

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 668

Introduced by Assembly Member Lieu

February 25, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

AB 668, as amended, Lieu. Firearms: gun-free school zones.

Existing law, subject to exceptions, provides that it is an offense for any person 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. Existing law defines "school zone" for these purposes as an area in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, or within a distance of 1,000 feet from the grounds of the public or private school. *Existing law provides an exception to the prohibition for handguns that are in a locked container or within the locked trunk of a motor vehicle.*

This

This bill would revise this exception to instead except from the prohibition a handgun that is in a locked container inside a motor vehicle or that is unloaded and inside a locked trunk of a motor vehicle. The bill would ~~extend that distance~~ increase the size of the zone to include the area up to 1,500 feet from the grounds of the public or private school. The bill would create an exception to the school zone

firearms possession prohibition for firearms that are otherwise lawfully possessed or transported in a vehicle on a driveway or parking lot of a school, as specified.

By expanding the scope of an existing offense, this bill would impose a state-mandated local program.

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), unless it is with the
8 written permission of the school district superintendent, his or her
9 designee, or equivalent school authority, shall be punished as
10 specified in subdivision (f).

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

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

17 (2) When a lawfully possessed pistol, revolver, or other firearm
18 capable of being concealed on the person is unloaded and is in a
19 locked container inside a motor vehicle or unloaded and inside a
20 locked trunk of a motor vehicle.

21 This section does not prohibit or limit the otherwise lawful
22 transportation of any other firearm, other than a pistol, revolver,
23 or other firearm capable of being concealed on the person, in
24 accordance with state law, *including the otherwise lawful*
25 *possession or lawful transportation of a firearm, other than a*

1 *pistol, revolver, or other firearm capable of being concealed upon*
2 *the person, located within a vehicle while the vehicle is on the*
3 *driveway or the parking lot of a school.*

4 (3) When the person lawfully possessing the firearm reasonably
5 believes that he or she is in grave danger because of circumstances
6 forming the basis of a current restraining order issued by a court
7 against another person or persons who has or have been found to
8 pose a threat to his or her life or safety. This subdivision may not
9 apply when the circumstances involve a mutual restraining order
10 issued pursuant to Division 10 (commencing with Section 6200)
11 of the Family Code absent a factual finding of a specific threat to
12 the person's life or safety. Upon a trial for violating subdivision
13 (b), the trier of a fact shall determine whether the defendant was
14 acting out of a reasonable belief that he or she was in grave danger.

15 (4) When the person is exempt from the prohibition against
16 carrying a concealed firearm pursuant to subdivision (b), (d), (e),
17 or (h) of Section 12027.

18 ~~(5) Nothing~~

19 *Nothing* in this subdivision is meant to allow an individual, ~~other~~
20 ~~than those specified in subdivisions (b), (d), (e), and (h) of Section~~
21 ~~12027,~~ to possess a firearm on any school facility without the
22 written permission of the school district superintendent, his or her
23 designee, or equivalent school authority, *except as provided in*
24 *paragraph (4).*

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

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

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

33 (1) "School zone" means an area in, or on the grounds of, a
34 public or private school providing instruction in kindergarten or
35 grades 1 to 12, inclusive, or within a distance of 1,500 feet from
36 the grounds of the public or private school.

37 (2) "Firearm" has the same meaning as that term is given in
38 Section 12001.

39 (3) "Locked container" has the same meaning as that term is
40 given in subdivision (c) of Section 12026.1.

1 (4) “Concealed firearm” has the same meaning as that term is
2 given in Sections 12025 and 12026.1.

3 (5) “School facility” means any building or property, excluding
4 driveways and parking lots, located on the grounds of a public or
5 private school providing instruction in kindergarten or grades 1 to
6 12, inclusive.

7 (f) (1) Any person who violates subdivision (b) by possessing
8 a firearm in, or on the grounds of, a public or private school
9 providing instruction in kindergarten or grades 1 to 12, inclusive,
10 shall be punished by imprisonment in the state prison for two,
11 three, or five years.

12 (2) Any person who violates subdivision (b) by possessing a
13 firearm within a distance of 1,500 feet from the grounds of a public
14 or private school providing instruction in kindergarten or grades
15 1 to 12, inclusive, shall be punished as follows:

16 (A) By imprisonment in the state prison for two, three, or five
17 years, if any of the following circumstances apply:

18 (i) If the person previously has been convicted of any felony,
19 or of any crime made punishable by Chapter 1 (commencing with
20 Section 12000) of Title 2 of Part 4.

21 (ii) If the person is within a class of persons prohibited from
22 possessing or acquiring a firearm pursuant to Section 12021 or
23 12021.1 of this code or Section 8100 or 8103 of the Welfare and
24 Institutions Code.

25 (iii) If the firearm is any pistol, revolver, or other firearm capable
26 of being concealed upon the person and the offense is punished as
27 a felony pursuant to Section 12025.

28 (B) By imprisonment in a county jail for not more than one year
29 or by imprisonment in the state prison for two, three, or five years,
30 in all cases other than those specified in subparagraph (A).

31 (3) Any person who violates subdivision (d) shall be punished
32 by imprisonment in the state prison for three, five, or seven years.

33 (g) (1) Every person convicted under this section for a
34 misdemeanor violation of subdivision (b) who has been convicted
35 previously of a misdemeanor offense enumerated in Section
36 12001.6 shall be punished by imprisonment in a county jail for
37 not less than three months, or if probation is granted or if the
38 execution or imposition of sentence is suspended, it shall be a
39 condition thereof that he or she be imprisoned in a county jail for
40 not less than three months.

1 (2) Every person convicted under this section of a felony
2 violation of subdivision (b) or (d) who has been convicted
3 previously of a misdemeanor offense enumerated in Section
4 12001.6, if probation is granted or if the execution of sentence is
5 suspended, it shall be a condition thereof that he or she be
6 imprisoned in a county jail for not less than three months.

7 (3) Every person convicted under this section for a felony
8 violation of subdivision (b) or (d) who has been convicted
9 previously of any felony, or of any crime made punishable by
10 Chapter 1 (commencing with Section 12000) of Title 2 of Part 4,
11 if probation is granted or if the execution or imposition of sentence
12 is suspended, it shall be a condition thereof that he or she be
13 imprisoned in a county jail for not less than three months.

14 (4) The court shall apply the three-month minimum sentence
15 specified in this subdivision, except in unusual cases where the
16 interests of justice would best be served by granting probation or
17 suspending the execution or imposition of sentence without the
18 minimum imprisonment required in this subdivision or by granting
19 probation or suspending the execution or imposition of sentence
20 with conditions other than those set forth in this subdivision, in
21 which case the court shall specify on the record and shall enter on
22 the minutes the circumstances indicating that the interests of justice
23 would best be served by this disposition.

24 (h) Notwithstanding Section 12026, any person who brings or
25 possesses a loaded firearm upon the grounds of a campus of, or
26 buildings owned or operated for student housing, teaching,
27 research, or administration by, a public or private university or
28 college, that are contiguous or are clearly marked university
29 property, unless it is with the written permission of the university
30 or college president, his or her designee, or equivalent university
31 or college authority, shall be punished by imprisonment in the state
32 prison for two, three, or four years. Notwithstanding subdivision
33 (k), a university or college shall post a prominent notice at primary
34 entrances on noncontiguous property stating that firearms are
35 prohibited on that property pursuant to this subdivision.

36 (i) Notwithstanding Section 12026, any person who brings or
37 possesses a firearm upon the grounds of a campus of, or buildings
38 owned or operated for student housing, teaching, research, or
39 administration by, a public or private university or college, that
40 are contiguous or are clearly marked university property, unless

1 it is with the written permission of the university or college
2 president, his or her designee, or equivalent university or college
3 authority, shall be punished by imprisonment in the state prison
4 for one, two, or three years. Notwithstanding subdivision (k), a
5 university or college shall post a prominent notice at primary
6 entrances on noncontiguous property stating that firearms are
7 prohibited on that property pursuant to this subdivision.

8 (j) For purposes of this section, a firearm shall be deemed to be
9 loaded when there is an unexpended cartridge or shell, consisting
10 of a case that holds a charge of powder and a bullet or shot, in, or
11 attached in any manner to, the firearm, including, but not limited
12 to, in the firing chamber, magazine, or clip thereof attached to the
13 firearm. A muzzle-loader firearm shall be deemed to be loaded
14 when it is capped or primed and has a powder charge and ball or
15 shot in the barrel or cylinder.

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

18 (l) This section does not apply to a duly appointed peace officer
19 as defined in Chapter 4.5 (commencing with Section 830) of Title
20 3 of Part 2, a full-time paid peace officer of another state or the
21 federal government who is carrying out official duties while in
22 California, any person summoned by any of these officers to assist
23 in making arrests or preserving the peace while he or she is actually
24 engaged in assisting the officer, a member of the military forces
25 of this state or of the United States who is engaged in the
26 performance of his or her duties, a person holding a valid license
27 to carry the firearm pursuant to Article 3 (commencing with Section
28 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle
29 guard, engaged in the performance of his or her duties, as defined
30 in subdivision (e) of Section 7521 of the Business and Professions
31 Code.

32 (m) This section does not apply to a security guard authorized
33 to carry a loaded firearm pursuant to Section 12031 in the
34 performance of his or her duties.

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

37 (o) This section does not apply to an honorably retired peace
38 officer authorized to carry a concealed or loaded firearm pursuant
39 to subdivision (a) or (i) of Section 12027 or paragraph (1) or (8)
40 of subdivision (b) of Section 12031.

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

O