

AMENDED IN ASSEMBLY MAY 11, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 424

Introduced by Assembly Member ~~McCarty~~ Members *McCarty and Santiago*
(~~Coauthor: Assembly Member Gloria~~)
(*Coauthors: Assembly Members Chiu and Gloria*)

February 9, 2017

An act to amend Section 626.9 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 424, as amended, ~~McCarty~~. Possession of a firearm in a school zone.

Existing law makes it a crime to possess a firearm in a place that the person knows, or reasonably should know, is a school zone, unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority.

This bill would delete the authority of a school district superintendent, his or her designee, or equivalent school authority to provide written permission for a person to possess a firearm within a school zone. By expanding the scope of a crime, this bill would create a state-mandated local program. *This bill would exempt from that crime the activities of a program involving shooting sports or activities that are sanctioned by a school, school district, college, university, or other governing body of the institution, as specified.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 626.9 of the Penal Code is amended to
2 read:

3 626.9. (a) This section shall be known, and may be cited, as
4 the Gun-Free School Zone Act of 1995.

5 (b) Any person who possesses a firearm in a place that the
6 person knows, or reasonably should know, is a school zone, as
7 defined in paragraph (1) of subdivision (e), shall be punished as
8 specified in subdivision (f).

9 (c) Subdivision (b) does not apply to the possession of a firearm
10 under any of the following circumstances:

11 (1) Within a place of residence or place of business or on private
12 property, if the place of residence, place of business, or private
13 property is not part of the school grounds and the possession of
14 the firearm is otherwise lawful.

15 (2) When the firearm is an unloaded pistol, revolver, or other
16 firearm capable of being concealed on the person and is in a locked
17 container or within the locked trunk of a motor vehicle.

18 This section does not prohibit or limit the otherwise lawful
19 transportation of any other firearm, other than a pistol, revolver,
20 or other firearm capable of being concealed on the person, in
21 accordance with state law.

22 (3) When the person possessing the firearm reasonably believes
23 that he or she is in grave danger because of circumstances forming
24 the basis of a current restraining order issued by a court against
25 another person or persons who has or have been found to pose a
26 threat to his or her life or safety. This subdivision does not apply
27 when the circumstances involve a mutual restraining order issued
28 pursuant to Division 10 (commencing with Section 6200) of the
29 Family Code absent a factual finding of a specific threat to the
30 person's life or safety. Upon a trial for violating subdivision (b),
31 the trier of a fact shall determine whether the defendant was acting
32 out of a reasonable belief that he or she was in grave danger.

1 (4) When the person is exempt from the prohibition against
2 carrying a concealed firearm pursuant to Section 25615, 25625,
3 25630, or 25645.

4 (5) When the person holds a valid license to carry the firearm
5 pursuant to Chapter 4 (commencing with Section 26150) of
6 Division 5 of Title 4 of Part 6, who is carrying that firearm in an
7 area that is not in, or on the grounds of, a public or private school
8 providing instruction in kindergarten or grades 1 to 12, inclusive,
9 but within a distance of 1,000 feet from the grounds of the public
10 or private school.

11 (d) Except as provided in subdivision (b), it shall be unlawful
12 for any person, with reckless disregard for the safety of another,
13 to discharge, or attempt to discharge, a firearm in a school zone,
14 as defined in paragraph (1) of subdivision (e).

15 The prohibition contained in this subdivision does not apply to
16 the discharge of a firearm to the extent that the conditions of
17 paragraph (1) of subdivision (c) are satisfied.

18 (e) As used in this section, the following definitions shall apply:

19 (1) "Concealed firearm" has the same meaning as that term is
20 given in Sections 25400 and 25610.

21 (2) "Firearm" has the same meaning as that term is given in
22 subdivisions (a) to (d), inclusive, of Section 16520.

23 (3) "Locked container" has the same meaning as that term is
24 given in Section 16850.

25 (4) "School zone" means an area in, or on the grounds of, a
26 public or private school providing instruction in kindergarten or
27 grades 1 to 12, inclusive, or within a distance of 1,000 feet from
28 the grounds of the public or private school.

29 (f) (1) Any person who violates subdivision (b) by possessing
30 a firearm in, or on the grounds of, a public or private school
31 providing instruction in kindergarten or grades 1 to 12, inclusive,
32 shall be punished by imprisonment pursuant to subdivision (h) of
33 Section 1170 for two, three, or five years.

34 (2) Any person who violates subdivision (b) by possessing a
35 firearm within a distance of 1,000 feet from the grounds of a public
36 or private school providing instruction in kindergarten or grades
37 1 to 12, inclusive, shall be punished as follows:

38 (A) By imprisonment pursuant to subdivision (h) of Section
39 1170 for two, three, or five years, if any of the following
40 circumstances apply:

1 (i) If the person previously has been convicted of any felony,
2 or of any crime made punishable by any provision listed in Section
3 16580.

4 (ii) If the person is within a class of persons prohibited from
5 possessing or acquiring a firearm pursuant to Chapter 2
6 (commencing with Section 29800) or Chapter 3 (commencing with
7 Section 29900) of Division 9 of Title 4 of Part 6 of this code or
8 Section 8100 or 8103 of the Welfare and Institutions Code.

9 (iii) If the firearm is any pistol, revolver, or other firearm capable
10 of being concealed upon the person and the offense is punished as
11 a felony pursuant to Section 25400.

12 (B) By imprisonment in a county jail for not more than one year
13 or by imprisonment pursuant to subdivision (h) of Section 1170
14 for two, three, or five years, in all cases other than those specified
15 in subparagraph (A).

16 (3) Any person who violates subdivision (d) shall be punished
17 by imprisonment pursuant to subdivision (h) of Section 1170 for
18 three, five, or seven years.

19 (g) (1) Every person convicted under this section for a
20 misdemeanor violation of subdivision (b) who has been convicted
21 previously of a misdemeanor offense enumerated in Section 23515
22 shall be punished by imprisonment in a county jail for not less
23 than three months, or if probation is granted or if the execution or
24 imposition of sentence is suspended, it shall be a condition thereof
25 that he or she be imprisoned in a county jail for not less than three
26 months.

27 (2) Every person convicted under this section of a felony
28 violation of subdivision (b) or (d) who has been convicted
29 previously of a misdemeanor offense enumerated in Section 23515,
30 if probation is granted or if the execution of sentence is suspended,
31 it shall be a condition thereof that he or she be imprisoned in a
32 county jail for not less than three months.

33 (3) Every person convicted under this section for a felony
34 violation of subdivision (b) or (d) who has been convicted
35 previously of any felony, or of any crime made punishable by any
36 provision listed in Section 16580, if probation is granted or if the
37 execution or imposition of sentence is suspended, it shall be a
38 condition thereof that he or she be imprisoned in a county jail for
39 not less than three months.

1 (4) The court shall apply the three-month minimum sentence
2 specified in this subdivision, except in unusual cases where the
3 interests of justice would best be served by granting probation or
4 suspending the execution or imposition of sentence without the
5 minimum imprisonment required in this subdivision or by granting
6 probation or suspending the execution or imposition of sentence
7 with conditions other than those set forth in this subdivision, in
8 which case the court shall specify on the record and shall enter on
9 the minutes the circumstances indicating that the interests of justice
10 would best be served by this disposition.

11 (h) Notwithstanding Section 25605, any person who brings or
12 possesses a loaded firearm upon the grounds of a campus of, or
13 buildings owned or operated for student housing, teaching,
14 research, or administration by, a public or private university or
15 college, that are contiguous or are clearly marked university
16 property, unless it is with the written permission of the university
17 or college president, his or her designee, or equivalent university
18 or college authority, shall be punished by imprisonment pursuant
19 to subdivision (h) of Section 1170 for two, three, or four years.
20 Notwithstanding subdivision (k), a university or college shall post
21 a prominent notice at primary entrances on noncontiguous property
22 stating that firearms are prohibited on that property pursuant to
23 this subdivision.

24 (i) Notwithstanding Section 25605, any person who brings or
25 possesses a firearm upon the grounds of a campus of, or buildings
26 owned or operated for student housing, teaching, research, or
27 administration by, a public or private university or college, that
28 are contiguous or are clearly marked university property, unless
29 it is with the written permission of the university or college
30 president, his or her designee, or equivalent university or college
31 authority, shall be punished by imprisonment pursuant to
32 subdivision (h) of Section 1170 for one, two, or three years.
33 Notwithstanding subdivision (k), a university or college shall post
34 a prominent notice at primary entrances on noncontiguous property
35 stating that firearms are prohibited on that property pursuant to
36 this subdivision.

37 (j) For purposes of this section, a firearm shall be deemed to be
38 loaded when there is an unexpended cartridge or shell, consisting
39 of a case that holds a charge of powder and a bullet or shot, in, or
40 attached in any manner to, the firearm, including, but not limited

1 to, in the firing chamber, magazine, or clip thereof attached to the
2 firearm. A muzzle-loader firearm shall be deemed to be loaded
3 when it is capped or primed and has a powder charge and ball or
4 shot in the barrel or cylinder.

5 (k) This section does not require that notice be posted regarding
6 the proscribed conduct.

7 (l) This section does not apply to a duly appointed peace officer
8 as defined in Chapter 4.5 (commencing with Section 830) of Title
9 3 of Part 2, a full-time paid peace officer of another state or the
10 federal government who is carrying out official duties while in
11 California, any person summoned by any of these officers to assist
12 in making arrests or preserving the peace while he or she is actually
13 engaged in assisting the officer, a member of the military forces
14 of this state or of the United States who is engaged in the
15 performance of his or her duties, or an armored vehicle guard,
16 engaged in the performance of his or her duties, as defined in
17 subdivision (d) of Section 7582.1 of the Business and Professions
18 Code.

19 (m) This section does not apply to a security guard authorized
20 to carry a loaded firearm pursuant to Article 4 (commencing with
21 Section 26000) of Chapter 3 of Division 5 of Title 4 of Part 6.

22 (n) This section does not apply to an existing shooting range at
23 a public or private school or university or college campus.

24 (o) This section does not apply to an honorably retired peace
25 officer authorized to carry a concealed or loaded firearm pursuant
26 to any of the following:

27 (1) Article 2 (commencing with Section 25450) of Chapter 2
28 of Division 5 of Title 4 of Part 6.

29 (2) Section 25650.

30 (3) Sections 25900 to 25910, inclusive.

31 (4) Section 26020.

32 (5) Paragraph (2) of subdivision (c) of Section 26300.

33 (p) This section does not apply to a peace officer appointed
34 pursuant to Section 830.6 who is authorized to carry a firearm by
35 the appointing agency.

36 (q) *This section does not apply to the activities of a program*
37 *involving shooting sports or activities, including, but not limited*
38 *to, trap shooting, skeet shooting, sporting clays, and pistol*
39 *shooting, that are sanctioned by a school, school district, college,*
40 *university, or other governing body of the institution, that occur*

1 *on the grounds of a public or private school or university or college*
2 *campus.*

3 SEC. 2. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

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