



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date:	03/19/13	Bill No:	Assembly Bill 187
Tax Program:	Ammunition Tax	Author:	Bonta
Sponsor:	Author	Section:	CIV 1656.1 RTC 33001 -33051
Related Bills:	AB 760 (Dickinson)	Effective:	Immediately upon enactment

BILL SUMMARY

This bill imposes a 10% tax on retail sales of ammunition sold or purchased for use in California. The revenues would fund public safety programs in high crime municipalities.

ANALYSIS

CURRENT LAW

Current law¹ imposes sales tax on the retail sale of tangible personal property in this state. Current law² also imposes use tax on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer. The sales or use tax is computed on the retailer’s gross receipts or purchase price unless the law provides a specific exemption or exclusion.

The total combined sales and use tax rates in California jurisdictions range from 7.50% to 10%, depending on the merchandise sales location. The statewide sales and use tax rate totals 7.50% and is comprised of state and local taxes. Rates may be higher than 7.50% in some areas depending on district taxes that apply. No Board of Equalization (BOE)-administered program imposes a tax or fee specifically on ammunition or firearms.

Civil Code Section 1656.1 includes sales tax reimbursement schedules for tax rates ranging from 4.75% to 7.50%. This section requires the BOE to prepare and make available identical rate schedules.

PROPOSED LAW

This bill adds the Ammunitions Tax Law under Part 14.5 (commencing with Section 33001) to Division 2 of the Revenue and Taxation Code to impose a 10% tax upon retailers for the privilege of selling ammunition in this state. The bill imposes a complementary use tax at the same rate on the storage, use, or other consumption in this state of ammunition purchased from a retailer. Additionally, the bill amends the Civil Code to allow retailers to collect tax reimbursement of the ammunition tax.

The bill exempts from the tax ammunition purchases by peace officers required to carry a weapon that requires ammunition while on duty, as well as any ammunition purchases by a governmental law enforcement agency employing that peace officer.

¹ Article 2 (commencing with Section 6051.2) of Chapter 2 of Division 1 of Part 2 of the Revenue and Taxation Code (RTC).

² Article 1 (commencing with Section 6201) of Chapter 3 of Division 1 of Part 2 of the RTC.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE’s formal position.

Revenues collected from the tax will be deposited into the Public Safety Emergency Fund which this bill creates.

Definitions This bill defines the following terms:

- “Ammunition” includes, but is not limited to, any bullet, cartridge, or projectile capable of being fired from a firearm with a deadly consequence. It does not include blanks.
- “Firearm” means a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion.
- “Retailer engaged in business in this state” has the same meaning as defined in Section 6203.

Administration. The BOE would assess and collect the tax in accordance with the Fee Collection Procedures Law (FCPL).³ The bill provides that the references in the FCPL to “fee” include the taxes imposed by this bill and “feepayer” includes the person liable for payment of the tax.

The FCPL generally provides for the BOE’s administration of fee programs. Among other things, the FCPL provides for collection, reporting, return, refund, and appeals procedures, as well as the BOE’s authority to adopt regulations related to the FCPL’s administration and enforcement.

Revenues, less refunds and costs of collection, from the ammunition tax would be, upon appropriation by the Legislature, dedicated to the School-Based Early Mental Health Intervention and Prevention Services Matching Grant Program (Chapter 2 (commencing with Section 4380) of Part 4 of Division 4 of the Welfare and Institutions Code).

Tax Rate Schedules. In addition, this bill amends Civil Code Section 1656.1 to eliminate the tax rate schedules and require the BOE to provide tax rate schedules for the various rates in effect for amounts from \$0.01 to \$1.00.

As a tax levy, this bill goes into effect immediately. However, the tax is imposed on sales or purchases made on or after January 1, 2014.

LEGISLATIVE HISTORY

Ammunition tax bills have not been proposed for some time. The most recent are:

SCA 12 (Perata), 2001-02. Proposed a \$0.05 per bullet sales and use tax on ammunition sold or used in California. Was not heard in committee.

SB 1124 (Watson), 1995-96. Proposed an additional 5% sales and use tax on ammunition sold or used in California. Failed to pass the Senate Revenue and Taxation Committee.

COMMENTS

1. **Sponsor and Purpose.** According to the author, the goal is to provide much needed relief to municipalities that suffer from spikes in violent crime and meet other specified criteria.
2. **Sales tax increase.** For sales tax transactions, the reimbursement charged by the retailer to the purchaser for the ammunition tax would be included in gross receipts and subject to sales tax. For use tax transactions, the ammunition tax is not included in the sales price of the ammunition and not subject to the use tax.

³ Part 30 (commencing with Section 55001) of Division 2 of the RTC.

3. Suggested Amendments. To clarify avoid confusion between in-state and out-of-state sales, amend RTC Section 6011 to include the following:

(c) "Sales price" does not include any of the following:

(13) The amount of any tax imposed upon ammunition pursuant to Part 14.5 (commencing with Section 33001)

Amend RTC Section 6012 to include the following:

(c). "Gross receipts" do not include any of the following:

(13) The amount of any tax imposed upon ammunition pursuant to Part 14.5 (commencing with Section 33001)

Additionally, to allow the BOE sufficient time to implement the new tax, Sections 33021 and 33022 should be amended as follows:

33021. In addition to the tax imposed under Chapter 2 (commencing with Section 6051) of Part 1, for the privilege of selling ammunition at retail there is hereby imposed a tax upon all retailers at the rate of 10 percent of the gross receipts of any retailer from the sale of all ammunition sold at retail in this state on or after ~~January~~ July 1, 2014.

33022. (a) In addition to the tax imposed under Chapter 3 (commencing with Section 6201) of Part 1, an excise tax is hereby imposed on the storage, use or other consumption in this state of ammunition purchased from any retailer on or after ~~January~~ July 1, 2014, for storage, use, or other consumption in this state at the rate of 10 percent of the sales price of ammunition.

4. Use tax. Use tax is currently the largest noncompliance category tracked by the BOE. This additional tax will likely increase the amount of unreported taxes.

5. Record and reporting complications. Ammunition retailers already collect and remit sales and use tax on their retail ammunition sales in California. These retailers most likely sell other tangible personal property subject to sales and use tax. Collecting an additional tax from ammunition purchasers will require retailers to keep track of ammunition sales separately from other sales of tangible personal property.

Additionally, smaller ammunition retailers may find collecting the additional tax burdensome. Larger retailers have the ability to program into their computer system the ammunition subject to the additional tax. Therefore, the tax will be automatically added to the purchase price once the product code or UPC is entered at the register. Cashiers at smaller supply stores, which are typically not computerized, must manually apply the additional tax, which could likely lead to collection and reporting errors.

6. Tax rate schedules. The tax rate schedules in the Civil Code are out of date. Tax reimbursement schedules are currently available on the BOE web site for rates ranging from 7.50% to 10%. The rate schedules are updated as necessary.

7. Related legislation. AB 760 (Dickinson) proposes a \$0.05 per bullet sales and use tax on ammunition sales.

COST ESTIMATE

A detailed cost estimate is pending. However, the BOE would incur substantial costs to (1) identify and notify taxpayers, (2) create a new tax return, (3) program computer systems, (4) develop regulations, (5) revise manuals and publications, (6) train staff, and (7) answer numerous inquiries from the public.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

According to the *National Shooting Sports Foundation*, 1.2 billion rounds of ammunition are sold in California annually. This includes pistol, long gun, and shot gun ammunition.

According to data from the *U.S. Bureau of Labor Statistics*, California law enforcement and allied personnel number about 132,900. *U.S. Census Bureau* data indicate an estimated 1.6 million hunters in California. Based on these data, we estimate that approximately 91.7% of all ammunition purchases will be subject to this tax (1 – (132,900 ÷ 1.6 million) = 91.7%).

Of the 1.2 billion rounds of ammunition sold at an average price of \$0.84 per round, 91.7% of those sales will be to consumers other than law enforcement and subject to the proposed tax. Gross receipts are estimated at \$924 million (1.2 billion x 91.7% x \$0.84 = \$924 million).

REVENUE SUMMARY

Ammunition Tax. The excise tax revenue in FY 2013-14 will amount to approximately \$46.2 million (10% x \$924 million / 2). The annual excise tax revenue amounts to an estimated \$92.4 million.

FY 2013-14 (6 months):	\$46.2 million
FY 2014-15:	\$92.4 million

Sales and Use Tax. In addition to the excise revenue, this bill will generate an additional state and local sales tax revenue in FY 2013-14 (6 months) amounting to \$3.85 million (\$46.2 million x 8.38%). The annual state and local sales tax revenue amounts to an estimated \$7.7 million (92.4 million x 8.38%).

Jurisdiction	Revenue 000's	
	FY 2013-14	FY 2014-15
State (4.1875%)	\$ 1,924	\$ 3,848
Fiscal Recovery Fund (0.25%)	115	230
Local Taxes (3.9425%)	1,811	3,622
Total Sales Tax Revenue	\$ 3,850	\$ 7,700

This revenue estimate does not account for any changes in economic activity that may or may not result from enactment of the proposed law.

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