

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**

House Bill 773 (Delegate Burns)  
Judiciary and Ways and Means

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**Regulated Firearms - Encoded Ammunition - Tax**

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This bill requires the encoding of ammunition sold for use in “regulated firearms” and establishes a tax on the sale and use of that ammunition beginning January 1, 2014. Under the bill, a “regulated firearm” includes any handgun and specified assault weapons, but does not include a shotgun.

The bill takes effect July 1, 2013.

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**Fiscal Summary**

**State Effect:** Because there are no manufacturers currently known to produce “encoded ammunition,” the new tax is not expected to generate any revenue in the near future or impose any immediate costs related to the administration of the tax. However, by essentially prohibiting the sale of ammunition for use in specified firearms unless it is encoded, the bill reduces general fund revenues from the State sales and use tax beginning in FY 2014, as discussed below. The bill’s penalty provisions are not anticipated to significantly affect State operations or finances.

**Local Effect:** The bill’s penalty provisions are not anticipated to significantly affect local operations or finances.

**Small Business Effect:** Meaningful.

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## Analysis

**Bill Summary:** The bill allows the sale of only “encoded ammunition” for use in a “regulated firearm” on or after January 1, 2014. The bill requires an ammunition manufacturer to encode ammunition for a regulated firearm in a specified manner.

Beginning on January 1, 2014, the Secretary of State Police must establish and maintain an encoded ammunition database. The bill enumerates the information that must be provided to the Department of State Police (DSP) 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 DSP 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 and/or a fine of \$1,000. A manufacturer in violation of the bill 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 retail sale and use of all encoded ammunition in the State beginning January 1, 2014. The 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 any other agency of the United States, 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 to fund the encoded ammunition database established by DSP under the 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 the tax due to the Comptroller. The bill requires specified tax returns to be filed by encoded ammunition dealers as well as buyers who fail to pay the tax at the time of purchase.

**Current Law:** The current State sales and use tax is 6%. The sales and use tax applies to the sale 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 DSP 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 is considered a separate offense.

Before a person purchases, rents, or transfers a regulated firearm in the State, the person must submit to DSP 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 DSP 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:** According to the National Conference of State Legislatures, in 2013, three states other than Maryland are considering ammunition tax bills: California, Connecticut, and New Jersey. 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 related to the new encoded ammunition database tax.

It is estimated that between 8 billion and 10 billion rounds of ammunition are sold at retail in the United States annually for firearms. It is estimated that about 2% of those sales occur in Maryland, totaling 160 million to 200 million rounds per year. 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 80 million to 100 million rounds of ammunition sold in the State would be affected, and about \$8 million to \$10 million in annual revenue would be generated, with \$40,000 to \$50,000 of that total being retained by vendors for the expense of collecting and paying the tax.

The Comptroller advises, however, that, because ammunition for use in specified firearms that is not encoded could not be sold in the State beginning January 1, 2014, and because encoded ammunition will not be available then, general fund revenues from the sales and use tax decrease by between \$494,000 and \$2 million annually. This range reflects different sales values for different types of ammunition and excludes the sales of shotgun ammunition, which is not affected by the bill.

If encoded ammunition is ever available for sale in the State, the Comptroller's Office would incur significant one-time costs in addition to ongoing costs. The sales and use tax returns would need to be redesigned in order to capture the additional data required. One-time programming costs of \$300,000 would be incurred to modify the existing tax system. In addition, a notification would need to be sent to all sales and use tax account holders in the State; in fiscal 2012, there were 130,000 sales and use tax accounts registered with the State. Costs to notify these account holders are estimated at \$76,050.

DSP advises that, if encoded ammunition sales were to begin in the State, the bill's database 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. A grace period from the date of sale to the date requiring the information would be established because DSP recognizes that not all affected businesses currently 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. DSP auditors would then be required to review and inspect documents at each seller of ammunition's 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 DSP would be affected and DSP would need to hire one supervising Detective Sergeant, five civilian field auditors, two trooper investigators, and two civilian administrative aides, as well as one contractual database administrator and one web site developer. The cost for these personnel, which includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses (including computer equipment, software, and motor vehicles) would total about \$1.09 million in the first year of operation, with out-year costs ranging from \$992,100 to \$1.13 million (though somewhat higher in certain years reflecting motor vehicle replacement costs).

**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 sales of all types of ammunition sold in the State total more than \$9 million annually. Under this bill, any retailer in Maryland currently engaged in ammunition sales, or who contemplates future sales, is limited to selling ammunition for regulated firearms that is exempt from the bill's provisions. The Department of Legislative Services believes that ammunition for use in shotguns accounts for at least 50% of all sales statewide, and as much as two-thirds in some jurisdictions. Accordingly, this bill may have a significant negative impact on some retailers – primarily gun shops, sporting goods stores, and department stores.

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### **Additional Information**

**Prior Introductions:** Similar bills were introduced in 2007 and 2008. HB 517 of 2008 received an unfavorable report by the House Judiciary Committee. HB 1393 of 2007 was referred to the House Rules Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Baltimore, Carroll, Cecil, Montgomery, and St. Mary's counties; Maryland State Commission on Criminal Sentencing Policy; Comptroller's Office; Judiciary (Administrative Office of the Courts); Department of State Police, National Conference of State Legislatures; Department of Legislative Services

**Fiscal Note History:** First Reader - March 1, 2013  
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