

File No. 130039

Committee Item No. 2

Board Item No. 15

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: City Operations

Date 02/21/13

Board of Supervisors Meeting

Date March 5, 2013

Cmte Board

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Completed by: Andrea Ausberry Date 02/14/13

Completed by:  Date 2.28.13

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

1 [Police Code - Reporting Ammunition Sales of 500 or More Rounds]

2
3 Ordinance amending the Police Code, Section 615, to require firearms dealers to report
4 to the Chief of Police the sale of 500 or more rounds of ammunition in a single
5 transaction.

6 NOTE: Additions are single-underline italics Times New Roman;
7 deletions are ~~strike through italics Times New Roman~~.
8 Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

9 Be it ordained by the People of the City and County of San Francisco:

10 Section 1. The San Francisco Police Code is hereby amended by amending
11 Section 615, to read as follows:

12 **SEC. 615. RECORDS OF AMMUNITION SALES.**

13 (a) **Definitions.**

14 (1) "Firearm ammunition," as used in this Section, shall include any ammunition
15 for use in any pistol or revolver, or semiautomatic rifle or assault weapon, but shall not include
16 ammunition for shotguns that contains shot that is No. 4 or smaller.

17 (2) "Semiautomatic rifle," as used in this Section, shall mean any repeating rifle
18 which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and
19 chamber the next round, and which requires a separate pull of the trigger to fire each
20 cartridge.

21 (3) "Assault weapon," as used in this Section, shall mean any of the weapons
22 designated in California Penal Code Section 12276 or 12276.1.

23 (4) "Vendor," as used in this Section, shall mean any person located in the City
24 and County of San Francisco who is engaged in the sale of firearm ammunition, including any
25 retail firearms dealer.

1 (5) "Remote Vendor," as used in this Section, shall mean any person engaged in the sale
2 of firearm ammunition, including any retail firearms dealer, who is located outside the City and County
3 of San Francisco but delivers or causes to be delivered firearm ammunition to an address within the
4 City and County of San Francisco.

5 (b) No Vendor ~~vendor~~ shall sell or otherwise transfer ownership of any firearm
6 ammunition without at the time of purchase recording the following information on a form to be
7 prescribed by the Chief of Police: (1) the name of the Vendor ~~vendor~~ (including the name of the
8 specific individual) transferring ownership to the transferee; (2) the place where the transfer
9 occurred; (3) the date and time of the transfer; (4) the name, address and date of birth of the
10 transferee; (5) the transferee's driver's license number, or other identification number, and the
11 state in which it was issued; (6) the brand, type and amount of ammunition transferred; and
12 (7) the transferee's signature.

13 (c) (1) The records required by this Section shall be maintained on the premises of
14 the Vendor ~~vendor~~ for a period of not less than two years from the date of the recorded
15 transfer. Said records shall be subject to inspection at any time during normal business
16 hours.

17 (2) Any Vendor or Remote Vendor who sells or otherwise transfers ownership of five
18 hundred (500) or more rounds of any firearm ammunition to a transferee in a single transaction, where
19 the transaction occurs within the City and County of San Francisco or the firearm ammunition is
20 ordered for delivery to an address within the City and County of San Francisco, shall be subject to the
21 reporting requirement of this subsection (c)(2). Within 24 hours of the commencement of the
22 transaction, regardless of when the firearm ammunition is delivered, the Vendor or Remote Vendor
23 shall report the transaction to the Chief of Police by electronic mail at _____ or by such
24 other means specified by the Chief of Police. The report shall contain the same information required
25 under subsection (b). In determining the number of rounds sold or otherwise transferred for purposes

1 of complying with this subsection (c)(2), the Vendor or Remote Vendor shall include any combination
2 of types, brands or calibers sold or transferred to the transferee.

3 (d) No Vendor person shall knowingly make a false entry in, or fail to make a required
4 entry in, or fail to maintain in the required manner records prepared in accordance with
5 subsections (b) and (c)(1) herewith. No Vendor person shall refuse to permit a police department
6 employee to examine any record prepared in accordance with this Section during any
7 inspection conducted pursuant to this Section. No Vendor or Remote Vendor shall fail to submit
8 the report required under subsection (c)(2), or knowingly include false information in such report.

9 (e) **Penalties.**

10 (1) **First Conviction.** Any person violating any provision of this Section shall
11 be guilty of an infraction. Upon conviction of the infraction, the violator shall be punished by a
12 fine of not less than \$50 nor more than \$100.

13 (2) **Subsequent Convictions.** In any accusatory pleading charging a violation
14 of this Section, if the defendant has been previously convicted of a violation of this Section,
15 each such previous violation and conviction shall be charged in the accusatory pleading. Any
16 person violating any provision of this Section a second time within a 90-day period shall be
17 guilty of a misdemeanor and shall be punished by a fine of not less than \$300 and not more
18 than \$400 for each provision violated, or by imprisonment in the County Jail for a period of not
19 more than six months, or by both such fine and imprisonment. Any person violating any
20 provision of this Section, a third time, and each subsequent time, within a 30-day period shall
21 be guilty of a misdemeanor and shall be punished by a fine of not less than \$400 and not
22 more than \$500 for each provision violated, or by imprisonment in the County Jail for a period
23 of not more than six months, or by both such fine and imprisonment.

24 (f) **Severability.** If any subsection, sentence, clause, phrase, or word of this Section
25 be for any reason declared unconstitutional or invalid or ineffective by any court of competent

1 jurisdiction, such decision shall not affect the validity or the effectiveness of the remaining
2 portions of this Section or any part thereof. The Board of Supervisors hereby declares that it
3 would have adopted this Section notwithstanding the unconstitutionality, invalidity, or
4 ineffectiveness of any one or more of its subsections, sentences, clauses, phrases, or words.
5

6 Section 2. Effective Date. This ordinance shall become effective 30 days from the
7 date of passage.
8

9 Section 3. This section is uncodified. In enacting this Ordinance, the Board intends to
10 amend only those words, phrases, paragraphs, subsections, sections, articles, numbers,
11 punctuation, charts, diagrams, or any other constituent part of the Police Code that are
12 explicitly shown in this legislation as additions, deletions, Board amendment additions, and
13 Board amendment deletions in accordance with the "Note" that appears under the official title
14 of the legislation.
15

16 APPROVED AS TO FORM:
17 DENNIS J. HERRERA, City Attorney

18 By:


19 THOMAS J. OWEN
20 Deputy City Attorney
21
22
23

24 originated at : n:\govern\as2013\1300252\00818123.doc

25 revised on: 1/14/2013 -- n:\govern\as2013\1300252\00818123.doc

Mayor Lee, Supervisor Cohen
BOARD OF SUPERVISORS

LEGISLATIVE DIGEST

[Police Code - Reporting Ammunition Sales of 500 or More Rounds]

Ordinance amending the Police Code, Section 615, to require firearms dealers to report to the Chief of Police the sale of 500 or more rounds of ammunition in a single transaction.

Existing Law

Police Code Section 615(b) requires any person selling firearms ammunition within the City to maintain records of such sales. The records must include: (1) the name of the specific individual making the sale; (2) the place where the transaction occurred; (3) the date and time of the transaction; (4) the name, address and date of birth of the buyer; (5) the buyer's driver's license number; (6) the brand, type and amount of ammunition sold; and (7) the buyer's signature.

The seller must keep these records on the premises for at least two years, and make them available for inspection by the Police Department during normal business hours. Section 615 does not require the seller to report the sale to anyone.

Amendments to Current Law

The proposal is an ordinance that would amend Police Code Section 615 to add a new requirement for persons selling firearm ammunition. The ordinance would require any person selling five hundred (500) or more rounds of any firearm ammunition to someone in a single transaction to report the sale to the Chief of Police within 24 hours. The report would have to include the same information required under Police Code Section 615(b). In determining the number of rounds sold, the seller would have to include any combination of types, brands or calibers of ammunition sold as part of the transaction.

This requirement would apply to persons selling ammunition within the City or selling ammunition for delivery to a San Francisco address.



EDWIN M. LEE
MAYOR

POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO
THOMAS J. CAHILL HALL OF JUSTICE
850 BRYANT STREET
SAN FRANCISCO, CALIFORNIA 94103-4603



GREGORY P. SUHR
CHIEF OF POLICE

January 24, 2013

Mr. Derek Evans, Assistant Committee Clerk
Public Safety Committee
Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4694

Dear Mr. Evans:

RE: File No. 130039 – Ordinance Requiring Reporting the Sale of 500 or More Rounds
Ammunition

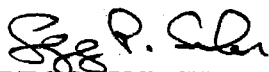
The intent of this letter is to express the full support of the San Francisco Police Department for Ordinance 130039, which will require firearms dealers to report to the Chief of Police the sale of 500 or more rounds of ammunition in a single transaction.

Unlike most other states, California has no provision in its state constitution that explicitly guarantees an individual right to keep and bear arms, and as such, currently has some of the toughest gun laws in the United States Private. The California Supreme Court has maintained that most of California's restrictive gun laws are constitutional based on the fact that the State's Constitution does not explicitly guarantee private citizens the right to purchase, possess, or carry firearms. However, there is no limit on the amount of ammunition one can purchase from firearms dealers.

It is the opinion of the San Francisco Police Department that by requiring a dealer to report the sale of 500 or more rounds of ammunition to the Chief of Police, this legislation will provide a "red flag" to law enforcement of a potential threat to public safety.

If I can be of further assistance, please contact my office.

Sincerely,


GREGORY P. SUHR
Chief of Police

/cf

Robert Green
2994 Pine Street
San Francisco, CA 94115

February 8, 2013

Clerk and Members of the Public Safety Committee
Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2013 FEB - 8 PM 12:31

Re: File 130039 (Requiring reporting of sales of 500 or more rounds of ammunition)

I write in the hopes that this might be circulated to the members of the Committee for consideration before the file comes before the committee for action.

Dear Committee Members:

I applaud the authors of the proposed ordinance referenced above for clarifying that the record-keeping requirements regarding ammunition sales apply only to businesses with a physical presence in San Francisco, and I urge you to adopt those amendments to 615(a)(4) and 615(b)—many out-of-state vendors refuse to sell ammunition to San Francisco residents because the vendors believe they are subject to the record-keeping requirements.

However, I do have several concerns about the rest of the proposed ordinance which I hope you will consider before deciding upon the next action.

It is unclear to me whether San Francisco truly has the authority to regulate interstate commerce in the manner described in proposed ordinance 615(c)(2). That paragraph seeks to require vendors which may not have a physical presence in California, let alone San Francisco, to contact the Chief of Police when making a sale of 500 or more rounds of ammunition for delivery within the boundaries of San Francisco.

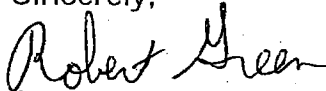
It is also unclear to me what extra public safety benefit is gained by requiring direct reporting of sales only when someone purchases or transfers 500 or more rounds. Ammunition vendors within San Francisco are already required to maintain records of all ammunition sales and make those records available for inspection by the Police. If the value of the records is to determine whether anyone prohibited from possessing ammunition has made a purchase of ammunition, it would seem that reporting *all* sales (not just 500 or more rounds) would better serve public safety.

Additionally, I am concerned that Chief of Police Gregory Suhr stated in his reply to your request for comments that sales of 500 or more rounds "provide a 'red flag' to law enforcement of a potential threat to public safety." However, as mere possession

of ammunition is not *prima facie* evidence of a crime (except as it involves persons prohibited from possessing ammunition) and likely does not rise to the level of probable cause to believe a crime has been or will be committed (given the number of people who purchase in bulk for legitimate use at the range, during hunting, or during competition), it is unclear to me what Chief Suhr would intend to do once such a "red flag" has been raised on someone not prohibited from possessing ammunition (courtesy knocks?, search warrants?, surveillance?).

Again, I urge you to give due consideration to these concerns before moving forward with this proposed ordinance.

Sincerely,


Robert Green

President, Board of Supervisors
District 3



City and County of San Francisco

Public Safety/Cons Clerk
COB, Reg Dep

DAVID CHIU

邱信福
市參事會主席

TO: Angela Calvillo, Clerk of the Board
FROM: Supervisor David Chiu
DATE: February 14, 2013
RE: Transferring Files Nos. 130039, 130040, and 091225 from Public Safety to CON

David Chiu

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2013 FEB 14 PM 3:02

Madame Clerk,

Please transfer the following three files from the Public Safety Committee to the City Operations and Neighborhood Services Committee.

- No. 130039 - Ordinance - requiring firearms dealers to report sale of 500 or more rounds of ammunition in a single transaction
- No. 130040 - Ordinance - Possession or sale of certain ammunition
- No. 091225 - Hearing - Violence and public safety incidents associated with entertainment venues

Thank you for your prompt assistance in this matter.

###

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Sheriff Ross Mirkarimi, Sheriff's Department

FROM: Derek Evans, Assistant Committee Clerk

DATE: January 25, 2013

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors Public Safety Committee has received the following proposed legislation, which is being referred to your department for informational purposes.

File No. 130039

Ordinance amending the Police Code, Section 615, to require firearms dealers to report to the Chief of Police the sale of 500 or more rounds of ammunition in a single transaction.

If you wish to submit any comments or reports, please forward those to the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

This item is tentatively scheduled to appear on the February 21, 2013, Regular Meeting of the Public Safety Committee.

Attached is a copy of the legislation for your review.

cc: Ellen Brin, Sheriff's Department
Paul Miyamoto, Sheriff's Department

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Chief Greg Suhr, Police Department
FROM: Derek Evans, Assistant Committee Clerk
DATE: January 18, 2013
SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors Public Safety Committee has received the following proposed legislation, which is being referred to your department for informational purposes.

File No. 130039

Ordinance amending the Police Code, Section 615, to require firearms dealers to report to the Chief of Police the sale of 500 or more rounds of ammunition in a single transaction.

If you wish to submit any comments or reports, please forward those to the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

This item is tentatively scheduled to appear on the February 21, 2013, Regular Meeting of the Public Safety Committee.

Attached is a copy of the legislation for your review.

cc: Christine Fountain, Police Department
Insp. John Monroe, Police Department

OFFICE OF THE MAYOR
SAN FRANCISCO



RECEIVED
EDWIN M. LEE
BOARD OF SUPERVISORS
SAN FRANCISCO MAYOR

2013 JAN 15 PM 2:29

TO: Angela Calvillo, Clerk of the Board of Supervisors *SHB*
FROM: *in* Mayor Edwin M. Lee *JE*
RE: Police Code - Reporting Ammunition Sales of 500 or More Rounds
DATE: January 15, 2013

Attached for introduction to the Board of Supervisors is the ordinance amending the San Francisco Police Code by amending Section 615 to require firearms dealers to report to the Chief of Police the sale of 500 or more rounds of ammunition in a single transaction.

Please note this item is cosponsored by Supervisor Cohen

I request that this item be calendared in Public Safety Committee on February 21, 2013.

Should you have any questions, please contact Jason Elliott (415) 554-5105.

cc. Supervisor Malia Cohen

130039

