisions, except facilities shall not report persons under subdivision (g) if the same persons previously have been reported under subdivision (f).

Additionally, all facilities shall report to the Department of Justice upon the discharge of persons from whom reports have been submitted pursuant to subdivision (f) or (g). However, a report shall not be filed for persons who are discharged within 31 days after the date of admission.

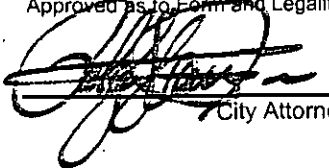
(i) Every person who owns or possesses or has under his or her custody or control, or purchases or receives, or attempts to purchase or receive, any firearm or any other deadly weapon in violation of this section shall be punished by imprisonment in the state prison or in a county jail for not more than one year.

(j) "Deadly weapon," as used in this section, has the meaning prescribed by Section 8100.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

OAKLAND CITY COUNCIL

OFFICE OF THE CITY CLERK
OAKLAND


City Attorney

2008 MAR 27 PM 5:25

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION IN SUPPORT OF AB 2566 (HANCOCK) – “FIREARMS: PROHIBITIONS” AND AB 2696 (KREKORIAN) – “FIREARMS: REQUIRING THE CALIFORNIA DEPARTMENT OF JUSTICE (DOJ) TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE FEDERAL BUREAU OF INVESTIGATION (FBI) TO PROVIDE INFORMATION TO, AND PARTICIPATE IN, THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICBCS)”

WHEREAS, each year a majority of Oakland homicides are the result of gun violence; and

WHEREAS, the City of Oakland fully supports the ability of local governments to enact enforcement regulation that will increase the safety of the people of the City of Oakland; and

WHEREAS, the City of Oakland also supports the use of systems that can provide swift and accurate background data on persons attempting to purchase a hand gun or long gun; and

WHEREAS, AB 2566 (Hancock) and AB 2696 (Krekorian) will contribute to a safer Oakland by, respectively, permitting cities, counties, and city and counties, to regulate the possession of handguns without preemption by state law, and by requiring the California Department of Justice to enter into a memorandum of understanding with the FBI for the purpose of providing information to the NICBCS and to participate in the system; now, therefore be it

RESOLVED: That the City of Oakland declares its support for AB 2566 (Hancock) and AB 2696 (Krekorian); and be it

FURTHER RESOLVED: That the City Council hereby directs the City Administrator and the City’s legislative lobbyist to advocate for the above positions in the California State Legislature.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

CITY OF OAKLAND

BILL ANALYSIS



Date: April 10, 2008
Bill Number: AB 2062
Bill Author: Assembly Member De Leon

DEPARTMENT INFORMATION

Contact: Lieutenant Kenneth W. Parris
Department: Police
Telephone: (510) 238-3770 **FAX #** (510) 238-3030
E-mail: kwparris@oaklandnet.com

RECOMMENDED POSITION: WATCH

Summary of the Bill

Assembly Bill 2062 addresses the issue of handgun ammunition sales by requiring the Department of Justice to maintain records of the aforementioned transactions similar to those maintained for handguns. The bill also provides for the creation and maintenance of a "Prohibited Armed Persons File", containing persons who are specifically prohibited from possessing firearms. This file would also be used to prohibit the distribution, transfer, sale or possession of ammunition by or to persons listed in the file.

Positive Factors for Oakland

This bill would regulate the distribution, transfer, sale and possession of handgun ammunition. At present, there are few statewide controls on ammunition. Lack of such control allows prohibited persons to come into possession of ammunition which then may be used in the commission of a crime of violence. Documentation of the distribution, transfer, sale and possession of handgun ammunition will afford police agencies an additional tool to follow-up on handgun related violent crime.

There are no local unfunded mandates in this bill.

Negative Factors for Oakland

At present, there are no known negative factors.

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

Critical (top priority for City lobbyist, city position required ASAP)

Item: _____
Rules & Legislation Comte.
April 10, 2008

- Very Important** (priority for City lobbyist, city position necessary)
- Somewhat Important** (City position desirable if time and resources are available)
- Minimal or** **None** (do not review with City Council, position not required)

Known support:

None listed as of date report submitted.

Known Opposition:

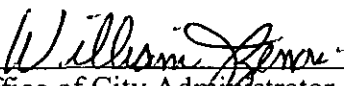
None listed as of date report submitted.

Attach bill text and state/federal legislative committee analysis, if available.

Respectfully Submitted,


FOR Wayne G. Tucker
Chief of Police

Approved for Forwarding to
Rules Committee


Office of City Administrator

Item: _____
Rules & Legislation Comte.
April 10, 2008

BILL NUMBER: AB 2062 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member De Leon

FEBRUARY 19, 2008

An act to amend Sections 11106, 12010, 12011, and 12012 of, to add Section 12318 to, and to add Article 3.5 (commencing with Section 12060) to Title 2 of Part 4 of, the Penal Code, relating to ammunition.

LEGISLATIVE COUNSEL'S DIGEST

AB 2062, as introduced, De Leon. Ammunition.

Existing law requires the Department of Justice to maintain records pertaining to firearms transactions.

This bill would require the department to maintain additional information relating to ammunition transfers, handgun ammunition permittees, and licensed handgun ammunition vendors, as specified.

Existing law establishes the Prohibited Armed Persons File, which lists persons who are prohibited from possessing firearms, as specified.

This bill would expand those provisions to include persons prohibited from possessing ammunition.

Existing law generally regulates the sale of ammunition.

This bill would establish a program administered by the Department of Justice for licensing handgun ammunition vendors, as specified. The bill would also authorize the issuance of a handgun ammunition permit, to be used by purchasers of handgun ammunition, as specified.

The bill would authorize the Department of Justice to incorporate the permit information into a permittee's California driver's license, as specified.

The bill would establish a database maintained by the department to serve as a registry of handgun ammunition vendors. The bill would also establish a database of handgun ammunition permittees.

This bill would require that commencing July 1, 2009, unless specifically excluded, no person shall sell or transfer more than 50 rounds of handgun ammunition in any month unless they are registered as a handgun ammunition vendor, as defined. The bill would also require these vendors to obtain a background clearance for those employees who would handle ammunition in the course and scope of their employment. The bill would require the Department of Justice to maintain a registry of registered handgun ammunition vendors, as specified. Violation of these provisions, as specified, would be subject to civil fines, as specified.

The bill would also provide that no retail seller of ammunition shall sell, offer for sale, or display for sale, any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser without the assistance of the retailer or employee thereof. Violation of these provisions would be subject to civil fines, as specified.

The bill would further provide that handgun ammunition may only be purchased in a face-to-face transaction and only if certain conditions exist.

Existing law generally regulates what information is required to be obtained in connection with the transfer of ammunition.

This bill would, subject to exceptions, require certain ammunition vendors to obtain a thumbprint and other information from ammunition purchasers, and would require submission of that information to the Department of Justice, as specified. A violation of these provisions would be subject to civil fines, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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, *submitted pursuant to Section 12062 and licensee information pertaining to handgun ammunition vendors as specified in Section 12062, permittee information pertaining to handgun ammunition permittees specified in subdivision (g) of Section 12063,* dealers' records of sales of firearms, reports provided pursuant to Section 12072 or 12078, forms provided pursuant to Section 12084, as that section read prior to being repealed by the act that amended this section, 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) Except as provided in subdivision (d), 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, as that section read prior to being repealed by the act that amended this section, 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, as that section read prior to being repealed by the act that amended this section, 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 former Section 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 former 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) (1) Any officer referred to in paragraphs (1) to (6), inclusive, of subdivision (b) of Section 11105 may disseminate the name of the subject of the record, the number of the firearms listed in the record, and the description of any firearm, including the make, model, and caliber, from the record relating to any firearm's sale, transfer, registration, or license record, or any information reported to the Department of Justice pursuant to Section 12021.3, 12053, 12071, 12072, 12077, 12078, 12082, or 12285, or information reported to the Department of Justice pursuant to Section 12062 as to the brand, type, and amount of ammunition transferred if the following conditions are met:

(A) The subject of the record has been arraigned for a crime in

which the victim is a person described in subdivisions (a) to (f), inclusive, of Section 6211 of the Family Code and is being prosecuted or is serving a sentence for the crime, or the subject of the record is the subject of an emergency protective order, a temporary restraining order, or an order after hearing, which is in effect and has been issued by a family court under the Domestic Violence Protection Act set forth in Division 10 (commencing with Section 6200) of the Family Code.

(B) The information is disseminated only to the victim of the crime or to the person who has obtained the emergency protective order, the temporary restraining order, or the order after hearing issued by the family court.

(C) Whenever a law enforcement officer disseminates the information authorized by this subdivision, that officer or another officer assigned to the case shall immediately provide the victim of the crime with a "Victims of Domestic Violence" card, as specified in subparagraph (H) of paragraph (9) of subdivision (c) of Section 13701.

(2) The victim or person to whom information is disseminated pursuant to this subdivision may disclose it as he or she deems necessary to protect himself or herself or another person from bodily harm by the person who is the subject of the record.

SEC. 2. Section 12010 of the Penal Code is amended to read:

12010. (a) The Attorney General shall establish and maintain an online database to be known as the Prohibited Armed Persons File. The purpose of the file is to cross-reference persons who have ownership or possession of a firearm or ammunition on or after January 1, 1991, as indicated by a record in the Consolidated Firearms Information System, or as indicated in reports submitted to the Department of Justice pursuant to Section 12062, and who, subsequent to the date of that ownership or possession of a firearm or ammunition, fall within a class of persons who are prohibited from owning or possessing a firearm or ammunition.

(b) The information contained in the Prohibited Armed Persons File shall only be available to those entities specified in, and pursuant to, subdivision (b) or (c) of Section 11105, through the California Law Enforcement Telecommunications System, for the purpose of determining if persons are armed and prohibited from possessing firearms or ammunition.

SEC. 3. Section 12011 of the Penal Code is amended to read:

12011. The Prohibited Armed Persons File database shall function as follows:

(a) Upon entry into the Automated Criminal History System of a disposition for a conviction of any felony, a conviction for any firearms-prohibiting charge specified in Section 12021, a conviction for an offense described in Section 12021.1, a firearms prohibition pursuant to Section 8100 or 8103 of the Welfare and Institutions Code, an ammunition prohibition pursuant to subdivision (b) of Section 12316, or any firearms possession prohibition identified by the federal National Instant Check System, the Department of Justice shall determine if the subject has an entry in the Consolidated Firearms Information System indicating possession or ownership of a firearm on or after January 1, 1991, or an assault weapon registration, or a .50 BMG rifle registration, or ammunition as indicated in reports submitted to the Department of Justice pursuant to Section 12062.

(b) Upon an entry into any department automated information system that is used for the identification of persons who are prohibited from acquiring, owning, or possessing firearms or ammunition

, the department shall determine if the subject has an entry in the Consolidated Firearms Information System indicating ownership or possession of a firearm on or after January 1, 1991, or an assault weapon registration, or a .50 BMG rifle registration , or acquired ammunition as indicated in reports submitted to the Department of Justice pursuant to Section 12062 .

(c) If the department determines that, pursuant to subdivision (a) or (b), the subject has an entry in the Consolidated Firearms Information System indicating possession or ownership of a firearm on or after January 1, 1991, or an assault weapon registration, or a .50 BMG rifle registration, or acquired ammunition as indicated in reports submitted to the Department of Justice pursuant to Section 12062, the following information shall be entered into the Prohibited Armed Persons File:

- (1) The subject's name.
- (2) The subject's date of birth.
- (3) The subject's physical description.
- (4) Any other identifying information regarding the subject that is deemed necessary by the Attorney General.
- (5) The basis of the firearms or ammunition possession prohibition.

(6) A description of all firearms owned or possessed by the subject, as reflected by the Consolidated Firearms Information System , or ammunition acquired as indicated in reports submitted to the Department of Justice pursuant to Section 12062

SEC. 4. Section 12012 of the Penal Code is amended to read:

12012. The Attorney General shall provide investigative assistance to local law enforcement agencies to better ensure the investigation of individuals who are armed and prohibited from possessing a firearm or ammunition .

SEC. 5. Article 3.5 (commencing with Section 12060) is added to Title 2 of Part 4 of the Penal Code, to read:

Article 3.5. Handgun Ammunition Vendor Licenses and Handgun Ammunition Purchase Permits

12060. As used in this article, the following terms apply:

- (a) "Department" means the Department of Justice.
- (b) "Handgun ammunition" means handgun ammunition as defined in subdivision (a) of Section 12323, but excluding ammunition designed and intended to be used in an "antique firearm" as defined in Section 921(a)(16) of Title 18 of the United States Code.
- (c) "Immediate family member" has the same meaning as set forth in subdivision (c) of Section 12078.
- (d) "Licensed handgun ammunition vendor" or "vendor" means a person or entity licensed by the department pursuant to Section 12062.

12061. (a) (1) Commencing July 1, 2009, no person shall sell or transfer more than 50 rounds of handgun ammunition in any month unless the person is licensed by the department as a licensed handgun ammunition vendor in accordance with Section 12062.

(2) No person or entity shall sell or otherwise transfer ownership of handgun ammunition after it is permanently removed from the registry pursuant to subparagraph (C) of paragraph (5) of subdivision (b) of Section 12062.

(b) Paragraph (1) of subdivision (a) shall not apply to or affect any of the following:

- (1) Sales or transfers of handgun ammunition to licensed handgun

ammunition vendors who are licensed pursuant to Section 12062.

(2) Sales or transfers of handgun ammunition by a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if the nonprofit public benefit or mutual benefit corporation is selling ammunition to assist the corporation or local chapters of the corporation in conducting auctions or similar events at which firearms are auctioned off and to fund the activities of the corporation or the local chapters of the corporation.

(3) Sales or transfers of handgun ammunition to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those government agencies if, prior to the delivery, transfer, or sale of handgun 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 by which the purchaser or transferee 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 he or she is employed.

(4) Sales or transfers of handgun ammunition to authorized representatives of cities, counties, cities and counties, or state or federal governments for those government agencies in which the entity is acquiring the ammunition as part of an authorized, voluntary program in which the entity is buying or receiving ammunition from private individuals.

(5) Sales or transfers of handgun ammunition between immediate family members, spouses, or registered domestic partners.

(6) Sales or transfers of handgun ammunition at a target facility that holds a business or regulatory license between persons who are on the premises of the target facility or between persons who are on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the sale or transfer of the ammunition occurs on the premises of the target range or on the premises of the club or organization and is sold to a person who is using ammunition primarily at the facility and the entity conducting the sale or transfer is not the target range or club.

(c) A violation of this section is punishable by a civil fine of up to one thousand dollars (\$1,000) for a first violation and up to ten thousand dollars (\$10,000) for every subsequent violation.

12062. (a) (1) The department is authorized to issue handgun ammunition vendor licenses.

(2) No handgun ammunition vendor license may be issued to an applicant who fails to provide a copy of any regulatory or business license, or licenses, required by local government, a valid seller's permit issued by the State Board of Equalization, a federal firearms license if the person is federally licensed, and a certificate of eligibility issued pursuant to Section 12071.

(3) The department shall inform applicants who are denied licenses of the reasons for the denial in writing.

(b) (1) The handgun 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 Attorney General may adopt regulations to administer application procedures and enforcement procedures for the licensee. The Attorney General may adopt regulations that establish grounds for suspension or revocation of the license.

(2) The department may charge handgun ammunition vendor license

applicants a fee sufficient to reimburse the department for the costs of administering the license program, maintaining the registry of handgun ammunition vendors, and necessary regulatory functions, including enforcement, provided, however, that the fee shall not exceed fifty dollars (\$50).

(3) The department shall issue licenses pursuant to this section to the following applicants:

(A) Persons licensed pursuant to Section 12071.

(B) A person who is on the centralized list maintained by the department pursuant to Section 12083.

(C) A target facility which holds a business or regulatory license.

(D) Commercial hunting clubs, game bird clubs, or pheasant clubs licensed by the Department of Fish and Game.

(E) Gunsmiths.

(F) Wholesalers.

(G) Manufacturers or importers of firearms licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.

(4) The department shall waive all application fees for all persons listed in subparagraphs (A) and (B) of paragraph (3).

(5) (A) The department shall keep a centralized registry of all persons, businesses, and corporations who are vendors.

(B) The department may remove from this registry any vendor who violates the provisions of this section.

(C) The license of any vendor who violates this section three times shall be revoked, and that person, firm, or corporation shall become permanently ineligible to obtain a license pursuant to this section.

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

(6) Information compiled from the registry referred to in paragraph (5) shall be made available, upon request, for the following purposes only:

(A) For law enforcement purposes.

(B) When the information is requested for the purposes of determining the validity of handgun ammunition deliveries.

(c) A vendor shall comply with all of the following conditions, requirements and prohibitions:

(1) (A) A vendor shall not permit any employee who the vendor knows or reasonably should know is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code to handle handgun ammunition in the course and scope of his or her employment.

(B) Except as provided in subparagraph (C), for an employee of a vendor who becomes an employee after July 1, 2009, the vendor shall request a background clearance from the department pursuant to subdivision (d) of Section 12076 to determine if an employee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. The request shall be made within 45 days of employing the individual.

(C) In the case of a person who is employed by a vendor on or before July 1, 2009, the vendor shall request a background clearance from the department pursuant to subdivision (d) of Section 12076 to determine if an employee is a person described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code no later August 15, 2009.

(D) The department may require the vendor to charge a fee sufficient to reimburse it for the background clearance authorized

pursuant to subdivision (e) of Section 12076.

(2) A vendor shall not sell or otherwise transfer ownership of, offer for sale or otherwise offer to transfer ownership of, or display for sale or display for transfer of ownership of any handgun ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or employee thereof.

(3) Commencing July 1, 2009, a vendor shall not sell or otherwise transfer ownership of any handgun ammunition without at the time of delivery recording the following information in a format to be prescribed by the department:

(A) The date of the transaction.

(B) The transferee's driver's license or other identification number and the state in which it was issued.

(C) The brand, type, and amount of ammunition transferred.

(D) The transferee's signature.

(E) The name of the salesperson who processed the transaction.

(F) The right thumbprint of the purchaser or transferee on the above form, unless the purchaser or transferee presents a valid hunting or sportsman's license issued pursuant to Section 714, paragraphs (1) to (3), inclusive, of subdivision (a) of Section 3031, or Section 3031.2 of the Fish and Game Code, or a handgun ammunition purchase permit in which case the vendor shall record the number of the license or permit.

(G) Commencing July 1, 2011, information that the department may require to ensure compliance with the provisions of paragraphs (7) and (8).

(4) Commencing July 1, 2009, on the date of delivery of the handgun ammunition, the vendor shall submit a report to the department in a manner prescribed by the department containing the information set forth in paragraph (3).

(5) Commencing July 1, 2009, the records required by this section shall be maintained on the premises of the vendor for a period of not less than two years from the date of the recorded transfer.

(6) Commencing July 1, 2009, the records referred to in paragraph (4) shall be subject to inspection at any time during normal business hours by any peace officer employed by a sheriff, city police department, or district attorney as provided in subdivision (a) of Section 830.1, or employed by the department as provided in subdivision (b) of Section 830.1, provided the officer is conducting 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 (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4), or any other laws pertaining to firearms or ammunition. The records shall also be subject to inspection at any time during normal business hours by any other employee of the Department, provided that employee is conducting 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 (Chapter 1 (commencing with Section 12000) of Title 2 of Part 4), or any other laws pertaining to firearms or ammunition.

(7) Except as provided in paragraph (8), commencing July 1, 2011, prior to the delivery of the handgun ammunition, the vendor of handgun ammunition shall verify that the person who is being delivered the handgun ammunition is the holder of a valid handgun ammunition purchase permit issued pursuant to Section 12063 by contacting the department in a manner prescribed by the department

that the handgun ammunition purchase permit is valid at the time of the delivery and receiving a verification number from the department authorizing the delivery.

(8) Commencing July 1, 2011, if a person is not the holder of a handgun ammunition purchase permit because he or she is not a resident of this state, then pursuant to procedures prescribed the department, the vendor shall contact the department to conduct an instantaneous background check that reasonably verifies that the person is not prohibited by paragraph (1) of subdivision (b) of Section 12316 or subsection (g) of Section 922 of Title 18 of the United States Code from acquiring or possessing handgun ammunition and that the person is 21 years of age or older.

(9) Commencing July 1, 2009, the vendor shall not knowingly make a false entry in, fail to make a required entry in, fail to obtain the required thumbprint, or otherwise fail to maintain in the required manner records prepared in accordance with paragraph (2). If the right thumbprint is not available, then the vendor shall have the purchaser or transferee use his or her left thumb, or any available finger, and shall so indicate on the form. If the purchaser or transferee is physically unable to provide a thumbprint or fingerprint, the vendor shall so indicate on the form.

(10) Commencing July 1, 2009, no vendor shall refuse to permit a person authorized under paragraph (7) to examine any record prepared in accordance with this section during any inspection conducted pursuant to this section, or refuse to permit the use of any record or information by those persons.

(11) To implement paragraphs (7) and (8) of this subdivision, commencing July 1, 2008, the department may require the vendor to charge each person who is subject to the requirements of paragraphs (7) and (8) a fee for the actual processing costs of that transaction, which in any event shall not exceed three dollars (\$3) for each transaction.

(12) Each vendor shall transmit in the manner prescribed by the department the fees collected pursuant to paragraph (11) to the department.

(d) (1) Paragraphs (3), (7) and (8) of subdivision (c) shall not apply to or affect sales or transfer of handgun ammunition by licensed handgun ammunition vendors to any of the following:

(A) Persons licensed pursuant to Section 12071 properly identified as such.

(B) A licensed handgun ammunition vendor properly identified as such.

(C) A person who is on the centralized list maintained by the department pursuant to Section 12083 properly identified as such.

(D) A target facility which holds a business or regulatory license properly identified as such.

(E) Commercial hunting clubs, game bird clubs, or pheasant clubs licensed by the Department of Fish and Game, properly identified as such.

(F) Gunsmiths, properly identified as such.

(G) Wholesalers properly identified as such.

(H) Manufacturers or importers of firearms licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto, properly identified as such.

(I) A nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, properly identified as such, if the nonprofit public benefit or

mutual benefit corporation is selling ammunition to assist the corporation or local chapters of the corporation in conducting auctions or similar events at which firearms are auctioned off and to fund the activities of the corporation or the local chapters of the corporation, and the firearms being auctioned off at the corporation's auctions or events are not primarily handguns.

(J) Sales or transfers made to authorized law enforcement representatives of cities, counties, cities and counties, or state or federal governments for exclusive use by those government agencies if, prior to the delivery, transfer, or sale of handgun 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 by which the purchaser or transferee 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 he or she is employed.

(2) Paragraphs (7) and (8) of subdivision (c) shall not apply to or affect sales or transfer of handgun ammunition by licensed handgun ammunition vendors to sworn peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who are authorized to carry a firearm in the course and scope of their duties.

(e) Fees received by the department pursuant to this section shall be deposited in the Dealers' Record of Sale Special Account of the General Fund.

12063. (a) (1) Commencing March 1, 2011, any person who is 21 years of age or older may apply to the department for a handgun ammunition purchase permit, in a format to be prescribed by the department.

(2) The handgun ammunition purchase permit shall entitle the permittee to purchase handgun ammunition from a licensed handgun ammunition vendor.

(b) The department shall issue a handgun ammunition purchase permit to the applicant if all the following conditions are met:

(1) The applicant is 21 years of age or older.

(2) The applicant is not prohibited from acquiring or possessing handgun ammunition by paragraph (1) of subdivision (b) of Section 12316 or by subsection (g) of Section 922 of Title 18 of the United States Code.

(3) The applicant pays the fees set forth in subdivision (i).

(c) (1) Upon receipt of an initial or renewal application, the department shall examine its records and is authorized to request records from the State Department of Mental Health, pursuant to Section 8104 of the Welfare and Institutions Code, and the National Instant Criminal Background Check System, as described in subsection (t) of Section 922 of Title 18 of the United States Code, in order to determine if the applicant is prohibited from possessing or acquiring handgun ammunition.

(2) The application shall be approved or denied within 30 days of the date of the application. If the application is denied, the department shall state the reasons for doing so and provide the applicant an appeal process to challenge that denial.

(d) The handgun ammunition purchase permit shall be valid for five years from the date of issuance.

(e) The department shall send a notice of the expiration of a handgun ammunition purchase permit, by first-class mail or other means that are equivalent such as electronic mail, to the address of the person as shown by the records of the department, not less than

90 days before the expiration date, and shall enclose or contain a form for the renewal of the permit.

(f) The handgun ammunition purchase permit shall be revoked by the department upon the occurrence of any event which would have disqualified the holder from being issued the handgun ammunition purchase permit pursuant to this section.

(g) The handgun ammunition purchase permit shall be in a tamper-proof form prescribed by the department and shall include the name, address, photograph, date of birth, a unique identifying number, expiration date from the date of issuance, physical characteristics, including the height, weight, eye color, and hair color of the permit holder, and other information as may be prescribed by the department. The department may integrate the identification into the permit holder's California driver's license or identification number, or the Certificate of Eligibility program set forth in Section 12071, or other similar means.

(h) The department shall recover the full cost of administering this section by assessing the following application fees:

(1) For the initial application: thirty-five dollars (\$35).

(2) For each renewal application: fifteen dollars (\$15).

(i) All fees received pursuant to this section shall be deposited into the Dealer Record of Sale Account.

(j) The implementation of this section by the department is exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(k) The department shall annually review and shall adjust the fees specified in subdivision (h), if necessary, to fully fund, but not to exceed the actual costs of, the permit program provided for by this section, including enforcement of the program.

(l) The Attorney General is authorized to adopt regulations to implement the provisions of this section.

12064. (a) In order to implement provisions of paragraphs (7) and (8) of subdivision (c) of Section 12062, the department shall do all of the following on or before January 1, 2011:

(1) Establish a state database that licensed handgun ammunition vendors may instantaneously access by telephone or other electronic means, as specified by the department, with information to be supplied immediately on whether the presented handgun ammunition purchase permit is valid. The database shall record when a vendor contacts the department to verify that a handgun ammunition purchase permit is valid, and shall provide an authorization number for the delivery of the ammunition to that permit holder.

(2) Upon establishment of the database referred to in paragraph (1), notify each vendor on the licensed handgun ammunition vendor registry of the existence and purpose of the system and the means to be used to access the database.

(3) Establish days and hours during which the telephone number or other electronic means shall be operational for purposes of responding to inquiries, taking into consideration the normal business hours of retailers.

(4) Prescribe procedures whereby the vendor shall contact the department, if a person is not the holder of a handgun ammunition purchase permit because he or she is not a resident of this state, to conduct an instantaneous background check that reasonably verifies that the person is not prohibited by paragraph (1) of subdivision (b) of Section 12316 or subsection (g) of Section 922 of Title 18 of the United States Code from acquiring or possessing handgun ammunition.

(b) The Attorney General is authorized to adopt regulations to implement the provisions of this section.

SEC. 6. Section 12318 is added to the Penal Code, to read:

12318. (a) Commencing July 1, 2009, the sale or other transfer of ownership of handgun ammunition may only occur in a face-to-face transaction with the seller or transferor being provided bona fide evidence of identity from the purchaser or other transferee.

(b) (1) "Bona fide evidence of identity" means a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, state identification card, identification card issued to a member of the armed forces, or other form of identification that bears the name, date of birth, description, and picture of the person.

(2) "Handgun ammunition" means handgun ammunition as defined in subdivision (a) of Section 12323, but excluding ammunition designed and intended to be used in an "antique firearm" as defined in Section 921(a)(16) of Title 18 of the United States Code.

(3) "Licensed handgun ammunition vendor" has the same meaning as set forth in Section 12062.

(c) Subdivision (a) shall not apply to or affect the deliveries, transfers, or sales of, handgun ammunition to any of the following:

(1) Authorized law enforcement representatives of cities, counties, cities and counties, or state and federal governments for exclusive use by those government agencies if, prior to the delivery, transfer, or sale of the handgun ammunition, written authorization from the head of the agency employing the purchaser or transferee, is obtained identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency employing the individual.

(2) Sworn peace officers, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who are authorized to carry a firearm in the course and scope of their duties.

(3) Importers and manufacturers of handgun ammunition or firearms licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and licensed handgun ammunition vendors.

(4) Persons who are on the centralized list maintained by the Department of Justice pursuant to Section 12083.

(5) Persons whose licensed premises are outside this state who are licensed as dealers or collectors of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(6) Persons licensed as collectors of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto whose licensed premises are within this state who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071.



KEVIN DE LEÓN
ASSEMBLY MEMBER, FORTY-FIFTH DISTRICT

**AB 2062 (DE LEÓN):
AMMUNITION BACKGROUND CHECK BILL
Background Sheet**

PURPOSE

To safeguard California's communities by establishing a comprehensive regulatory framework to combat the easy accessibility to handgun ammunition that fuels gun violence and criminal activity.

BACKGROUND

According to the Department of Justice (DOJ), gun violence is once again on the rise, plaguing California with an increase of over 34% in six years—from 1999 to 2005. In Los Angeles alone, between 2005 and 2006 the LA Sheriff's office handled 668 murders involving firearms—over 80% of their total homicides.

In a state where firearms outnumber people, there must be regulation of the sale and distribution of handgun ammunition to prevent criminals from easily purchasing ammunition. **There is currently no regulatory control over deadly ammunition that fuels gun violence.**

Not only are handgun ammunition vendors unregulated, but so too are handgun ammunition sales, despite federal and state prohibitions on certain groups of people from purchasing ammunition, e.g. convicted felons. **It is easier to purchase handgun ammunition than it is a package of cigarettes or spray paint,** thus handgun ammunition is ending up in the wrong hands.

A 2006 RAND Corporation study found substantial amounts of ammunition purchased by felons and others prohibited from possessing firearms in sporting goods stores and gun shops; this included 10,050 rounds of ammunition purchased in just two months in the City of Los Angeles.¹ RAND reported that "guns and ammunition possessed by felons and others prohibited from owning weapons are more likely to be used in violent crimes than weapons bought by people with no criminal histories."

¹ RAND Corporation. "RAND study finds substantial amounts of ammunition bought by felons, others prohibited from buying bullets."
<http://www.rand.org/news/press.06/10.05.html>. 5 October 2006.

Though California has enacted legislation on purchasing guns, it has not enacted any legislation to prevent criminals and gang members who already have guns, or purchase them illegally, from accessing the ammunition that drives gun violence.

AB 2062 would require handgun ammunition vendors, by 2009, to acquire a DOJ-issued Handgun Ammunition Vendor's License (HAVL) in order to sell handgun ammunition. Additionally, this bill would require all handgun ammunition purchasers to undergo a thorough background check and acquire a Handgun Ammunition Purchase Permit (HAPP) by 2011 from the Department of Justice. This permit is patterned after a similar and successful law currently upheld in Illinois for nearly four decades.

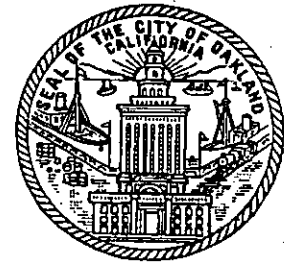
Bullets are ending up in guns and in the wrong hands across California and we have no idea who is selling this dangerous product. **Currently, not a single California state-wide agency tracks who is buying or selling bullets.** The HAVL and HAPP will help California create a statewide registry of handgun ammunition vendors and purchasers.

AB 2062 would cut off the dangerously, easy access to handgun ammunition and will ensure that handgun ammunition will not be sold to criminals, gang members, and kids.

PROPOSAL

- Require handgun ammunition vendors to, by 2009:
 - Acquire a handgun ammunition vendor's license (HAVL) from the Department of Justice (DOJ);
 - Obtain a DOJ background clearance on employees handling handgun ammunition sales.
- Require purchasers of handgun ammunition to acquire a Handgun Ammunition Purchase Permit (HAPP) from the Department of Justice by 2011.
- Require the behind-the-counter storage of handgun ammunition by retail sellers by 2009.
- Require face-to-face transactions and ID verification and a signature on all ammunition purchases by 2009.

**CITY OF OAKLAND
BILL ANALYSIS**



Date: April 10, 2008
Bill Number: AB 2235
Bill Author: Assembly Member DeSaulnier

DEPARTMENT INFORMATION

Contact: Lieutenant Kenneth W. Parris
Department: Police
Telephone: (510) 238-3770 **FAX #** (510) 238-3030
E-mail: kwparris@oaklandnet.com

RECOMMENDED POSITION: WATCH

Summary of the Bill

Assembly Bill 2235 makes changes to existing law, establishing technical, non-substantive changes to the law regarding "unsafe handguns".

Positive Factors for Oakland

This bill has a minimal impact upon Oakland. The enactment of this law may reduce the number of unsafe handguns in circulation and may reduce the number of accidental injuries and deaths due to unsafe handguns.

There are no local unfunded mandates in this bill.

Negative Factors for Oakland

At present, there are no known negative factors.

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

- Critical** (top priority for City lobbyist, city position required ASAP)
- Very Important** (priority for City lobbyist, city position necessary)
- Somewhat Important** (City position desirable if time and resources are available)
- Minimal or None** (do not review with City Council, position not required)

Item: _____
Rules & Legislation Comte.
April 10, 2008

Known support:

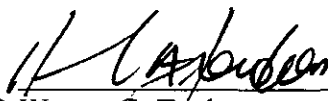
None listed as date of report submitted.

Known Opposition:

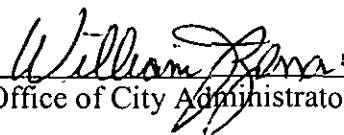
None listed as date of report submitted.

Attach bill text and state/federal legislative committee analysis, if available.

Respectfully Submitted,


FOR Wayne G. Tucker
Chief of Police

Approved for Forwarding to
Rules Committee


Office of City Administrator

Item: _____
Rules & Legislation Comte.
April 10, 2008

BILL NUMBER: AB 2235 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member DeSaulnier

FEBRUARY 20, 2008

An act to amend Section 12126 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2235, as introduced, DeSaulnier. Firearms.

Existing law defines the term "unsafe handgun."

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

SECTION 1. Section 12126 of the Penal Code is amended to read:

12126. As used in this chapter, the term "unsafe handgun" means any pistol, revolver, or other firearm capable of being concealed upon the person, as defined in subdivision (a) of Section 12001, for which any of the following is true:

(a) For a revolver:

(1) It does not have a safety device that, either automatically in the case of a double-action firing mechanism, or by manual operation in the case of a single-action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge.

(2) It does not meet the firing requirement for handguns pursuant to Section 12127.

(3) It does not meet the drop safety requirement for handguns pursuant to Section 12128.

(b) For a pistol:

(1) It does not have a positive manually operated safety device, as determined by standards relating to imported guns promulgated by the federal Bureau of Alcohol, Tobacco, and Firearms.

(2) It does not meet the firing requirement for handguns pursuant to Section 12127.

(3) It does not meet the drop safety requirement for handguns pursuant to Section 12128.

(4) Commencing January 1, 2006, for a center fire semiautomatic pistol that is not already listed on the roster pursuant to Section 12131, it does not have either a chamber load indicator, or a magazine disconnect mechanism.

(5) Commencing January 1, 2007, for all center fire semiautomatic pistols that are not already listed on the roster pursuant to Section 12131, it does not have both a chamber load indicator and if it has a detachable magazine, a magazine disconnect mechanism.

(6) Commencing January 1, 2006, for all rimfire semiautomatic pistols that are not already listed on the roster pursuant to Section 12131, it does not have a magazine disconnect mechanism, if it has a

detachable magazine.

(7) Commencing January 1, 2010, for all semiautomatic pistols that are not already listed on the roster pursuant to Section 12131, it is not designed and equipped with a microscopic array of characters that identify the, model, and serial number of the pistol, etched or otherwise imprinted in two or more places on the interior surface or internal working parts of the pistol, and that are transferred by imprinting on each cartridge case when the firearm is fired, provided that the Department of Justice certifies that the technology used to create the imprint is available to more than one manufacturer unencumbered by any patent restrictions. The Attorney General may also approve a method of equal or greater reliability and effectiveness in identifying the specific serial number of a firearm from spent cartridge casings discharged by that firearm than that which is set forth in this paragraph, to be thereafter required as otherwise set forth by this paragraph where the Attorney General certifies that this new method is also unencumbered by any patent restrictions. Approval by the Attorney General shall include notice of that fact via regulations adopted by the Attorney General for purposes of implementing that method for purposes of this paragraph. The microscopic array of characters required by this section shall not be considered the name of the maker, model, manufacturer's number, or other mark of identification, including any distinguishing number or mark assigned by the Department of Justice, within the meaning of Sections 12090 and 12094.

(c) As used in this section, a "chamber load indicator" means a device that plainly indicates that a cartridge is in the firing chamber. A device satisfies this definition if it is readily visible, has incorporated or adjacent explanatory text or graphics, or both, and is designed and intended to indicate to a reasonably foreseeable adult user of the pistol, without requiring the user to refer to a user's manual or any other resource other than the pistol itself, whether a cartridge is in the firing chamber.

(d) As used in this section, a "magazine disconnect mechanism" means a mechanism that prevents a semiautomatic pistol that has a detachable magazine from operating to strike the primer of ammunition in the firing chamber when a detachable magazine is not inserted in the semiautomatic pistol.

(e) As used in this section, a "semiautomatic pistol" means a pistol, as defined in subdivision (a) of Section 12001, the operating mode of which uses the energy of the explosive in a fixed cartridge to extract a fired cartridge and chamber a fresh cartridge with each single pull of the trigger.