



County of San Mateo

Inter-Departmental Correspondence

Department: BOARD OF SUPERVISORS
DISTRICT 1
File #: 20-361

Board Meeting Date: 6/2/2020

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors
From: Supervisor Dave Pine, District 1
Subject: Ordinance to adopt new licensing and security requirements for retail establishments selling firearms and ammunition

RECOMMENDATION:

Introduction of an ordinance repealing Sections 3.52.060, 3.52.070, 3.52.080, 3.52.090, 3.52.110, and 3.52.120 of Chapter 3.52 of the San Mateo County Ordinance Code and adopting a new Chapter 3.51 to impose new licensing and security requirements for retail establishments selling firearms and ammunition, and waive the reading of the ordinance in its entirety.

BACKGROUND:

The State of California has created a strong regulatory framework for the possession and use of firearms. The state was one of the first in the nation to enact a gun violence restraining order law and has the most robust system in the country for removing firearms from people who are prohibited from possessing them. Consequently, California has the seventh-lowest gun death rate in the country and the fifth-lowest crime gun export rate.

In the area of firearm sales, the State provides for the issuance of local firearms dealer licenses and is among a minority of states that impose licensing requirements on firearms dealers (see below); but these state requirements are minimal, leaving local governments with discretion to impose their own licensing requirements. Furthermore, no federal or California law requires firearms dealers to implement basic security measures nor restricts them from operating in residential neighborhoods or near places of worship, schools, daycare centers, or other places where children frequent.

Existing State and Federal Regulations

Firearm dealers are regulated by federal and state laws. Private sales of firearms must be through a licensed dealer. The State of California Department of Justice ("CA DOJ") Bureau of Firearms regulates the sales, ownership and transfer of firearms and safety training. Purchasers are required to provide personal identification to the firearms dealer. The firearms dealer submits this information to the CA DOJ. There is a 10-day waiting period before the firearms dealer can deliver the firearm to

the purchaser. During this 10-day waiting period, the CA DOJ conducts a firearms eligibility background check to ensure the purchaser is not prohibited from lawfully possessing firearms. Further information can be found at the California Firearms Laws Summary 2016 (Office of the Attorney General, California Department of Justice).

In addition, Proposition 63 (The Safety for All Act of 2016) and Senate Bill (SB) 1235 (2016) regulate the sale or transfer of ammunition in California. The CA DOJ proposes to adopt regulations that will explain the process that must be followed to purchase or transfer ammunition or if an attempted purchase or transfer of ammunition is denied, as well as what is needed to be exempt from certain parts of the process. These regulations will provide the public and ammunition vendors with directives that will guide both in the ammunition sale and transfer process. These processes will allow the CA DOJ to determine if an individual is lawfully eligible to possess ammunition.

Firearm Regulation in San Mateo County

The San Mateo County Board of Supervisors has been in the forefront of developing policies to regulate the safe use of firearms in the community. In 2018, the County enacted legislation to regulate the safe storage of firearms in the unincorporated areas of the County; at least eight cities in the County have since followed suit with materially similar ordinances. The County prohibits the possession of firearms or ammunition on County property, including in County parks, and the County has co-hosted or supported multiple gun buy-back events. Each year, the County also remembers the victims of gun violence by declaring the first Friday in June as National Gun Violence Awareness/Wear Orange Day.

That said, the County's existing ordinance governing licensing of firearm dealers has not been updated since 2001, when some sections were amended. The instant ordinance will update the County's ordinance consistent with current state law, including updating references to the Penal Code sections that address local licensing, and imposing additional security requirements as summarized below.

DISCUSSION:

The following are the key provisions of the proposed ordinance:

- It applies only in the unincorporated areas of San Mateo County
- It requires any person or entity engaging in the business of selling, leasing or otherwise transferring any firearm or ammunition to have obtained a license issued by the County Manager
- All applicants must complete a background check conducted by the Sheriff before a license can be issued
- The licensed business location must meet the following requirements:
 - Specific stringent security measures, as outlined in the ordinance
 - Appropriate firearm and ammunition storage
 - Specific alarm and video surveillance requirements
- The applicant must possess liability insurance and the County must be named as an additional insured on any such policy

- Sales may only take place on parcels which satisfy the following buffer requirements :
 - 200 feet from any residential structure
 - 1000 feet from school, community center, religious institution
 - 1000 feet from a playground, child day care facility or youth center
 - 1000 feet from an existing licensee
- Licenses are subject to a license fee and must be renewed annually

If approved, the provisions of the ordinance would be administered by the County Manager, or designee, although some provisions, most notably the applicant's background check, would be implemented by the Sheriff, who could enforce this ordinance as it would other County ordinances.

The ordinance would go into effect 30 days after the ordinance's final approval (i.e., after a second reading).

FISCAL IMPACT:

None. The costs of administering the program would be offset by the collection of license fees.