

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 517 (Delegate Burns, *et al.*)
Judiciary and Ways and Means

Regulated Firearms - Encoded Ammunition - Tax

This bill requires the encoding of ammunition sold for regulated firearms and establishes a tax on the sale and use of that ammunition, beginning January 1, 2009. Under the bill, a regulated firearm includes any handgun and specified assault weapons, but does not include a shotgun.

The bill is effective July 1, 2008.

Fiscal Summary

State Effect: None at this time. There are no manufacturers currently known to produce or sell “encoded ammunition.” State revenues and expenditures would not be immediately affected.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill allows the sale of only “encoded ammunition” for a “regulated firearm” on or after January 1, 2009. The bill requires an ammunition “manufacturer” to encode ammunition for a regulated firearm in a specified manner. An owner of such ammunition that is not encoded must dispose of the ammunition on or before January 1, 2011. Beginning on January 1, 2009, the Secretary of State Police must establish and maintain an encoded ammunition database. The bill enumerates the

information that must be provided to the State Police for the database by an ammunition manufacturer or seller doing business in the State. A seller of encoded ammunition must maintain copies of all records submitted to the State Police for at least three years after the date of sale.

A seller who violates the bill's provisions, or a person who willfully destroys or makes encoded information unreadable, is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year an/or a fine of \$1,000. A manufacturer in violation is subject to maximum civil fines of \$1,000 for a first violation; \$5,000 for a second violation; and \$10,000 for a third or subsequent violation.

The bill also establishes an additional tax on the sale and use of all encoded ammunition beginning January 1, 2009. This encoded ammunition database tax rate is five cents per round of encoded ammunition (on top of the current 6% retail sales tax), and does not apply to a sale of encoded ammunition to a police force or other agency of the U.S., a state, or a political subdivision of a state. All revenues from the tax must be deposited into a special fund to be used only for the encoded ammunition database established under this bill. A person who timely files an encoded ammunition database tax return is allowed, for the expense of collecting and paying the tax, a credit equal to 0.5% of the gross amount of that tax due to the Comptroller. The bill requires specified tax returns to be filed by ammunition dealers, as well as buyers who fail to pay the tax at the time of purchase.

Current Law: Chapter 6 of the 2007 special session increased the State sales and use tax to 6%, effective January 3, 2008. The sales and use tax applies to resale of ammunition.

Any manufacturer that ships or transports a handgun to be sold, rented, or transferred in the State is required to include in the box with the handgun in a separate sealed container: (1) a shell casing of a projectile discharged from that handgun; and (2) additional information that identifies the type of handgun and shell casing as required by the Secretary of State Police.

Upon receipt of a handgun from the manufacturer, the dealer must confirm to the Department of State Police that the manufacturer complied with these requirements. Upon the sale or transfer of the handgun, the dealer is required to forward the sealed container to the State Police Crime Laboratory. Upon receipt of the shell casing and required information, the State Police Crime Laboratory must enter the information in all pertinent databases.

Any dealer or person who knowingly participates in the illegal sale, rental, transfer, purchase, possession, or receipt of a regulated firearm in violation of provisions governing regulated firearms is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000. Each violation must be considered a separate offense.

Before a person purchases, rents, or transfers a regulated firearm in the State, the person must submit to the State Police or other designated law enforcement agency a firearm application that identifies the applicant and the firearm that is the subject of the transaction. Applications are investigated by the State Police and are subject to a seven-day waiting period before the transaction may take place.

An applicant must be at least age 21; have never been convicted of a felony, crime of violence, or misdemeanor that carries a penalty of more than two years imprisonment; and must not be addicted to drugs or alcohol or have a history of mental disorder. An applicant is required to complete a certified firearms safety course through the Police Training Commission.

Background: Nine other states have had encoded ammunition database bills introduced in 2008 similar to this bill: Arizona, Hawaii, Illinois, Indiana, Massachusetts, Mississippi, Pennsylvania, Tennessee, and Washington. No manufacturers are currently known to produce or sell encoded ammunition.

State Fiscal Effect: Because there are no manufacturers currently known to produce or sell encoded ammunition, this bill would not have an immediate effect on revenues or expenditures.

It is estimated that between 8 and 10 billion rounds of ammunition are sold at retail in the U.S. annually for firearms. Based on historical sales data from the National Shooting Sport Foundation, the Comptroller estimates that about 72.8 million rounds of ammunition for all firearms may be sold in Maryland in fiscal 2009. Most is sold by firearms dealers, sporting good stores, and department stores. However, since there are currently no restrictions on the sale of ammunition, any retail business may sell ammunition in the State. Ammunition for shotguns is believed to account for at least 50% of all sales statewide. Accordingly, if encoded ammunition were ever available for sale, about 36.4 million rounds of ammunition sold in the State would be affected, and about \$1.82 million annual revenue would be generated, which does account for the 0.5% credit to vendors. Depending on when this revenue would begin, the growth rate on such sales is estimated at about 3%.

In addition, the Comptroller advises that, because encoded ammunition could not be sold in the State beginning January 1, 2009 and encoded ammunition will not be available then, total general fund and TTF sales tax revenues would decrease by about \$270,000 annually.

The State Police advise that, if encoded ammunition sales were to begin in the State, the bill's requirements would be handled by requiring businesses to self report individual sales of ammunition via the establishment of secure Internet accounts for each ammunition retailer to log-on and enter the required information pursuant to this bill. A grace period from the date of sale to the date requiring the information would be established because the State Police recognize that not all such businesses have Internet access and the capability to upload data to the database.

Retailers would still be required, for auditing purposes, to maintain hardcopy logs of ammunition sales. In addition, retailers would be required to send copies of invoices and shipping papers contemporaneous to receipt of ammunition shipments. State Police auditors would then be required to review and inspect documents at each seller of ammunition business location, along with records received from the originating ammunition manufacturer and/or distributor. Discrepancies discovered by the auditors would be forwarded to a sworn supervisor for assignment to a trooper for a criminal investigation and enforcement action.

The Licensing Division and the Information Technology Division of the department would be affected and the State Police would need to hire one supervising Detective Sergeant, five civilian auditors, two trooper investigators, and two civilian administrative aides, as well as one contractual database administrator and one web site developer for the Information Technology Division. The cost for these personnel includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including computer equipment, software, and motor vehicles. It would total about \$1.0 million in the first year of operation, with out-year costs ranging from \$800,000 to \$900,000 (though somewhat higher in the years with replacement costs for motor vehicles).

In addition, because a new revenue processing system would need to be established, when sales of encoded ammunition would begin to occur, the Comptroller would need to hire one revenue administrator at an annual cost of about \$50,000-\$60,000 annually.

Small Business Effect: There are no ammunition manufacturers in the State, but any retail business may sell ammunition in the State. The Comptroller estimates that there are sales of more than \$9 million for all types of ammunition sold in the State annually. Under this bill, any retailer in Maryland currently engaged in ammunition sales, or who contemplates future sales, would be limited to ammunition sales for regulated firearms

exempted under the bill. DLS believes that ammunition for shotguns accounts for at least 50% of all sales statewide, but as much as two-thirds in some jurisdictions. Accordingly, this bill could significantly negatively impact sales revenue of some retailers – primarily gun shops, sporting goods stores, and department stores.

Additional Information

Prior Introductions: HB 1393 of 2007 was introduced, referred to the House Rules Committee and had no further action taken.

Cross File: None.

Information Source(s): Comptroller's Office, Department of State Police, National Conference of State Legislatures, Indiana Legislative Services Agency (Office of Fiscal and Management Analysis), Anglers Sport Center (Annapolis), Gun Owners of America (Springfield, VA), Department of Legislative Services

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