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# CITY OF OAKLAND

## BILL ANALYSIS



**Date:** May 21, 2009

**Bill Number:** AB #962

**Bill Author:** Assembly Member De Leon

### DEPARTMENT INFORMATION

**Contact:** Lieutenant Kenneth W. Parris  
**Department:** Police  
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**RECOMMENDED POSITION:** SUPPORT

### Summary of the Bill

Existing law requires the Department of Justice (DOJ) to maintain records pertaining to firearm transactions. This Assembly Bill 962 (hereinafter "bill") would require the DOJ to maintain additional information relating to ammunition transfers and licensed handgun ammunition vendors, as specified.

The bill would establish a program for DOJ to license ammunition vendors and create a database of all licensed vendors and sales transactions. It will require all handgun ammunition vendors in California to:

- Acquire a Handgun Ammunition Vendor's License from California Department of Justice (DOJ);
- Require employees handling ammunition sales and transfers to obtain a DOJ-issued Certificate of Eligibility, which includes a fingerprint and background check clearance;
- Require extensive information to be taken about each ammunition sale – including the purchaser's name, address, telephone number, thumbprint, and date of birth;
- Record handgun ammunition sales and make the records available to law enforcement. The information would be electronically stored on a database, to facilitate quick and easy information sharing with local law enforcement;
- Safely store handgun ammunition;
- Conduct only face-to-face transactions on all ammunition purchases and transfers;
- Prohibit selling or furnishing ammunition to prohibited persons; and
- Prohibit gang members from possessing ammunition.

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Rules and Legislation Comte.  
May 21, 2009

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This bill would require that commencing July 1, 2010, unless specifically excluded, no person shall sell or transfer more than 50 rounds of handgun ammunition in any month unless he or she is registered as a handgun ammunition vendor, as defined<sup>1</sup>. 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 a misdemeanor.

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.

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, commencing July 1, 2010) 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 a misdemeanor.

This bill would provide that a person forbid from engaging in activity associated with a criminal street gang, as specified, would be prohibited from having under his or her possession, custody, or control, any ammunition. Violation of these provisions would be a misdemeanor.

The bill would prohibit supplying or delivering, as specified, handgun ammunition to prohibited persons, as described, by persons or others who know or by using reasonable care should know that the recipient is a person prohibited from possessing ammunition. Violation of these provisions is a misdemeanor with specified penalties.

### **Positive Factors for Oakland**

The purpose of AB #962 is to safeguard California communities by addressing the sales and distribution of easily accessible handgun ammunition that fuels the gun violence and criminal activity across California.

While there are no ammunition dealers presently in Oakland, gang members and other violent felons manage to obtain ammunition illegally from various sources within California. This bill seeks to identify and regulate the suppliers of handgun ammunition; regulating ammunition sales

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<sup>1</sup> See Section 2 of the bill, which adds a new section 12060 to the California Penal Code.

in Oakland and the surrounding community will have a marked impact on the availability of handgun ammunition and therefore should result in the reduction of violent crime throughout the City.

While Oakland Municipal Code Chapter 9.20 currently regulates the sale of handgun ammunition in Oakland, the ordinance is not fully effective in dealing with the issue of restricting access to easily accessible handgun ammunition. Surrounding cities have not implemented similar ordinances, thereby providing criminals the opportunity to come in possession of handgun ammunition. This "loophole" would be closed to criminals by enacting a statewide law regulating accessibility to handgun ammunition.

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**

This bill would most likely preempt Oakland Municipal Code Chapter 9.20, which currently regulates the sale of handgun ammunition in Oakland. However, as previously mentioned above there are no known handgun ammunition vendors in the City.

This bill does not include long gun ammunition sales (e.g., rifles and shotguns).

#### **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)

**Known support:**

Brady Campaign to Prevent Gun Violence, Alameda County/Oakland Chapter  
Brady Campaign to Prevent Gun Violence, Contra Costa County Chapter  
Brady Campaign to Prevent Gun Violence, Los Angeles Chapter  
Brady Campaign to Prevent Gun Violence, Long Beach Chapter  
Brady Campaign to Prevent Gun Violence, Nevada County Chapter  
Brady Campaign to Prevent Gun Violence, Orange County Chapter  
Brady Campaign to Prevent Gun Violence, Sacramento Valley Chapter  
Brady Campaign to Prevent Gun Violence, Sonoma County Chapter  
Brady Campaign to Prevent Gun Violence, Ventura County Chapter  
Brady Campaign to Prevent Gun Violence, West Contra Costa County Chapter  
California Chapters of the Brady Campaign to Prevent Gun Violence  
Chief of Police, Susan Jones, City of Healdsburg  
Chief of Police Anthony Batts, City of Long Beach  
City of Los Angeles, Mayor Antonio Villaraigosa  
City of Oakland, Mayor Ronald V. Dellums  
City of Healdsburg  
City of Sacramento  
Coalition Against Gun Violence  
Friends Committee on Legislation  
Councilmember Kevin McCarty, City of Sacramento  
Legal Community Against Violence  
Sheriff Leroy D. Baca, County of Los Angeles  
Violence Prevention Coalition of Orange County  
Women Against Gun Violence  
Youth ALIVE!  
Private Citizens

**Known Opposition:**

California Association of Firearm Retailers  
California Outdoor Heritage Alliance  
California Public Defenders Association  
California Rifle and Pistol Association  
California Sportsman's Lobby, Inc.  
Crossroads of the West Gun Shows  
Gun Owners of California  
National Rifle Association  
National Shooting Sports Foundation, Inc.

Outdoor Sportsmen's Coalition of California  
Safari Club International  
636 Private Citizens

**Attachments:**

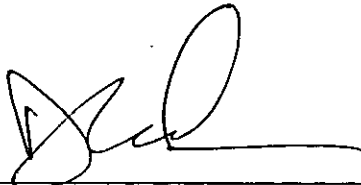
AB #962

Respectfully Submitted,



Howard Jordan  
Acting Chief of Police

APPROVED AND FORWARDED TO  
THE RULES AND LEGISLATION COMMITTEE:



Office of City Administrator

**ASSEMBLY BILL**

**No. 962**

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**Introduced by Assembly Member De Leon  
(Coauthor: Assembly Member Bonnie Lowenthal)**

February 26, 2009

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An act to amend Sections 11106 and 12316 of, to add Sections 12317 and 12318 to, to add Article 3.5 (commencing with Section 12060) to Chapter 1 of, to add a heading for Chapter 2.6 (commencing with Section 12316) to, and to repeal the heading of Chapter 2.6 (commencing with Section 12320) of, Title 2 of Part 4 of the Penal Code, relating to ammunition.

LEGISLATIVE COUNSEL'S DIGEST

AB 962, 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 and licensed handgun ammunition vendors, as specified.

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 establish a database maintained by the department to serve as a registry of handgun ammunition vendors.

This bill would require that commencing July 1, 2010, unless specifically excluded, no person shall sell or transfer more than 50 rounds of handgun ammunition in any month unless he or she is 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 a misdemeanor.

By creating a new crime, this bill would impose a state-mandated local program.

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.

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, commencing July 1, 2010, 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 a misdemeanor.

This bill would provide that a person enjoined from engaging in activity associated with a criminal street gang, as specified, would be prohibited from having under his or her possession, custody, or control, any ammunition. Violation of these provisions would be a misdemeanor.

The bill would prohibit supplying or delivering, as specified, handgun ammunition to prohibited persons, as described, by persons or others who know or by using reasonable care should know that the recipient is a person prohibited from possessing ammunition. Violation of these provisions is a misdemeanor with specified penalties.

By creating new crimes, 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 no reimbursement is required by this act for a specified reason.

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

*The people of the State of California do enact as follows:*

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

3 11106. (a) In order to assist in the investigation of crime, the  
4 prosecution of civil actions by city attorneys pursuant to paragraph  
5 (3) of subdivision (c), the arrest and prosecution of criminals, and  
6 the recovery of lost, stolen, or found property, the Attorney General  
7 shall keep and properly file a complete record of all copies of  
8 fingerprints, copies of licenses to carry firearms issued pursuant  
9 to Section 12050, information reported to the Department of Justice  
10 pursuant to Section 12053, *licensee information pertaining to*  
11 *handgun ammunition vendors as specified in Section 12062,*  
12 *dealers' records of sales of firearms, reports provided pursuant to*  
13 *Section 12072 or 12078, forms provided pursuant to Section 12084,*  
14 *as that section read prior to being repealed by the act that amended*  
15 *this section, reports provided pursuant to Section 12071 that are*  
16 *not dealers' records of sales of firearms, and reports of stolen, lost,*  
17 *found, pledged, or pawned property in any city or county of this*  
18 *state, and shall, upon proper application therefor, furnish this*  
19 *information to the officers referred to in Section 11105.*

20 (b) (1) Except as provided in subdivision (d), the Attorney  
21 General shall not retain or compile any information from reports  
22 filed pursuant to subdivision (a) of Section 12078 for firearms that  
23 are not handguns, from forms submitted pursuant to Section 12084,  
24 as that section read prior to being repealed by the act that amended  
25 this section, for firearms that are not handguns, or from dealers'  
26 records of sales for firearms that are not handguns. All copies of  
27 the forms submitted, or any information received in electronic  
28 form, pursuant to Section 12084, as that section read prior to being  
29 repealed by the act that amended this section, for firearms that are  
30 not handguns, or of the dealers' records of sales for firearms that  
31 are not handguns shall be destroyed within five days of the  
32 clearance by the Attorney General, unless the purchaser or  
33 transferor is ineligible to take possession of the firearm. All copies  
34 of the reports filed, or any information received in electronic form,  
35 pursuant to subdivision (a) of Section 12078 for firearms that are  
36 not handguns shall be destroyed within five days of the receipt by  
37 the Attorney General, unless retention is necessary for use in a  
38 criminal prosecution.



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

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

10 (c) (1) The Attorney General shall permanently keep and  
11 properly file and maintain all information reported to the  
12 Department of Justice pursuant to Sections 12071, 12072, 12078,  
13 12082, and former Section 12084 or any other law, as to handguns  
14 and maintain a registry thereof.

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

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

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

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

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

39 (3) Information in the registry referred to in this subdivision  
40 shall, upon proper application therefor, be furnished to the officers

1 referred to in Section 11105, to a city attorney prosecuting a civil  
2 action, solely for use in prosecuting that civil action and not for  
3 any other purpose, or to the person listed in the registry as the  
4 owner or person who is listed as being loaned the particular  
5 handgun.

6 (4) If any person is listed in the registry as the owner of a firearm  
7 through a Dealers' Record of Sale prior to 1979, and the person  
8 listed in the registry requests by letter that the Attorney General  
9 store and keep the record electronically, as well as in the record's  
10 existing photographic, photostatic, or nonerasable optically stored  
11 form, the Attorney General shall do so within three working days  
12 of receipt of the request. The Attorney General shall, in writing,  
13 and as soon as practicable, notify the person requesting electronic  
14 storage of the record that the request has been honored as required  
15 by this paragraph.

16 (d) (1) Any officer referred to in paragraphs (1) to (6), inclusive,  
17 of subdivision (b) of Section 11105 may disseminate the name of  
18 the subject of the record, the number of the firearms listed in the  
19 record, and the description of any firearm, including the make,  
20 model, and caliber, from the record relating to any firearm's sale,  
21 transfer, registration, or license record, or any information reported  
22 to the Department of Justice pursuant to Section 12021.3, 12053,  
23 12071, 12072, 12077, 12078, 12082, or 12285, if the following  
24 conditions are met:

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

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

38 (C) Whenever a law enforcement officer disseminates the  
39 information authorized by this subdivision, that officer or another  
40 officer assigned to the case shall immediately provide the victim

1 of the crime with a "Victims of Domestic Violence" card, as  
2 specified in subparagraph (H) of paragraph (9) of subdivision (c)  
3 of Section 13701.

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

8 SEC. 2. Article 3.5 (commencing with Section 12060) is added  
9 to Chapter 1 of Title 2 of Part 4 of the Penal Code, to read:

10

11 Article 3.5. Handgun Ammunition Vendor Licenses

12

13 12060. As used in this article, the following terms apply:

14 (a) "Department" means the Department of Justice.

15 (b) "Handgun ammunition" means handgun ammunition as  
16 defined in subdivision (a) of Section 12323, but excluding  
17 ammunition designed and intended to be used in an "antique  
18 firearm" as defined in Section 921(a)(16) of Title 18 of the United  
19 States Code. Handgun ammunition does not include blanks used  
20 in prop weapons.

21 (c) "Immediate family member" has the same meaning as set  
22 forth in subdivision (c) of Section 12078.

23 (d) "Licensed handgun ammunition vendor" or "vendor" means  
24 a person licensed by the department pursuant to Section 12062.

25 12061. (a) Commencing July 1, 2010, no person shall sell or  
26 otherwise transfer ownership of more than 50 rounds of handgun  
27 ammunition in any month unless the person is licensed by the  
28 department as a licensed handgun ammunition vendor in  
29 accordance with Section 12062.

30 (b) Subdivision (a) shall not apply to or affect any of the  
31 following:

32 (1) Sales or other transfers of ownership of handgun ammunition  
33 by manufacturers or wholesalers to licensed handgun ammunition  
34 vendors who are licensed pursuant to Section 12062.

35 (2) Sales or other transfers of ownership of handgun ammunition  
36 by an authorized law enforcement representative of a city, county,  
37 or city and county, or the state or federal government to a peace  
38 officer authorized to carry a handgun in the course and scope of  
39 his or her duties.

1 (3) Sales or other transfers of ownership of handgun ammunition  
2 to authorized law enforcement representatives of cities, counties,  
3 cities and counties, or state or federal governments for exclusive  
4 use by those government agencies if, prior to the delivery, transfer,  
5 or sale of handgun ammunition, written authorization from the  
6 head of the agency authorizing the transaction is presented to the  
7 person from whom the purchase, delivery, or transfer is being  
8 made. Proper written authorization is defined as verifiable written  
9 certification from the head of the agency by which the purchaser  
10 or transferee is employed, identifying the employee as an individual  
11 authorized to conduct the transaction, and authorizing the  
12 transaction for the exclusive use of the agency by which he or she  
13 is employed.

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

20 (5) Sales or other transfers of ownership of handgun ammunition  
21 between immediate family members, spouses, or registered  
22 domestic partners.

23 (c) A violation of this section is a misdemeanor.

24 12062. (a) (1) The department is authorized to issue handgun  
25 ammunition vendor licenses.

26 (2) No handgun ammunition vendor license may be issued to  
27 an applicant who fails to provide a copy of any regulatory or  
28 business license, or licenses, required by local government, a valid  
29 seller's permit issued by the State Board of Equalization, a federal  
30 firearms license if the person is federally licensed, and a certificate  
31 of eligibility issued pursuant to Section 12071. The license issued  
32 pursuant to this section shall be issued to an individual and for a  
33 specific physical location where the sale or other transfer of  
34 ownership of handgun ammunition is to be conducted.

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

37 (b) (1) The handgun ammunition vendor license shall be issued  
38 in a form prescribed by the Attorney General and shall be valid  
39 for a period of one year. The Attorney General may adopt  
40 regulations to administer application procedures and enforcement

- 1 procedures for the licensee. The Attorney General may adopt  
2 regulations that establish grounds for suspension or revocation of  
3 the license.
- 4 (2) The department may charge handgun ammunition vendor  
5 license applicants a fee sufficient to reimburse the department for  
6 the costs of administering the license program, maintaining the  
7 registry of handgun ammunition vendors, and necessary regulatory  
8 functions, including enforcement, provided, however, that the fee  
9 shall not exceed fifty dollars (\$50).
- 10 (3) The department shall issue licenses pursuant to this section  
11 to the following applicants:
- 12 (A) Persons licensed pursuant to Section 12071.  
13 (B) A person who is on the centralized list maintained by the  
14 department pursuant to Section 12083.  
15 (C) A target facility which holds a business or regulatory license.  
16 (D) Gunsmiths.  
17 (E) Wholesalers.  
18 (F) Manufacturers or importers of firearms licensed pursuant  
19 to Chapter 44 (commencing with Section 921) of Title 18 of the  
20 United States Code, and the regulations issued pursuant thereto.
- 21 (4) The department shall waive all application fees for all  
22 persons listed in subparagraphs (A) and (B) of paragraph (3).
- 23 (5) (A) The department shall keep a centralized registry of all  
24 persons, businesses, and corporations that are vendors.  
25 (B) The department may remove from this registry any vendor  
26 that violates the provisions of this section.  
27 (C) The license of any vendor that violates this section three  
28 times shall be revoked, and that person, firm, or corporation shall  
29 become permanently ineligible to obtain a license pursuant to this  
30 section.  
31 (D) Upon removal of a vendor from the registry, notification  
32 shall be provided to local law enforcement and licensing authorities  
33 in the jurisdiction where the vendor's business is located.
- 34 (6) Information compiled from the registry referred to in  
35 paragraph (5) shall be made available, upon request, for the  
36 following purposes only:
- 37 (A) For law enforcement purposes.  
38 (B) When the information is requested for the purposes of  
39 determining the validity of handgun ammunition deliveries.

- 1 (c) A vendor shall comply with all of the following conditions,  
2 requirements and prohibitions:
- 3 (1) (A) A vendor shall not permit any employee who the vendor  
4 knows or reasonably should know is a person described in Section  
5 12021 or 12021.1 of this code or Section 8100 or 8103 of the  
6 Welfare and Institutions Code to handle handgun ammunition in  
7 the course and scope of his or her employment.
- 8 (B) Except as provided in subparagraph (C), for an employee  
9 of a vendor who becomes an employee after July 1, 2010, the  
10 employee shall obtain a certificate of eligibility from the  
11 department pursuant to paragraph (4) of subdivision (a) of Section  
12 12071. The request shall be made within 45 days of employing  
13 the individual.
- 14 (C) In the case of a person who is employed by a vendor on or  
15 before July 1, 2010, the employee shall obtain a certificate of  
16 eligibility from the department pursuant to paragraph (4) of  
17 subdivision (a) of Section 12071 no later than August 15, 2009.
- 18 (2) A vendor shall not sell or otherwise transfer ownership of,  
19 offer for sale or otherwise offer to transfer ownership of, or display  
20 for sale or display for transfer of ownership of any handgun  
21 ammunition in a manner that allows that ammunition to be  
22 accessible to a purchaser or transferee without the assistance of  
23 the vendor or employee thereof.
- 24 (3) Commencing July 1, 2010, a vendor shall not sell or  
25 otherwise transfer ownership of any handgun ammunition without  
26 at the time of delivery legibly recording the following information  
27 on a form that is in a format to be prescribed by the department:
- 28 (A) The date of the sale or other transaction.
- 29 (B) The purchaser's or transferee's driver's license or other  
30 identification number and the state in which it was issued.
- 31 (C) The brand, type, and amount of ammunition sold or  
32 otherwise transferred.
- 33 (D) The purchaser's or transferee's signature.
- 34 (E) The name of the salesperson who processed the sale or other  
35 transaction.
- 36 (F) The right thumbprint of the purchaser or transferee on the  
37 above form.
- 38 (G) The purchaser's or transferee's full residential address and  
39 telephone number.
- 40 (H) The purchaser's or transferee's date of birth.

1 (4) Commencing July 1, 2010, the records required by this  
2 section shall be maintained on the premises of the vendor for a  
3 period of not less than five years from the date of the recorded  
4 transfer.

5 (5) Commencing July 1, 2010, the records referred to in  
6 paragraph (3) shall be subject to inspection at any time during  
7 normal business hours by any peace officer employed by a sheriff,  
8 city police department, or district attorney as provided in  
9 subdivision (a) of Section 830.1, or employed by the department  
10 as provided in subdivision (b) of Section 830.1, provided the officer  
11 is conducting an investigation where access to those records is or  
12 may be relevant to that investigation, is seeking information about  
13 persons prohibited from owning a firearm or ammunition, or is  
14 engaged in ensuring compliance with the Dangerous Weapons  
15 Control Law (Chapter 1 (commencing with Section 12000) of Title  
16 2 of Part 4), or any other laws pertaining to firearms or ammunition.  
17 The records shall also be subject to inspection at any time during  
18 normal business hours by any other employee of the department,  
19 provided that employee is conducting an investigation where access  
20 to those records is or may be relevant to that investigation, is  
21 seeking information about persons prohibited from owning a  
22 firearm or ammunition, or is engaged in ensuring compliance with  
23 the Dangerous Weapons Control Law (Chapter 1 (commencing  
24 with Section 12000) of Title 2 of Part 4), or any other laws  
25 pertaining to firearms or ammunition.

26 (6) Commencing July 1, 2010, the vendor shall not knowingly  
27 make a false entry in, fail to make a required entry in, fail to obtain  
28 the required thumbprint, or otherwise fail to maintain in the  
29 required manner records prepared in accordance with paragraph  
30 (2). If the right thumbprint is not available, then the vendor shall  
31 have the purchaser or transferee use his or her left thumb, or any  
32 available finger, and shall so indicate on the form. If the purchaser  
33 or transferee is physically unable to provide a thumbprint or  
34 fingerprint, the vendor shall so indicate on the form.

35 (7) Commencing July 1, 2010, no vendor shall refuse to permit  
36 a person authorized under paragraph (5) to examine any record  
37 prepared in accordance with this section during any inspection  
38 conducted pursuant to this section, or refuse to permit the use of  
39 any record or information by those persons.

1 (d) Paragraph (3) of subdivision (c) shall not apply to or affect  
2 sales or other transfers of ownership of handgun ammunition by  
3 licensed handgun ammunition vendors to any of the following that  
4 are properly identified as such in a manner prescribed by the  
5 Department of Justice:

- 6 (1) Persons licensed pursuant to Section 12071.
- 7 (2) A licensed handgun ammunition vendor.
- 8 (3) A person who is on the centralized list maintained by the  
9 department pursuant to Section 12083.
- 10 (4) A target facility which holds a business or regulatory license.
- 11 (5) Gunsmiths.
- 12 (6) Wholesalers.
- 13 (7) Manufacturers or importers of firearms licensed pursuant  
14 to Chapter 44 (commencing with Section 921) of Title 18 of the  
15 United States Code, and the regulations issued pursuant thereto.
- 16 (8) Sales or other transfers of ownership made to authorized  
17 law enforcement representatives of cities, counties, cities and  
18 counties, or state or federal governments for exclusive use by those  
19 government agencies if, prior to the delivery, transfer, or sale of  
20 handgun ammunition, written authorization from the head of the  
21 agency authorizing the transaction is presented to the person from  
22 whom the purchase, delivery, or transfer is being made. Proper  
23 written authorization is defined as verifiable written certification  
24 from the head of the agency by which the purchaser, transferee,  
25 or person otherwise acquiring ownership is employed, identifying  
26 the employee as an individual authorized to conduct the transaction,  
27 and authorizing the transaction for the exclusive use of the agency  
28 by which he or she is employed.

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

32 (f) (1) A violation of paragraph (3), (4), (6), or (7) of  
33 subdivision (c) is a misdemeanor.

34 (2) The provisions of this subdivision are cumulative, and shall  
35 not be construed as restricting the application of any other law.  
36 However, an act or omission punishable in different ways by  
37 different provisions of law shall not be punished under more than  
38 one provision.

39 SEC. 3. A heading for Chapter 2.6 of Title 2 of Part 4 is added  
40 to the Penal Code, immediately preceding Section 12316, to read:



## CHAPTER 2.6. AMMUNITION

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SEC. 4. Section 12316 of the Penal Code is amended to read:

12316. (a) (1) Any person, corporation, or dealer who does either of the following shall be punished by imprisonment in a county jail for a term not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both the imprisonment and fine:

(A) Sells any ammunition or reloaded ammunition to a person under 18 years of age.

(B) Sells any ammunition or reloaded ammunition designed and intended for use in a handgun to a person under 21 years of age. As used in this subparagraph, "ammunition" means handgun ammunition as defined in subdivision (a) of Section 12323. Where ammunition or reloaded ammunition may be used in both a rifle and a handgun, it may be sold to a person who is at least 18 years of age, but less than 21 years of age, if the vendor reasonably believes that the ammunition is being acquired for use in a rifle and not a handgun.

(2) Proof that a person, corporation, or dealer, or his or her agent or employee, demanded, was shown, and acted in reasonable reliance upon, bona fide evidence of majority and identity shall be a defense to any criminal prosecution under this subdivision. As used in this subdivision, "bona fide evidence of majority and 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, California 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.

(b) (1) No person prohibited from owning or possessing a firearm under Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code shall own, possess, or have under his or her custody or control, any ammunition or reloaded ammunition.

(2) For purposes of this subdivision, "ammunition" shall include, but not be limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence. "Ammunition" does not include blanks used in prop weapons.

1 (3) A violation of *paragraph (1)* of this subdivision is punishable  
2 by imprisonment in a county jail not to exceed one year or in the  
3 state prison, by a fine not to exceed one thousand dollars (\$1,000),  
4 or by both the fine and imprisonment.

5 (4) *A person who is not prohibited by paragraph (1) from*  
6 *owning, possessing, or having under his or her custody or control,*  
7 *any ammunition or reloaded ammunition, but who is enjoined from*  
8 *engaging in activity pursuant to an injunction issued pursuant to*  
9 *Section 3479 of the Civil Code against that person as a member*  
10 *of a criminal street gang, as defined in Section 186.22, may not*  
11 *own, possess, or have under his or her custody or control, any*  
12 *ammunition or reloaded ammunition.*

13 (5) *A violation of paragraph (4) of this subdivision is a*  
14 *misdemeanor.*

15 (c) Unless it is with the written permission of the school district  
16 superintendent, his or her designee, or equivalent school authority,  
17 no person shall carry ammunition or reloaded ammunition onto  
18 school grounds, except sworn law enforcement officers acting  
19 within the scope of their duties or persons exempted under  
20 subparagraph (A) of paragraph (1) of subdivision (a) of Section  
21 12027. This subdivision shall not apply to a duly appointed peace  
22 officer as defined in Chapter 4.5 (commencing with Section 830)  
23 of Title 3 of Part 2, a full-time paid peace officer of another state  
24 or the federal government who is carrying out official duties while  
25 in California, any person summoned by any of these officers to  
26 assist in making an arrest or preserving the peace while he or she  
27 is actually engaged in assisting the officer, a member of the military  
28 forces of this state or of the United States who is engaged in the  
29 performance of his or her duties, a person holding a valid license  
30 to carry the firearm pursuant to Article 3 (commencing with Section  
31 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle  
32 guard, who is engaged in the performance of his or her duties, as  
33 defined in subdivision (e) of Section 7521 of the Business and  
34 Professions Code. A violation of this subdivision is punishable by  
35 imprisonment in a county jail for a term not to exceed six months,  
36 a fine not to exceed one thousand dollars (\$1,000), or both the  
37 imprisonment and fine.

38 (d) (1) A violation of paragraph (1) *or* (4) of subdivision (b) is  
39 justifiable where all of the following conditions are met:

1 (A) The person found the ammunition or reloaded ammunition  
2 or took the ammunition or reloaded ammunition from a person  
3 who was committing a crime against him or her.

4 (B) The person possessed the ammunition or reloaded  
5 ammunition no longer than was necessary to deliver or transport  
6 the ammunition or reloaded ammunition to a law enforcement  
7 agency for that agency's disposition according to law.

8 (C) The person is prohibited from possessing any ammunition  
9 or reloaded ammunition solely because that person is prohibited  
10 from owning or possessing a firearm only by virtue of Section  
11 12021 *or ammunition or reloaded ammunition because of*  
12 *paragraph (4) of subdivision (b).*

13 (2) Upon the trial for violating paragraph (1) *or (4)* of  
14 subdivision (b), the trier of fact shall determine whether the  
15 defendant is subject to the exemption created by this subdivision.

16 (3) The defendant has the burden of proving by a preponderance  
17 of the evidence that he or she is subject to the exemption provided  
18 by this subdivision.

19 SEC. 5. Section 12317 is added to the Penal Code, to read:

20 12317. (a) Any person, corporation, or firm who supplies,  
21 delivers, sells, or gives possession or control of, any ammunition  
22 to any person who he or she knows or using reasonable care should  
23 know is prohibited from owning, possessing, or having under his  
24 or her custody or control, any ammunition or reloaded ammunition  
25 pursuant to paragraph (1) or (4) of subdivision (b) of Section  
26 12316, is guilty of a misdemeanor, punishable by imprisonment  
27 in a county jail not exceeding one year, or a fine not exceeding  
28 one thousand dollars (\$1,000), or by both that fine and  
29 imprisonment.

30 (b) The provisions of this section are cumulative and shall not  
31 be construed as restricting the application of any other law.  
32 However, an act or omission punishable in different ways by this  
33 section and another provision of law shall not be punished under  
34 more than one provision.

35 (c) For purposes of this section, "ammunition" shall include,  
36 but not be limited to, any bullet, cartridge, magazine, clip, speed  
37 loader, autoloader, or projectile capable of being fired from a  
38 firearm with deadly consequence. "Ammunition" does not include  
39 blanks used in prop weapons.

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

1 12318. (a) Commencing July 1, 2010, the sale or other transfer  
2 of ownership of handgun ammunition may only occur in a  
3 face-to-face transaction with the seller or transferor being provided  
4 bona fide evidence of identity from the purchaser or other  
5 transferee. A violation of this section is a misdemeanor.

6 (b) For purposes of this section:

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

14 (2) "Handgun ammunition" means handgun ammunition as  
15 defined in subdivision (a) of Section 12323, but excluding  
16 ammunition designed and intended to be used in an "antique  
17 firearm" as defined in Section 921(a)(16) of Title 18 of the United  
18 States Code. Handgun ammunition does not include blanks used  
19 in prop weapons.

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

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

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

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

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

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

- 1 (5) Persons whose licensed premises are outside this state who
- 2 are licensed as dealers or collectors of firearms pursuant to Chapter
- 3 44 (commencing with Section 921) of Title 18 of the United States
- 4 Code and the regulations issued pursuant thereto.
- 5 (6) Persons licensed as collectors of firearms pursuant to Chapter
- 6 44 (commencing with Section 921) of Title 18 of the United States
- 7 Code and the regulations issued pursuant thereto whose licensed
- 8 premises are within this state who has a current certificate of
- 9 eligibility issued to him or her by the Department of Justice
- 10 pursuant to Section 12071.
- 11 (7) A licensed handgun ammunition vendor.
- 12 (8) A consultant-evaluator, as defined in subdivision (s) of
- 13 Section 12001.
- 14 SEC. 7. The heading of Chapter 2.6 (commencing with Section
- 15 12320) of Title 2 of Part 4 of the Penal Code is repealed.
- 16 SEC. 8. No reimbursement is required by this act pursuant to
- 17 Section 6 of Article XIII B of the California Constitution because
- 18 the only costs that may be incurred by a local agency or school
- 19 district will be incurred because this act creates a new crime or
- 20 infraction, eliminates a crime or infraction, or changes the penalty
- 21 for a crime or infraction, within the meaning of Section 17556 of
- 22 the Government Code, or changes the definition of a crime within
- 23 the meaning of Section 6 of Article XIII B of the California
- 24 Constitution.

## BILL ANALYSIS

AB 962  
Page 1

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Date of Hearing: May 6, 2009

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Kevin De Leon, Chair

AB 962 (De Leon) - As Introduced: February 26, 2009

Policy Committee: Public  
SafetyVote: 5-2

Urgency: No State Mandated Local Program:  
Yes Reimbursable: No

SUMMARY

This bill establishes a handgun ammunition licensing requirement and process. Beginning July 1, 2010, any person who sells or transfers more than 50 rounds of handgun ammunition in any month must be licensed as a handgun ammunition vendor by the Department of Justice (DOJ), with specified exemptions for law enforcement, government agencies, and family members. Specifically, this bill:

- 1) Authorizes DOJ to issue handgun ammunition vendor licenses (HAVL), valid for one year, authorizes DOJ to adopt regulations and specified procedures, and requires DOJ to maintain a centralized registry of all vendors.
- 2) Authorizes DOJ to charge HAVL applicants a fee sufficient to cover the costs of administering the HAVL program and maintaining a registry of handgun ammunition vendors, though the fee is limited to \$50.
- 3) Requires the DOJ to issue licenses and waive fees for state-licensed gun dealers, federally licensed gun dealers, a licensed target facility, gunsmiths, wholesalers, gun manufacturers and importers, as specified.
- 4) Requires information contained in the centralized registry of handgun ammunition vendors to be available for law enforcement purposes.
- 5) Requires a HAVL to prohibit an employee prevented by law from possessing a gun from handling ammunition and requires every employee of a vendor to obtain a certificate of eligibility

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(COE) from the DOJ.

- 6) Requires DOJ to permanently revoke the license of any vendor that violates provisions relating to the sale or transfer of ammunition three times.
- 7) Requires, beginning July 1, 2010, handgun ammunition sales, with specified exemptions, to occur only in a face-to-face transaction, with evidence of identity from the purchaser - effectively prohibiting internet and mail order ammunition sales. A violation is a misdemeanor.
- 8) Prohibits, beginning July 1, 2010, an ammunition vendor from selling or transferring handgun ammunition without recording specified information on a form prescribed by the DOJ, including the date; identification; type and amount of ammunition purchased; the purchaser's signature; the name of the salesperson who processed the sale or transaction; the purchaser's thumbprint; the purchaser's residential address and telephone number; and the purchaser's date of birth.
- 9) Requires records of the sale or transfer of ammunition to be maintained on the premises of the vendor for at least five years for purposes of law enforcement inspection. A violation is punishable as a misdemeanor.
- 10) Makes the sale of ammunition to a person currently prohibited by law from possessing ammunition or a gun a misdemeanor, punishable by up to one year in the county jail and/or by a fine of up to \$1,000, and adds to the prohibited class any person subject to an injunction for being a member of a criminal street gang.

#### FISCAL EFFECT

In a preliminary estimate, DOJ projects first-year start-up costs of \$500,000, increasing to more than \$2 million in 2010-11 and \$1 million in 2011-12. DOJ indicates these costs would eventually be covered by the \$50 fee and employer payments to DOJ for the cost of the COEs.

#### COMMENTS

- 1) Rationale . The author's intent is to safeguard the sale of ammunition to keep it out of the hands of persons who are not

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legally allowed to possess a gun.

2)Support . According to the California Chapters of the Brady Campaign, "Assembly Bill 962 seeks to reduce gun violence by ensuring that sellers of handgun ammunition are legitimate, regulated businesses required to follow procedures to deter illegal acquisition of handgun ammunition. The bill would specifically prohibit known gang members from possessing ammunition and make it unlawful to sell or furnish ammunition to any person known to be prohibited from possessing ammunition

"Assembly Bill 962 would require those engaged in the sale of more than 50 rounds of handgun ammunition to acquire a vendor's license by July, 2010. In addition to the vendor, all employees who handle ammunition would be required to pass a criminal background check. To discourage shoplifting, handgun ammunition would have to be stored behind sales counters, a practice already common among reputable retail outlets. Finally, ammunition sales would have to take place in face to face transactions, thereby eliminating direct internet or mail order sales."

3)Opposition . According to the National Rifle Association, "The proponents of AB 962 claim that new legislation is needed to stop the transfer of handgun ammunition to criminals. In California, the transfer of ammunition to a prohibited person is a crime and the possession of ammunition by a prohibited person is a crime.

"A provision of AB 962 would resurrect a Federal Government program of ammunition sales registration at the point of purchase that was repealed due to the lack of effectiveness. The purchaser registration requirement would expose consumers to possible identity theft problems with sensitive personal information being required to be given to retail businesses.

"A provision of AB 962 that a handgun ammunition vendor permit does not allow the licensed vendor to transfer handgun ammunition at any location except the address listed on the permit, would ban the sale of ammunition at gun shows and expositions.

"A provision of AB 962 to only allow the face-to-face transfer/sales of handgun ammunition would ban all Internet

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AB 962  
Page 4

and mail order handgun ammunition sales."

4)Suggested Amendments . The author may wish to consider the following amendments:



- a) The bill requires all employees of a vendor to obtain a certificate of eligibility (COE) from DOJ. This requirement should be limited to employees who will deal with ammunition.
- b) The author may wish to include or cross reference additional predicate offenses - possession of a concealed weapon or an assault weapon - for prohibiting subsequent gun or ammunition possession as proposed in AB 1498 (De Leon), which is also before the committee today.
- c) A COE deadline of August 15, 2009 should be 2010.

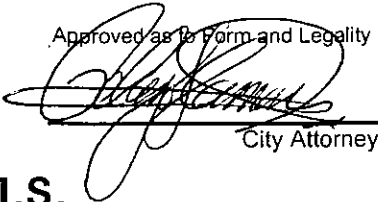
5)Current law provides that no person prohibited from owning or possessing a firearm under specified provisions of law shall have under his or her custody or control any ammunition or reloaded ammunition and violation of this provision is an alternate felony/misdemeanor. [Penal Code Section 12316(b)(1).]

6)Prior Legislation . AB 2062 (De Leon, 2008), required that any person who sells or transfers more than 50 rounds of handgun ammunition in any month to register as a handgun ammunition vendor, and required purchasers to obtain a handgun ammunition purchase permit. AB 2062 was held in Senate Appropriations Committee's Suspense File.

Analysis Prepared by : Geoff Long / APPR. / (916) 319-2081

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

  
City Attorney

RESOLUTION No. \_\_\_\_\_ C.M.S.

2009 MAY -7 PM 5:49

**RESOLUTION IN SUPPORT OF CALIFORNIA STATE ASSEMBLY BILL #962 (AB 962 DELEON), WHICH IMPOSES NEW REGULATIONS OVER THE SALE AND TRANSFER OF HANDGUN AMMUNITION IN THE STATE OF CALIFORNIA**

**WHEREAS**, it is the desire of the City of Oakland (hereinafter "City") to eliminate handgun violence; and

**WHEREAS**, the City wishes to enhance the Oakland Police Department's (hereinafter "OPD") ability to investigate and prosecute handgun related crimes; and

**WHEREAS**, easy accessibility to handgun ammunition has a direct correlation to gun violence and criminal activity; and

**WHEREAS**, the program created by Assembly Bill #962 provides for the comprehensive regulation of all handgun ammunition sales and transfers; and

**WHEREAS**, Assembly Bill #962 provides local law enforcement additional investigative resources to address firearms and gang related crimes at no cost to the City; and

**WHEREAS**, the Cities of Sacramento and Los Angeles have enacted local ordinances similar to Assembly Bill #962 and have seen a significant reduction in handgun related crimes and violence; and

**WHEREAS**, a review of Sacramento's 2008 ammunition purchaser records by the Sacramento Police Department recently revealed that over 150 prohibited persons purchased handgun ammunition within the year in their City alone; and

**WHEREAS**, it is easier in California to purchase handgun ammunition than it is to purchase a package of cigarettes or allergy medication; and

**WHEREAS**, it is no secret that handgun ammunition is ending up in the hands of violent criminals and gang members across California; and

**WHEREAS**, the program created by Assembly Bill #962 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 children; and

**WHEREAS**, Assembly Bill #962’s regulatory changes will prevent gang members and violent offenders from readily accessing handgun ammunition thereby contributing to a dramatic decline in gun violence, especially in urban cities such as Oakland; and

**WHEREAS**, on April 10, 2009, the Honorable Ronald V. Dellums, Mayor of Oakland, sent a letter of support for Assembly Bill #962 to the bill’s author and sponsor, Assembly Member Kevin De Leon,; and

**WHEREAS**, in 1995 the City previously adopted Oakland Municipal Code Chapter 9.20, AMMUNITION SALES REGISTRATION, to regulate the sale and transfer of handgun ammunition within Oakland; now, therefore, be it

**RESOLVED:** That the City Council expresses its strong support for the passage of Assembly Bill #962; 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, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and  
PRESIDENT BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council,  
City of Oakland, California