



February 5, 2013

Mayor Ray Miller and the Honorable Members of the City Council of Brisbane  
50 Park Place  
Brisbane, CA 94005

**Re: Model Gun Control Legislation**

Dear Mayor Ray Miller and the Honorable Members of the City Council of Brisbane:

I am writing to encourage action amongst the elected leaders of our nine Bay Area counties to protect our residents and put a stop to preventable deaths caused by gun violence. The Newtown tragedy has reinvigorated the national gun control debate and inspired many to ensure that we are doing all that we can to keep citizens safe. I have personally committed myself and my administration to pursuing any and all avenues to keep guns and the most deadly forms of ammunition out of ill-intentioned hands.

Which brings me to the purpose of this letter – San Francisco Supervisor Malia Cohen and I have introduced two pieces legislation to our county Board of Supervisors. The first would prohibit the sale and possession of hollow-point ammunition – military-grade bullets that are designed to inflict maximum harm upon impact. The second piece of legislation would notify San Francisco Police Department when an individual purchases 500 rounds of ammunition or more. I believe that these two pieces of legislation will make a measurable impact.

But if we are truly going to succeed in improving the safety of our residents, we must succeed not as individual cities, but as a region. For that reason, I've submitted for your review the two aforementioned pieces of legislation for consideration for introduction in your jurisdiction. In addition to this legislation, I would like to encourage you to make a public pledge of your support for greater public safety by signing on to the Sandy Hook Promise ([www.sandyhookpromise.org](http://www.sandyhookpromise.org)). If you have any questions, or would like to share any of the work you've done in your jurisdictions, please do get in touch with Jason Elliott in my office, [jason.elliott@sfgov.org](mailto:jason.elliott@sfgov.org). Thank you for your partnership.

Sincerely,

A handwritten signature in black ink, appearing to read "Edwin M. Lee".

Edwin M. Lee  
Mayor

1 [Police Code - Possession or Sale of Law Enforcement or Military Ammunition]

2  
3 Ordinance amending the Police Code, by adding Section 618, to prohibit the  
4 possession or sale of certain ammunition, including Black Talon ammunition and  
5 ammunition intended exclusively for law enforcement and military purposes.

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;  
9 Board amendment deletions are ~~strikethrough normal~~.

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

11 Section 1. The San Francisco Police Code is hereby amended by adding Section 618,  
12 to read as follows:

13 **SEC. 618. PROHIBITED AMMUNITION.**

14 (a) Definition. For purposes of this Section, "Prohibited Ammunition" shall mean:

15 (1) Ammunition sold under the brand name "Winchester Black Talon," or that has  
16 physical properties resulting in ballistics performance identical to ammunition presently or formerly  
17 sold under the brand name Winchester Black Talon; or,

18 (2) Ammunition designated by its manufacturer for purchase by law enforcement or  
19 military agencies only, unless other ammunition is available to the general public that has physical  
20 properties resulting in ballistics performance identical to such ammunition.

21 (b) Possession Prohibited; Exceptions. No person, firm, corporation or other entity may  
22 possess Prohibited Ammunition within the City and County of San Francisco, except that this  
23 subsection shall not apply to the otherwise-lawful possession of Prohibited Ammunition by the  
24 following:

1                   (1) Peace officers in possession of Prohibited Ammunition issued to them by their  
2 employing agency;

3                   (2) Federal law enforcement officers or other federal employees in possession of  
4 Prohibited Ammunition issued to them by their employing agency;

5                   (3) Members of the armed forces of the United States in possession of Prohibited  
6 Ammunition issued to them by the military agency to which they belong;

7                   (4) Patrol special police officers, animal control officers or zookeepers, harbor police  
8 officers, sheriff's security officers, or police security officers in possession of Prohibited Ammunition  
9 issued to them by their employing agencies; or,

10                   (5) Businesses licensed as firearms dealers under this Article in possession of  
11 Prohibited Ammunition for sale to law enforcement and military agencies. Agencies employing  
12 persons listed in subsection (b)(4) are considered law enforcement agencies for purposes of this  
13 Section.

14                   (c) Sale or Transfer. No business licensed as a firearm dealer under this Article may sell,  
15 lease or otherwise transfer Prohibited Ammunition except to law enforcement and military agencies.

16                   (d) Police Database. The San Francisco Police Department shall prepare or cause to be  
17 prepared a public database of brands and product lines of ammunition meeting the definition of  
18 "Prohibited Ammunition" in subsection (a). Failure of the Police Department to create or maintain  
19 such a database, or the omission from the database of a particular brand or product line of ammunition  
20 otherwise qualifying as "Prohibited Ammunition" under subsection (a), shall not be a defense to or  
21 otherwise excuse a violation of this Section.

22                   (e) Penalty. Violation of any of the provisions of this Section is a misdemeanor and upon  
23 conviction the violator may be punished by a fine not to exceed \$1,000.00 or by imprisonment in the  
24 county jail not to exceed six months, or by both.

1           (f) Severability. If any provision, clause or word of this Section 618 or the application thereof  
2 to any person or circumstance is held invalid, such invalidity shall not affect any other provision,  
3 clause, word or application of this Section which can be given effect without the invalid provision,  
4 clause or word, and to this end the provisions of this Section are declared to be severable.

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

19  
20 By: \_\_\_\_\_  
21           THOMAS J. OWEN  
22           Deputy City Attorney

23  
24 originated at: n:\govern\as2013\1300252\00817412.doc  
25 revised on: 1/25/2013 -- n:\govern\as2013\1300252\00817412.doc

## LEGISLATIVE DIGEST

[Police Code - Possession or Sale of Law Enforcement or Military Ammunition]

**Ordinance amending the San Francisco Police Code by adding Section 618 to prohibit the possession or sale of certain ammunition, including Black Talon ammunition and ammunition intended exclusively for law enforcement and military purposes.**

### Existing Law

Article 9 of the Police Code prohibits the sale (but not the possession) of "enhanced-lethality ammunition" within the City. "Enhanced-lethality ammunition" is defined in Police Code Section 613.10(g) as firearms ammunition that:

- Serves no sporting purpose;
- Is designed to expand upon impact and utilize the jacket, shot or materials embedded within the jacket or shot to project or disperse barbs or other objects that are intended to increase the damage to a human body or other target; or
- Is designed to fragment upon impact.

This prohibition does not apply to the sale of conventional hollow-point ammunition with a solid lead core when the purchase is made for official law enforcement purposes and by someone authorized to make such a purchase by the Chief of Police or the Sheriff.

### Amendments to Current Law

The proposal is an ordinance that would add a new Section 618 to Article 9 of the Police Code to regulate "Prohibited Ammunition." The ordinance defines "Prohibited Ammunition" as:

- Ammunition sold under the brand name "Winchester Black Talon," or any other ammunition having the same ballistic characteristics; and
- Ammunition designated by its manufacturer for sale to law enforcement or military agencies only, unless other ammunition having the same ballistic characteristics is sold to the general public.

The ordinance would bar any person or business from possessing Prohibited Ammunition within the City. This prohibition would not apply to peace officers, federal law enforcement officers, members of the armed forces, and certain other categories of official security personnel who otherwise lawfully possessed Prohibited Ammunition issued by their employing agency.

The ordinance would prohibit any business licensed as a firearm dealer under Police Code Article 9 from selling, leasing or otherwise transferring Prohibited Ammunition except to law enforcement or military agencies.

Violation of the ordinance would be a misdemeanor, punishable by a fine of up to \$1,000.00 or by imprisonment in the county jail for up to six months, or by both.

The Ordinance would also require the Police Department to create a public database of brands and product lines of ammunition meeting the definition of "Prohibited Ammunition." But the fact that the database had not been prepared, or that a particular brand or product line of ammunition otherwise qualifying as "Prohibited Ammunition" was not included in the database, would not be a defense to or otherwise excuse a violation of the ordinance.

#### Background Information

"Winchester Black Talon" ammunition is listed as a type of "enhanced-lethality ammunition" in Police Code Section 613.10(g), as part of the category of ammunition "designed to expand upon impact and utilize the jacket, shot or materials embedded within the jacket or shot to project or disperse barbs or other objects that are intended to increase the damage to a human body or other target." Therefore, the sale of Black Talon ammunition or of other ammunition having the same ballistic characteristics is already prohibited under the Police Code, but possession currently is not.

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;  
9 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

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23  
24 originated at : n:\govern\as2013\1300252\00818123.doc  
25 revised on: 1/16/2013 -- n:\govern\as2013\1300252\00818123.doc

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.