



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

DRAFT

Date:	03/19/13	Bill No:	<u>Assembly Bill 760</u>
Tax Program:	Sales & Use Tax	Author:	Dickinson & Senator Steinberg
Sponsor:	Author	Section:	Civil 1656.1 RTC 33001 - 33051
Related Bills:	AB 187 (Bonta)	Effective:	Immediately upon enactment

BILL SUMMARY

This bill imposes a 5 cent (\$0.05) tax per item of ammunition sold at retail in the state, or purchased for use in the state. The revenues would fund childhood mental health programs.

ANALYSIS

CURRENT LAW

Except where the law provides a specific exemption or exclusion, California’s Sales and Use Tax Law¹ imposes sales tax on all retailers for the privilege of selling tangible personal property at retail in this state or use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer. The sales or use tax is computed on the retailer’s gross receipts and the retailer may collect reimbursement from its customer if the contract of sale so provides.²

The total combined sales and use tax rate ranges from 7.5% to 10%, which depends on the merchandise sales location. No other BOE-administered program imposes a separate tax or fee on the sale of ammunition.

Civil Code Section 1656.1 currently includes sales tax reimbursement schedules for tax rates ranging from 4.75% to 7.5%. This section requires the BOE to prepare and make available identical schedules.

PROPOSED LAW

This bill adds the Ammunition Tax Law under Part 14.5 (commencing with Section 33001) of Division 2 of the Revenue and Taxation Code to impose a \$0.05 per item of ammunition tax upon retailers for the privilege of selling ammunition in this state. The bill imposes an additional complementary use tax at the same rate on the storage, use or other consumption in this state of ammunition purchased from a retailer not required to collect the sales tax. Additionally, the bill amends the Civil Code to allow retailers to collection tax reimbursement of the ammunition tax.

Ammunition purchases by peace officers required to carry a weapon that requires ammunition while on duty would be exempt from the tax, as would any purchases of ammunition by a governmental law enforcement agency employing that peace officer.

Definitions. This bill defines the following terms:

- “Ammunition” means projectiles with their fuse, propelling charges, or primers fired from a weapon, or any of the individual components thereof, including without

¹ Part 1, Division 2 of the Revenue and Taxation Code (RTC) (commencing with Section 6001).

² (Civ. Code, § 1656.1; Cal. Code Regs, tit. 18, § 1700.)

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limitation shot, shrapnel bullets, or shells. “Ammunition” shall not include BB or a pellet commonly used in an air rifle or air pistol.

- “Retailer engaged in business in this state” has the same meaning as defined in RTC Section 6203.

Administration. The BOE would assess and collect the tax in accordance with the Fee Collection Procedures Law (FCPL).³ The references in the FCPL to “fee” include the taxes imposed by this bill.

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 existing tax rate schedules and require the BOE to provide tax rate schedules for 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, this bill seeks to reduce the incidence of mental illness by re-funding a small and successful state matching grant program addressing mild to moderate forms of mental illness in young children.
- 2. Item of ammunition.** “Item of ammunition” is not specifically defined. Ammunition is sold in many quantities such boxes, cases etc. It is our understanding the author’s intends the tax to apply to each individual round or bullet. This should be clarified.
- 3. Ammunition defined.** The definition includes a reference to “any of the individual components thereof.” This appears to include the component parts of a bullet or round, including but not limited to the cartridge, powder, projectile and primer. If the ammunition tax is assessed on each of these individual components, it would have an effective rate of \$0.20 per self-loaded bullet or round. Additionally, the definition includes the term “sharpel instead of “shrapnel.”

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

- 4. Sales tax increase.** Because the new tax is imposed on the retailer, sales tax would apply to the ammunition tax. However, on use tax transactions, the purchaser is responsible for the ammunition tax. Accordingly, the use tax does not apply to the ammunition tax.
- 5. Suggested Amendments.** To avoid confusion between instate 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)
- 6. Use tax.** Use tax is currently the largest noncompliance category tracked by the BOE. This additional use tax will likely increase the amount of unreported taxes.
- 7. Record and reporting complications.** Ammunition retailers already collect and remit sales and use tax on their retail ammunition sales in California. These retailers likely sell other tangible personal property subject to sales and use tax. Collecting an additional tax reimbursement 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 are able to enter the ammunition subject to the additional tax into their computer system. 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.
- 8. 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.
- 9. Related legislation.** AB 187 (Bonta) proposes a 10% 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.

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According to U.S. Bureau of Labor Statistics data, California law enforcement and allied personnel number about 132,900. The U.S. Census Bureau reports approximately 1.6 million hunters in California. Therefore, approximately 91.6% ($1 - (132,000 \div 1.6 \text{ million}) = 91.6\%$) of all ammunition purchases will be subject to this tax.

An estimated \$55 million per year would be generated, based on taxing 91.6% of the 1.2 billion rounds of ammunition sold ($1.2 \text{ billion rounds} \times 91.6\% \times \$0.05 = \$55 \text{ million}$).

REVENUE SUMMARY

Providing FY 2014-15 as a half year, the following depicts the **excise tax revenue** for the next several years:

Revenue estimate
(In Millions)

\$0.05 per round

FY 2014-15	\$ 27.5 million
FY 2015-16	\$ 55.0 million
FY 2016-17	\$ 55.0 million

In addition to the excise tax revenue; this bill **increases sales tax** as follows:

	FY 2014-15	FY 2015-16	FY 2016-17
<u>Jurisdiction:</u>			
State	4.19%	\$1,155,183	\$2,310,366
Fiscal Recovery Fund	0.25%	68,925	137,850
Local Revenue Fund	0.50%	137,850	275,700
Local Public Safety Fund	0.50%	137,850	275,700
Local Revenue Fund 2011	1.06%	292,242	584,484
Local Bradley Burns	1.00%	275,700	551,400
Special District Tax	0.88%	242,616	485,232
Total		\$ 2,310,366	\$ 4,620,732

Qualifying Remarks. The revenue estimate is understated to the extent that it does not include potential tax receipts collected on the individual components of a projectile, such as fuses, propelling charges, shell, primers and/or shot. The revenue is overstated to the extent that the use tax does not apply to the ammunition use tax accessed on the purchaser. Information is not available at this time to determine the amount of ammunition made from out-of-state retailers subject to the use tax.

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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