

Assembly Bill 48: AB 48 adds “buying” and “receiving” to the list of activities prohibited under Penal Code Section 32310(a), which already prohibits the manufacture, importation, sale, offering for sale, giving, or lending of any standard-Capacity magazine greater than ten rounds (aka “large-capacity magazine”). AB 48 also defines manufacturing as “both fabricating a magazine and assembling a magazine from a combination of parts, including but not limited to, the body, spring, follower, and floor plate or end plate, to be a fully-functioning “large-capacity magazine.” Finally, AB 48 bans the purchase, sale, offering for sale, giving, receiving and lending of any “large-capacity magazine” “conversion kit.” The bill defines a “conversion kit” as “a device or combination of parts of a fully functioning “large-capacity magazine,” including, but not limited to, the body, spring, follower, and floor plate or end plate, capable of converting an ammunition feeding device into a ‘large-capacity magazine’.”

Due to the unclear definition of “conversion kit” provided by AB 48, many questions have been raised about what this provision actually prohibits. Below are some answers our office has prepared in response to questions about AB 48:

Q: Does AB 48 prohibit magazine extenders?

A: Yes. Any device capable of converting an ammunition feeding device into a “large-capacity magazine” is prohibited under AB 48.

Q: Does AB 48 prohibit existing or new magazines that are not “large-capacity magazines,” or parts for these magazines.

A: No. Nothing in the plain language of AB 48 nor its legislative history suggest this. Magazines that were lawful for sale prior to AB 48 remain lawful to sell and possess, as are their parts.

Q: Does AB 48 prohibit the purchase and sale of “large-capacity magazine” repair/rebuild kits?

A: It is unknown what items would be prohibited as a “combination of parts” of a fully-functioning large-capacity magazine, including but not limited to, the body, spring, follower, and floor plate or end plate, capable of converting an ammunition feeding device into a “large capacity magazine.” Because a “large capacity magazine” repair/rebuild kit does not really “convert” an existing magazine into a “large-capacity magazine,” a plain reading of AB 48 suggests that rebuild kits would not be prohibited. Rather than “converting” an existing magazine, a rebuild kit might itself be unlawfully assembled into a “large-capacity magazine.” According to the author’s statements about the intent of AB 48 made before the Senate Public Safety Committee, however, AB 48 was intended to ban the sale of magazine rebuild kits. The confusion seems to have arisen based on the author’s fundamental misunderstanding of how a rebuild kit might itself be used to assemble a large-

capacity magazine, rather than to “convert” an existing magazine into a large-capacity magazine. If a court finds that AB 48's definition of a conversion is not clear on its face, it may turn to the bill's legislative history for clarification. And, while the author's comments alone may not be enough to convince a court that AB 48 applies to rebuild kits, it is impossible to know ahead of time. In any event, one City Attorney's office has already informed our office that they believe rebuild kits are prohibited under a plain reading of the text of AB 48, because the parts contained in a magazine rebuild kit are capable of being used with one or more parts of an ammunition feeding device to assemble a large-capacity magazine. So, while it is unclear (at best) as to whether AB 48 prohibits the transfer of magazine rebuild kits, for the time being there is risk of criminal prosecution for transferring them.

Q: If I purchased a magazine rebuild kit or magazine extender prior to January 1, 2014, may I still continue to possess it?

A: Yes. Nothing in AB 48 prohibits the continued possession of any device or combination of parts purchased prior to January 1, 2014, so long as they are not assembled into, or used to assemble, a “large-capacity magazine.”

Q: May I continue to possess my currently-possessed, grandfathered large-capacity magazines?

A: Yes. Nothing in the language of AB 48 is intended to prohibit the possession of grandfathered magazines. AB did include a provision that would have prohibited the possession of large-capacity magazines, and would have required existing “grandfathered” magazines to be surrendered, removed from the state, or destroyed. This provision did not become law, however, because SB 396 was defeated. This provision was included in AB 48 as well as SB 396 in case both bills had passed, so that the changes each bill would have made to the Penal Code would not be in conflict with one another. This is a common process in the legislature. Since SB 396 did not pass, existing grandfathered magazines remain lawful to possess.

Q: Is there any other way to repair existing “large-capacity magazines” without buying a rebuild kit?

A: Yes. Nothing in AB 48 or current law prohibits an individual from taking a grandfathered “large-capacity magazine” to a dealer for repair. The penal code expressly authorizes transfers of “large-capacity magazines” to a licensed firearms dealer for repair. Under CA law, licensed firearm dealers are authorized to obtain large-capacity magazine permits” from the California Department of Justice, and many retailers maintain these permits. Accordingly, the dealer may order parts for the “large-capacity magazine” and complete any repairs.