
THIRD READING

Bill No: AB 1227
Author: Levine (D), et al.
Amended: 8/25/22 in Senate
Vote: 27 - Urgency

SENATE GOVERNANCE & FIN. COMMITTEE: 4-1, 6/15/22
AYES: Caballero, Durazo, Hertzberg, Wiener
NOES: Nielsen

SENATE PUBLIC SAFETY COMMITTEE: 4-1, 6/28/22
AYES: Bradford, Kamlager, Skinner, Wiener
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/11/22
AYES: Portantino, Bradford, Laird, McGuire, Wieckowski
NOES: Bates, Jones

ASSEMBLY FLOOR: 56-19, 1/31/22 - See last page for vote

SUBJECT: Firearms and ammunition: excise tax

SOURCE: Author

DIGEST: This bill enacts the Gun Violence Prevention, Healing, and Recovery Act, which imposes an excise tax on firearms and ammunition sold in the state on firearms dealers and ammunition vendors, and allocates proceeds for specified purposes.

Senate Floor Amendments of 8/25/22 exempt from the measure's tax sales of long guns and rifles, as well as ammunition used by long rifles, upon presentation of a hunting license by the purchaser to the seller.

ANALYSIS:

Existing law:

- 1) Imposes several excise taxes, including on cigarettes and tobacco products, alcoholic beverages, motor vehicle and diesel fuel, and cannabis, among others.
- 2) Enacts the Fee Collections Procedures Law, the state's general purpose statute that guides California Department of Tax and Fee Administration (CDTFA) administration of special taxes and fees.
- 3) Imposes several fees upon the purchase of a new firearm in the state, which is currently \$37.19 per firearm: the Dealer Record of Sale fee (DROS) is \$31.19, and covers the costs of the required background check prior to purchase and the transfer registry.
- 4) Requires firearms dealers to charge each firearm purchaser a fee not to exceed \$1, except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index, but no more than is necessary to fund specified governmental notification and reporting functions.
- 5) Authorizes the California Department of Justice (DOJ) to require each dealer to charge each firearm purchaser or transferee a transfer fee not to exceed one dollar (\$1) for each firearm transaction, and allows that fee to be adjusted upward at a rate not to exceed the increase in the California Consumer Price Index.
- 6) Requires firearms dealers to charge each person who obtains a firearm a fee not to exceed five dollars (\$5) for each transaction, and allows that fee to be adjusted upward at a rate not to exceed the increase in the California Consumer Price Index.
- 7) Requires the DOJ to recover its costs under specified provisions related to the sale of ammunition by charging the ammunition transaction or purchase applicant a fee not to exceed the fee charged for its DROS process.
- 8) Authorizes a certified instructor of the firearm safety test to charge a fee of twenty-five dollars (\$25), fifteen dollars (\$15) of which is to be paid to DOJ to cover its costs in carrying out and enforcing firearms laws.
- 9) Requires other various fees to be paid to DOJ at the time of a firearm or ammunition purchase.

This bill:

- 1) Enacts the Gun Violence Prevention, Healing, and Recovery Act, which imposes an excise tax upon licensed firearms dealers, ammunition vendors, and firearm precursor part vendors, at the rate of 10 percent of the sales price of a handgun, and 11 percent of the sales price of a long gun, rifle, firearm precursor part, and ammunition sold in this state.
- 2) Provides that the tax is due and payable quarterly on or before the last day of the month next succeeding each quarterly period of three months, and requires taxpayers to file returns electronically quarterly with CDTFA.
- 3) Requires CDTFA to administer and collect the tax according to the Fee Collections Procedures Law, and further authorizes CDTFA to adopt and enforce rules and regulations relating to its provisions.
- 4) Exempts from the tax the gross receipts from the retail sale of:
 - a) Any firearm, ammunition, or firearm precursor part to a peace officer or any law enforcement agency employing that peace officer, for use in the normal course of employment.
 - b) Any long gun or rifle, with a barrel not less than 16 inches in length, or any ammunition to be used in a long gun or rifle, to a person who presents to the seller a valid, unexpired hunting license issued to that person by the Department of Fish and Wildlife.
- 5) Establishes the State Treasury the Gun Violence Prevention, Healing, and Recovery Fund, and directs proceeds of the tax to the Fund.
- 6) Directs CDTFA to deposit proceeds of the tax into the Fund after deducting net refunds and costs of administration, and allocates tax proceeds as follows:
 - a) Directs one-half of tax proceeds to the Gun Violence Prevention, Healing, and Recovery Fund, including one-half of the interest or dividends for appropriation by the Legislature to fund gun violence prevention programs, gun violence prevention education, and gun violence prevention research.
 - b) Continuously appropriates the other half of tax proceeds to the Board of State and Community Corrections for the California Violence Intervention and Prevention (CalVIP) Grant Program, for the sole purpose of funding CalVIP grants, as well as administration and evaluations of the CalVIP program.

- 7) Commences the tax on July 1, 2023, and requires the Director of the Department of Finance to loan \$2 million to CDTFA to implement the tax; the loan must be repaid before tax proceeds are appropriated to the Fund.
- 8) States that its provisions shall not be construed to preclude or preempt a local ordinance that imposes any additional requirements, fee, or surtax on the sale of firearms, ammunition, or firearm precursor parts, and that its tax is imposed in addition to any other tax or fee imposed by the state, or a city, county, or city and county.
- 9) Contains an urgency and severability clause.
- 10) Defines several terms.
- 11) Includes legislative findings and declarations supporting its purposes.

Background

Congress enacted the Revenue Act of 1918 during World War I to help fund wartime spending, which included the first excise tax on firearms, shells, and cartridges. Congress then enacted the Federal Aid in Wildlife Restoration Act in 1937, which reallocated previously enacted taxes on firearms and ammunition, and extended them to archery equipment. Commonly known as Pittman-Robertson, the U.S. Fish and Wildlife Service (FWS), within the Department of the Interior, distributes tax proceeds from these taxes to fund efforts in states and territories for wildlife restoration, conservation, and hunter education and safety programs. The Act imposes taxes on the manufacturer, distributor, or importer of the good subject to the tax at the following rates:

- 10 percent for pistols and revolvers;
- 11 percent for other firearms and ammunition; and
- 11 percent for bows and archery equipment.

Between 1939 and 2019, FWS disbursed \$18.8 billion for wildlife restoration and hunter education and safety activities for Pittman-Robertson programs.

While California does not impose an excise tax on firearms and ammunition, California imposes several fees upon the purchase of a new firearm in the state, which is currently \$37.19 per firearm: the Dealer Record of Sale fee is \$31.19, and covers the costs of the required background check prior to purchase and the transfer registry. There is also a \$1.00 Firearms Safety Act Fee, and a \$5.00 Safety and Enforcement Fee.

Related/Prior Legislation

AB 1227 was amended on May 5, 2022, to remove its existing contents, relating to building energy efficiency standards, and include provisions related to an excise tax on firearms. The author introduced substantially similar measures last year (AB 1223) and in 2019 (AB 18), both of which failed to advance out of the Assembly.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- CDTFA estimates that this bill would result in additional excise tax revenues of \$110 million in 2023-24. If firearms dealers and ammunition vendors choose to pass the excise tax to on to their customers, the bill would additionally result in a state and local sales and use tax revenue gain of up to \$9.4 million, \$4.3 million of which would flow to the General Fund.
- CDTFA indicates that it would incur administrative costs of \$2.4 million in 2022-23, \$841,000 in 2023-24, \$793,000 in 2024-25, and \$1.5 million annually thereafter, to implement the provisions of the bill. Specifically, the department would incur new costs to (1) identify and notify taxpayers, (2) create a new tax return, (3) program computer systems, (4) revise publications and audit/compliance manuals, (5) develop special notices and tax guides, (6) create regulations, and (7) respond to inquiries from the public.

SUPPORT: (Verified 8/26/22)

California Partnership for Safe Communities
City of Oakland - Department of Violence Prevention
City of Richmond - Office of Neighborhood Safety
Equal Justice USA
Everytown for Gun Safety Action Fund
Giffords: Courage to Fight Gun Violence
Johns Hopkins Center for Gun Violence Solutions
Los Angeles County Board of Supervisors
Mayor Libby Schaaf, City of Oakland
Moms Demand Action for Gun Sense in America
Movement 4 Life
National Association of Social Workers, California Chapter
San Diegans for Gun Violence Prevention
Shaphat Outreach
Southern California Crossroads

Students Demand Action for Gun Sense in America
The Health Alliance for Violence Intervention
Urban Peace Institute
Youth Alive!

OPPOSITION: (Verified 8/26/22)

Black Brant Group
Cal-Ore Wetlands and Waterfowl Council
California Bowmen Hunters/state Archery Association
California Deer Association
California Hawking Club
California Houndsmen for Conservation
California Rifle and Pistol Association, Inc.
California Waterfowl Association
Congressional Sportsmen's Foundation
National Rifle Association - Institute for Legislative Action
National Wild Turkey Federation, California State Chapter
Nor-Cal Guides & Sportsmen's Association
Peace Officers Research Association of California
Rocky Mountain Elk Foundation
Safari Club International - California Chapters
Safari Club International - Golden Gate Chapter
Safari Club International - San Francisco Bay Area Chapter
San Diego County Wildlife Federation
Suisun Resource Conservation District
Tulare Basin Wetlands Association
Wild Sheep Foundation, California Chapter
One individual

ARGUMENTS IN SUPPORT: According to the author, “Gun dealers are the leading source of firearms trafficked to illegal markets, often through straw purchases, as well as negligent losses. Gun violence not only imposes an immeasurable toll on human and mental health within impacted communities; it also produces its own economic burdens for state and local resources such as law enforcement, court expenses, and medical resources, and indirectly impacts home values and profitability for local businesses. AB 1227 initiates a long-term investment in reducing the various harms caused by guns across California by imposing a modest excise tax on the sale of guns and ammunition, and establishes the Gun Violence Prevention, Healing, and Recovery Fund. This bill exempts this tax from the sale of long guns, rifles, or any ammunition to be used in a long gun

or rifle when a customer presents a valid license to hunt in California. AB 1227 will provide consistent funding for gun violence prevention programs across California, especially the state Violence Intervention and Prevention Grant Program (CalVIP), which is the most cost-efficient community-based violence intervention programs in the state.”

ARGUMENTS IN OPPOSITION: According to the California Rifle and Pistol Association, Inc. “AB 1227 seeks to impose an excise tax in the amount of 10% of the sales price of a handgun and 11% of the sales price of a long gun, firearm precursor part, and ammunition to fund your ‘Gun Violence Prevention, Healing, and Recovery Fund.’ At that time the author stated the annual cost estimates from gun violence in the United States reach \$229 billion. These costs are caused by criminals, not the individuals AB 1227 seeks to tax. We stand with law enforcement throughout California and put the safety of our communities and schools first. However, we oppose taxing millions of law-abiding citizens for the actions of criminals who compose a fraction of a percent of the population who are not law-abiding. Firearms and ammunition sales already bring millions of dollars of sales tax into California’s state budget each year. Many communities throughout California already collect over 10% in sales tax alone. Additionally, an average of \$40 million are made available for conservation and education efforts in California each year from an 11% federal excise tax imposed on the sale of sporting arms and ammunition. Furthermore, the proposed tax, which clearly impedes constitutionally-protected activity, raises serious legal questions as to whether funds raised in this manner can be spent on this kind of policy. Case law makes it clear states may not impose a charge for the enjoyment of a right granted by the federal Constitution and a person cannot be compelled to purchase, through a fee or tax, the privilege freely granted by the Constitution. This type of tax scheme has been repeatedly struck down in multiple jurisdictions. A marriage license tax being used to fund shelters for victims of domestic violence was recently struck down on similar grounds. In that case, the court pointed that a statute cannot violate the Constitution no matter how desirable or beneficial the legislation may be. Under the law, a state may only impose taxes in connection with the exercise of a constitutional right when those fees are designed to recoup the costs incurred in administering a regulatory regime to which the taxpayer is subjected. This tax neither recoups the costs of legitimate firearm regulation nor does it fund efforts to benefit firearms consumers generally. It is therefore our view that these additional taxes are unjustified and unlawful.”

ASSEMBLY FLOOR: 56-19, 1/31/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Mia Bonta, Bryan, Burke, Calderon, Carrillo, Cervantes, Cooley,

Cooper, Cunningham, Daly, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Lee, Levine, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Chen, Choi, Megan Dahle, Davies, Flora, Fong, Gallagher, Kiley, Lackey, Mathis, Mayes, Nguyen, Patterson, Seyarto, Smith, Valladares, Voepel, Waldron

NO VOTE RECORDED: Gray

Prepared by: Colin Grinnell / GOV. & F. / (916) 651-4119
8/26/22 15:32:12

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