

BOARD of SUPERVISORS



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REVISED MEMORANDUM

TO: Regina Dick-Endrizzi, Director
Small Business Commission, City Hall, Room 448

FROM: Linda Wong, Assistant Clerk
Board of Supervisors

DATE: October 13, 2015

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
Budget and Finance Committee

The Board of Supervisors' Budget and Finance Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from September 25, 2015, original date this was referred to your office.

File No. 150912

Ordinance amending the Police Code to require firearms dealers to install, maintain, and operate video surveillance equipment and to transmit records of all ammunition sales to the Police Department.

Please return this cover sheet with the Commission's response to Linda Wong, Assistant Clerk, Budget and Finance Committee, at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

RESPONSE FROM SMALL BUSINESS COMMISSION - Date: _____

No Comment

Recommendation Attached

Chairperson, Small Business Commission

1 [Police Code - Monitoring Requirements for Firearms and Ammunition Transactions]

2
3 **Ordinance amending the Police Code to require firearms dealers to install, maintain,**
4 **and operate video surveillance equipment and to transmit records of all ammunition**
5 **sales to the Police Department.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
8 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
9 **Board amendment additions** are in double-underlined Arial font.
10 **Board amendment deletions** are in ~~strikethrough Arial font~~.
11 **Asterisks (* * * *)** indicate the omission of unchanged Code
12 subsections or parts of tables.

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

14 Section 1. Findings.

15 (a) In 2011, 2,928 people died from firearm-related injuries in California and 2,884
16 other people were hospitalized for non-fatal gunshot wounds. In 2011, 1,356 homicides were
17 committed with firearms in California. The City and County of San Francisco has a strong
18 interest in protecting its citizens from gun violence. The City has enacted a common sense
19 licensing scheme for the sale of firearms and ammunition aimed at reducing gun violence in
20 San Francisco.

21 (b) A 2009 study found that cities in states that comprehensively regulate retail
22 firearms dealers and cities where these businesses undergo regular compliance inspections
23 have significantly lower levels of gun trafficking than other cities. A national study of gun
24 trafficking investigations in 2000, found that corrupt retail gun dealers accounted for more
25 guns diverted into the illegal market than any other single trafficking channel. A 2003 study
revealed that more than half of dealers surveyed were willing to make a "straw sale," where
one person unlawfully buys a gun intended for another. In a 2010 study of California firearm
dealers, 20% were willing to participate in a straw sale.

1 (c) In 2006, New York City conducted an undercover sting operation that revealed
2 27 gun dealers facilitating illegal sales of firearms that were later used for criminal purposes in
3 the city. New York brought a lawsuit against these dealers, many of whom agreed to settle
4 the case by stipulating to a number of changes to their business practices to reduce the illegal
5 sale of guns. Such changes included the use of in-store observation, including use of
6 videotape surveillance, and records monitoring. A study that compared the number of
7 weapons recovered by the New York Police Department originating in the stores that were
8 parties to the settlement before and after the settlement revealed a significant drop in guns
9 from those stores used in crimes after the settlement and imposition of the new business
10 practices.

11 (d) Gun violence is frequently perpetrated by individuals who are not legally
12 permitted to possess a firearm due to prior criminal convictions or other restrictions. Criminals
13 sometimes obtain guns through firearms dealers who do not conduct the proper background
14 check or who do not properly control their inventory. Criminals also use false identification to
15 purchase firearms from dealers. Requiring licensed gun dealers to video record gun
16 transactions and areas of the store where guns and ammunition are stored and handled will
17 likely discourage gun traffickers and buyers who use false identification from buying weapons
18 and will also likely discourage theft.

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1 Section 2. The Police Code is hereby amended by revising Article 9, Sections 613.10
2 and 615, to read as follows:

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4 **SEC. 613.10. LICENSE – CONDITIONS.**

5 In addition to all other requirements and conditions stated in Sections 613-619.—~~this~~
6 ~~Article~~, each license shall be subject to all of the following conditions, the breach of any of
7 which shall be sufficient cause for revocation of the license by the Chief of Police:

8 * * * *

9 (o) Licensee shall ensure that its business location is monitored by a video surveillance system
10 that meets the following requirements:

11 (1) The system shall include cameras, monitors, digital video recorders, and cabling, if
12 necessary to meet any of the other requirements listed below.

13 (2) The number and location of the cameras are subject to the approval of the Chief of
14 Police or his or her designee. The cameras shall be sufficient in number and location to monitor all
15 places where firearms or ammunition are stored, handled, sold, transferred, or carried, including, but
16 not limited to, counters, safes, vaults, cabinets, shelves, cases, and entryways. The video surveillance
17 system shall operate continuously, without interruption, whenever the licensee is open for business.
18 Whenever the licensee is not open for business, the system shall be triggered by a motion detector and
19 begin recording immediately upon detection of any motion within the monitored area.

20 (3) The sale or transfer of a firearm or ammunition shall be recorded by the video
21 surveillance system in such a way that the facial features of the purchaser or transferee are clearly
22 visible.

23 (4) When recording, the video surveillance system shall record continuously and store
24 color images of the monitored area at a frequency of not less than 15 frames per second. The system
25 shall produce retrievable and identifiable images and video recordings on media approved by the Chief

1 of Police or his or her designee that can be enlarged through projection or other means, and can be
2 made a permanent record for use in a criminal investigation. The system shall be capable of
3 delineating on playback the activity and physical features of persons or areas where guns and
4 ammunition are stored and handled within the premises.

5 (5) The stored images shall be maintained on the business premises of the licensee for a
6 period not less than one year from the date of recordation and shall be made available to federal, state,
7 or local law enforcement agencies upon service of a search warrant. Law enforcement agencies may
8 only use images thus obtained for legitimate law enforcement purposes.

9 (6) The video surveillance system shall be maintained in proper working order at all
10 times. If the system becomes inoperable, it must be repaired or replaced within fifteen calendar days.
11 The licensee shall inspect the system at least weekly to ensure that it is operational and images are
12 being recorded and retained as required. The licensee shall notify the Chief of Police or his or her
13 designee that the system has become inoperable as soon as practicable after discovering inoperability.
14 The licensee shall allow the Chief of Police or his or her designee to inspect the system to ensure
15 operability.

16 (7) The licensee shall post a sign in a conspicuous place at each entrance to the
17 premises that states in block letters not less than one inch in height: THESE PREMISES ARE UNDER
18 VIDEO SURVEILLANCE. YOUR IMAGE MAY BE RECORDED.

19 * * * *

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

21 (a) Definitions. As used in this Section 615, these terms shall have the following meanings:

22 (1) "Firearm ammunition," ~~as used in this Section,~~ shall include any
23 ammunition for use in any pistol or revolver, or semiautomatic rifle or assault weapon, but
24 shall not include ammunition for shotguns that contains shot that is No. 4 or smaller.
25

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

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

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

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

14 (b) No Vendor or Remote Vendor engaging in a transaction for delivery to an
15 address in the City and County of San Francisco shall sell or otherwise transfer ownership of any
16 firearm ammunition without at the time of purchase recording the following information on a
17 form to be prescribed by the Chief of Police:

18 (1) the name of the Vendor or Remote Vendor (including the name of
19 the specific individual) transferring ownership to the transferee;

20 (2) the place where the transfer occurred; in the case of a Remote
21 Vendor, the place of transfer shall be the origin of the shipment;

22 (3) the date and time of the transfer; a Remote Vendor shall record the
23 date and time of the shipment;

24 (4) the name, address and date of birth of the transferee;
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1 (5) the transferee's driver's license number, or other identification
2 number, and the state in which it was issued;

3 (6) the brand, type and amount of ammunition transferred; and

4 (7) the transferee's signature and thumbprint.

5 (c) Any Vendor or Remote Vendor who sells or otherwise transfers ~~ownership~~
6 ~~of five hundred (500) or more rounds of~~ any firearm ammunition ~~to a transferee in a single~~
7 ~~transaction~~, where the transaction occurs within the City and County of San Francisco or the
8 firearm ammunition is ordered for delivery to an address within the City and County of San
9 Francisco, shall be subject to the reporting requirement of this subsection (c). ~~Within 24 hours~~
10 ~~of the commencement of the transaction, regardless of when the firearm ammunition is delivered, On a~~
11 ~~weekly basis~~, the Vendor or Remote Vendor shall report the ammunition transactions for the
12 previous week to the Chief of Police or his or her designee by electronic mail or by such other
13 means specified by the Chief of Police or his or her designee. The report shall contain the same
14 information required under subsection (b) for each transaction. ~~In determining the number of~~
15 ~~rounds sold or otherwise transferred for purposes of complying with this subsection (c), the Vendor or~~
16 ~~Remote Vendor shall include any combination of types, brands or calibers sold or transferred to the~~
17 ~~transferee.~~

18 (d) No Vendor or Remote Vendor shall knowingly make a false entry in, or fail
19 to make a required entry in, records prepared in accordance with subsection (b). No Vendor
20 or Remote Vendor shall fail to submit the report required under subsection (c) in a timely
21 manner, or knowingly include false information in such report. A Vendor or Remote Vendor
22 must maintain the records required under subsection (b) on the premises for a period of not
23 less than two years from the date of the recorded transfer. Said records shall be subject to
24 inspection by the Police Department at any time during normal business hours.

25 (e) Penalties.

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

4 (2) Subsequent Convictions. In any accusatory pleading charging a
5 violation of this Section, if the defendant has been previously convicted of a violation of this
6 Section, each such previous violation and conviction shall be charged in the accusatory
7 pleading. Any person violating any provision of this Section a second time within a 90-day
8 period shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$300
9 and not more than \$400 for each provision violated, or by imprisonment in the County Jail for
10 a period of not more than six months, or by both such fine and imprisonment. Any person
11 violating any provision of this Section, a third time, and each subsequent time, within a 30-day
12 period shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$400
13 and not more than \$500 for each provision violated, or by imprisonment in the County Jail for
14 a period of not more than six months, or by both such fine and imprisonment.

15 (f) Severability. If any subsection, sentence, clause, phrase, or word of this
16 Section be for any reason declared unconstitutional or invalid or ineffective by any court of
17 competent jurisdiction, such decision shall not affect the validity or the effectiveness of the
18 remaining portions of this Section or any part thereof. The Board of Supervisors hereby
19 declares that it would have adopted this Section notwithstanding the unconstitutionality,
20 invalidity, or ineffectiveness of any one or more of its subsections, sentences, clauses,
21 phrases, or words.

22
23 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
24 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
25 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Police

1 Code that are explicitly shown in this ordinance as additions or deletions, in accordance with
2 the "Note" that appears under the official title of the ordinance.

3
4 Section 4. Severability. If any sentence, clause, phrase, or word of the amendment to
5 Sec. 613.10 contained in Section 2 of this ordinance is held to be invalid or unconstitutional by
6 a decision of a court of competent jurisdiction, such decision shall not affect the validity of the
7 remaining portions or applications of Section 613.10 or the remainder of the ordinance. If any
8 sentence, clause, phrase, or word of the amendment to Sec. 615 contained in Section 2 of
9 this ordinance is held to be invalid or unconstitutional by a decision of a court of competent
10 jurisdiction, such decision shall not affect the validity of the remaining portions or applications
11 of Section 615 or the remainder of the ordinance. The Board of Supervisors hereby declares
12 that it would have passed this ordinance and each and every section, subsection, sentence,
13 clause, phrase, and word not declared invalid or unconstitutional without regard to whether
14 any other portion of the ordinance or application thereof would be subsequently declared
15 invalid or unconstitutional.

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17 Section 5. Effective Date. This ordinance shall become effective 30 days after
18 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
19 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
20 of Supervisors overrides the Mayor's veto of the ordinance.

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: 
24 BRADLEY A. RUSSI
25 Deputy City Attorney

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