REPORT TO COUNCIL
City of Sacramento

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STAFF REPORT
August 9, 2007

Honorable Mayor and
Members of the City Council

Title: Ordinance: Mandatory Maintenance of an Ammunition Sales Log by Firearms Dealers

Location/Council District: Citywide

Recommendation: Adopt an **Ordinance** adding Chapter 5.66 to the Sacramento City Code requiring mandatory maintenance of an ammunition sales log by firearm dealers.

Contact: Capt. Jim Maccoun, 808-0417

Presenters: Capt. Jim Maccoun, 808-0417

Department: Police

Division: Office of Technical Services

Organization No: 2155

Description/Analysis

Issue: This ordinance would require mandatory maintenance of an ammunition sales log by firearms dealers.

Policy Considerations: Currently, there are no mechanisms in place to track ammunition sales, ensure that only persons of legal age purchase ammunition, and detect purchases by persons legally prohibited from possessing firearms and ammunition. The adoption of this ordinance would have a great impact on preventing illegal ammunition purchases within the City of Sacramento and allow for the increased detection and apprehension of those persons committing firearm-related crimes.

Environmental Considerations: This report concerns administrative issues that will not have any significant effect on the environment, and thus do not constitute a "project" as defined by the California Environmental Quality Act (CEQA) [CEQA Guidelines sections 15061(b)(3), 15378(b)(2)].

Commission/Committee Action: On May 15, 2007, the Law & Legislation Committee unanimously voted to approve and forward the ordinance to the full City Council. City Council reviewed the ordinance and passed it for publication on July 31, 2007.

Rationale for Recommendation: The purpose of this ordinance is to prevent the sale of ammunition to those who are legally prohibited from possessing the ammunition and/or firearms. The ordinance does not prevent a sale of ammunition at the point of sale. Instead, it mandates that the firearm dealers record the identity of the purchaser and details of the transaction and then forward this data to the Sacramento Police Department. This data will allow the Department to identify and investigate offenders involved in firearm-related crimes.

This ordinance requires that the following key bits of data be recorded on a form approved by the Chief of Police at the time of the ammunition purchase:

- name, address, and date of birth of transferee;
- the date of the sale;
- the transferee's driver's license number, state identification card number, passport number, or other valid government-issued photographic identification;
- the brand, type, and quantity of firearms ammunition transferred;
- the identity of the person transferring the firearms ammunition on behalf of the ammunition vendor;
- the transferee's signature and right thumbprint.

It is essential that the right thumbprint of the transferee be included for the purpose of positive identification of offenders for later prosecution. Driver's license information alone will make prosecutions dependent on the testimony of sales clerks and allow defendants to offer the defense of identity theft or stolen identification card. The form must include date, time, and location of the transaction for possible introduction as evidence in later prosecutions.

This ordinance also requires that vendors transmit to the Police Department electronically all of the identifying information, with the exception of the transferee's signature and right thumbprint, (in a format to be proscribed by the Chief of Police) of transferees within five (5) calendar days of the sale. This requirement will allow the Police Department to easily and electronically check the legal firearms rights status of transferees. This requirement should not be onerous because currently all ammunition sellers in the City of Sacramento must also be licensed firearm dealers. All firearms dealers are also licensed by the State of California and the Federal Government (ATF) and must complete <u>all</u> transactions utilizing the California "Dealers Record of Sale" (DROS) system. California DOJ will only accept transactions through their online Internet based DROS system. Thus, all firearm dealers in the City of Sacramento currently must maintain and utilize Internet based computer systems.

Additionally, the Police Department Information Technology staff believes they can easily create electronic forms for the user-friendly transmission of the required information to a Police Department secured website, with technological improvements, such as driver's license scanners, fingerprint scanning, and imaging software added as available.

The Police Department invited each Gun Dealer licensee or designated agent to an informational meeting presenting the details of the proposed ordinance and addressing dealers' concerns. Five of the eight licensed gun and ammunition dealers doing business within the City of Sacramento attended or sent a representative to the meeting on December 4, 2006. The principal concerns expressed by the dealers was that compliance with the proposed ordinance would delay each ammunition purchase transaction substantially, thereby reducing their ability to provide customer service and threatening their ability to conduct a profitable business.

Because of previously expressed concerns regarding inconvenience to shooting sports enthusiasts, an exemption has been created for ammunition of the following characteristics: shotgun ammunition containing projectiles of a diameter less than twenty-four hundredths of an inch (.24").

The ordinance also prescribes exemptions to peace officers, retired peace officers, state licensed armed security guards, military personnel who are on duty and acting within the course and scope of their employment, and persons with concealed weapons permits. Persons possessing such identification are by definition allowed to possess firearms, and they cannot be in a category that prohibits the possession of firearms and ammunition.

Violations of this ordinance would be a misdemeanor.

This ordinance is similar to ordinances enacted in a total of 11 California cities and counties, including Los Angeles, San Francisco, and Oakland. No successful legal challenges to these ordinances have been recorded in Los Angeles, San Francisco or Oakland.

Financial Considerations: The proposed ordinance has no current fiscal effects.

Emerging Small Business Development (ESBD): Not applicable

Respectfully Submitted by: _____
Capt. James Maccoun

Approved by: _____
Albert Nájera, Chief of Police

Recommendation Approved:

_____
Ray Kerridge
City Manager

Ref: COP 7-16

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Attachment 1

Background

Prior to suspension of requirements of the "Gun Control Act of 1968" by the Federal government, ammunition purchasers were required to show identification and sign a written log. This requirement was suspended in 1986 under the provisions of the "Firearm Owners Protection Act," allegedly because the information was rarely used in criminal investigations and was not centrally recorded. With the advent of modern technology, it is now possible for criminal investigators to readily identify violations and track offenders. Currently, there are no mechanisms in place to track ammunition sales, to ensure that only persons of legal age purchase ammunition, and to detect purchases by persons legally prohibited from possessing firearms and ammunition.

On February, 14, 2007, California Assembly Member Kevin de Leon (Dem-LA) introduced AB362, a measure to regulate handgun ammunition in California. The bill would require that personal information be collected from buyers of handgun ammunition, that such transactions be conducted face-to-face rather than by mail, and that retailers store their handgun ammunition behind counters. Purchasers of rifle or shotgun ammunition or .22 caliber rounds, which can be used for either handguns or rifles, would not be required to provide personal information. The measure also requires that the Attorney General prepare a cost and feasibility report on conducting instant background checks of handgun ammunition buyers by July 2011.

Attachment 2

ORDINANCE NO.

Adopted by the Sacramento City Council

DATE ADOPTED

AN ORDINANCE ADDING CHAPTER 5.66 TO THE SACRAMENTO CITY CODE RELATING TO FIREARM AMMUNITION SALES LOGS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO

SECTION 1.

Chapter 5.66 is added to the Sacramento City Code as follows:

Chapter 5.66

FIREARM AMMUNITION SALES LOGS

5.66.010 Definitions

For the purpose of this chapter, the following words and phrases are defined as follows:

"Ammunition sales log" means the written or electronic record of a firearms ammunition sale as required under Section 5.66.020.

"Ammunition vendor" means any person, firm, corporation, dealer, or any other business enterprise that is engaged in the retail sale of any firearm ammunition; or that prepares for such conduct of business as evidenced by the securing of applicable federal, state or local licenses; or that holds itself out as engaged in the business of selling or otherwise transferring any firearm ammunition.

"Firearm" means any device, designed to be used as a weapon or modified to be used as a weapon, that expels a projectile through a barrel by the force of an explosion or other form of combustion.

"Firearm ammunition" means any cartridge or encasement containing a bullet or projectile, propellant or explosive charge, and a primer which is used in the operation of a firearm.

"Sale" means the sale, barter, transfer or any means of providing goods to a transferee, including the provision of ammunition in conjunction with any firearm sale.

5.66.020 Ammunition Sales Log Required

An ammunition vendor shall maintain an ammunition sales log which records all firearm ammunition sales as required by this chapter. The transferee shall provide, and the ammunition vendor shall record on the ammunition sales log, at the time of sale, the following information for each sale of firearms ammunition:

(1) the name, address, and date of birth of the transferee;
(2) the date of the sale;
(3) the transferee's driver's license number, state identification card number, passport number, or other valid government-issued photographic identification;
(4) the brand, type, and quantity of firearms ammunition transferred;
(5) the identity of the person transferring the firearms ammunition on behalf of the ammunition vendor;
(6) the transferee's signature and right thumb print.

5.66.030 Maintenance and Inspection of Ammunition Sales Log at Location of Sale

The ammunition sales log required in Section 5.66.020 shall be recorded on a form approved by the Chief of Police. In addition to the requirements of Section 5.66.040, all ammunition sales logs shall be kept at the location of the firearms ammunition sale for a period of not less than two years from the date of the sale. Ammunition sales logs shall be open to reasonable inspection by peace officers at all times the ammunition vendor is regularly open for business.

5.66.040 Electronic Transmission of Sale Record to Police Department

Within five (5) calendar days of a firearms ammunition transfer, the ammunition vendor shall electronically transmit to the Sacramento Police Department all of the information set forth in categories (1) to (5) of Section 5.66.020. The electronic transmittal shall be by a method, and in a format, approved by the Chief of Police.

5.66.050 False Information; False Recordation

No person shall knowingly provide false, inaccurate, or incomplete information to an ammunition vendor for the purpose of purchasing firearms ammunition. No ammunition vendor shall knowingly make a false, inaccurate, or incomplete entry in any ammunition sales log, nor shall any ammunition vendor refuse any reasonable inspection of an ammunition sales log subject to inspection under Section 5.66.030.

5.66.060 Grace Period

Any ammunition vendor lawfully engaging in the business of selling or otherwise transferring any firearm ammunition on the effective date of the ordinance codified in this chapter shall have a period of ninety (90) days after such effective date to comply

with the provisions of this chapter.

5.66.070 Severability

This chapter shall be enforced to the full extent authorized by law. If any section, subsection, paragraph, sentence, clause, or word of this chapter is deemed invalid or beyond the authority of the city, either on its face or as applied, the remainder of this chapter shall remain in full force and effect, and to that end the provisions of this chapter shall be deemed severable.

5.66.080 Exemptions

A. The provisions of this chapter shall not apply if the firearms ammunition transferee is any person described in Section 12302 or 12322 of the Penal Code of the State of California; any off-duty peace officer who displays proper agency identification which identifies him or her as an active peace officer; any person who has been issued a permit to carry a concealed weapon under the authority of Section 12050 of the Penal Code of the State of California; or any security guard licensed under the authority of Section 12033 of the Penal Code of the State of California.

B. The provisions of this chapter shall not apply to shotgun ammunition containing projectiles (shot) of a diameter less than twenty-four hundredths of an inch (.24").

5.66.090 Violation -- Penalty

A violation of this chapter shall constitute a misdemeanor. The penalty for a first violation is a five-hundred dollar ($500.00) fine or imprisonment not to exceed six months, or both. The penalty for each additional violation within one year is a one-thousand dollar ($1,000.00) fine or imprisonment not to exceed six months, or both.

Violation of this chapter also constitutes grounds for revocation of a license issued under Chapter 5.64.