

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2324

Introduced by Assembly Member John A. Perez

February 19, 2010

An act to amend Sections 602 and 640 of, and to add Section 171.7 to, the Penal Code, relating to transit.

LEGISLATIVE COUNSEL'S DIGEST

AB 2324, as amended, John A. Perez. Transit: public transit ~~vehicle stations~~. *facilities*.

Existing law prohibits a person from knowingly possessing specified weapons and other items within any sterile area, as defined, of an airport or passenger vessel terminal, except as specified.

This bill would make it a misdemeanor, punishable as specified, for any person to knowingly possess at a public transit vehicle station, as defined, specified weapons. By creating a new crime, the bill would impose a state-mandated local program.

Existing law prohibits an unauthorized person from knowingly entering any airport operations area or passenger vessel terminal, as defined, if the area has been posted with certain notices. Existing law provides that a person convicted of violating this provision is punishable by a specified fine or term of imprisonment, or both, if he or she refuses to leave the area after being requested to do so by a peace officer or authorized personnel.

This bill would apply this prohibition and penalty, in addition, to a public transit ~~vehicle station~~ *facility*, as defined. By expanding an existing crime, the bill would impose a state-mandated local program.

Existing law prohibits a person from intentionally avoiding submission to screening and inspection when entering or reentering a sterile area of an airport or passenger vessel terminal, except as specified. Existing law provides that a violation of this prohibition that is responsible for the evacuation of an airport terminal or passenger vessel terminal is punishable by not more than one year in a county jail under certain circumstances.

This bill would apply this prohibition, in addition, to the sterile area of a public transit facility vehicle station, facility, and would apply this penalty, in addition, to the evacuation of a public transit vehicle station under similar circumstances. *This bill would recast the penalties for avoiding submission to screening to impose a \$500 fine for a first offense that does not result in an evacuation or delay, and a fine of \$1,000 and by imprisonment of not more than one year in a county jail for any second or subsequent offense. For a first offense that results in the evacuation of the terminal or facility, as specified, this bill would impose a penalty of not more than one year in a county jail.* By expanding an existing crime, the bill would impose a state-mandated local program.

Existing law provides that it is an infraction, punishable by a fine not to exceed \$250 and by specified community service, to evade the payment of any fare of, or engage in specified passenger misconduct on or in, a described facility or vehicle.

This bill would recast these provisions and make some of these acts of misconduct misdemeanors upon a first offense and make others of these acts of misconduct misdemeanors upon the 3rd or subsequent offense, as specified. *This bill would add the operation of an electronic personal assistive mobility device or motorized scooter in a system facility, vehicle, or parking structure to the list of activities that are misdemeanors on the 3rd or subsequent offense.* The bill would additionally make it a misdemeanor to willfully tamper with, remove, displace, injure, or destroy any part of any light rail train or bus equipment. By creating a new crime and by increasing the penalties for existing crimes, the 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 171.7 is added to the Penal Code, to read:

2 171.7. (a) For purposes of this section:

3 (1) ~~“Public transit vehicle station” means facility~~ *means any*
4 *land, buildings, and equipment, or any interest therein, including*
5 *any station on a public transportation route, to which access is*
6 *controlled in a manner consistent with the public transit authority’s*
7 *security plan, ~~used by whether or not the operation thereof~~*
8 *produces revenue, which have as their primary purpose the*
9 *operation of a public transit system or the providing of services*
10 *to the passengers of a public transit system. A public transit system*
11 *includes the vehicles used in the system, including, but not limited*
12 *to, motor vehicles, streetcars, trackless trolleys, buses, shuttles,*
13 *light rail systems, rapid transit systems, subways, trains, taxi cabs,*
14 *or jitneys, that transport members of the public for hire.*

15 (2) ~~“Sterile area” means any portion of a public transit vehicle~~
16 ~~station facility~~ *that is generally controlled in a manner consistent*
17 *with the public transit authority’s security plan.*

18 (3) ~~“Firearm” has the same meaning as specified in Section~~
19 ~~12001.~~

20 (b) It is unlawful for any person to knowingly possess within
21 any sterile area of a public transit ~~vehicle station facility~~ any of
22 the following:

23 ~~(1) Any unlawfully possessed firearm as provided in Section~~
24 ~~12031, except as provided in Section 12027.~~

25 ~~(2) Any weapon described in Section 12020.~~

26 ~~(3) Any weapon of mass destruction as defined in Section 11417.~~

27 ~~(4) Any imitation firearm as defined in Section 417.4.~~

28 ~~(5) Any unauthorized tear gas weapon.~~

29 ~~(6) Any instrument that expels a metallic projectile, such as a~~
30 ~~BB or pellet, through the force of air pressure, CO₂ pressure, or~~
31 ~~spring action, or any spot marker gun or paint gun.~~

32 (1) *Any firearm.*

33 (2) *Any imitation firearm as defined in Section 417.4.*

34 (3) *Any instrument that expels a metallic projectile, such as a*
35 *BB or pellet, through the force of air pressure, CO₂ pressure, or*
36 *spring action, or any spot marker gun or paint gun.*

37 (4) *Any metal military practice hand grenade.*

38 (5) *Any metal replica hand grenade.*

- 1 (6) *Any plastic replica hand grenade.*
- 2 (7) *Any unauthorized tear gas weapon.*
- 3 (8) *Any taser or stun gun, as defined in Section 244.5.*
- 4 (9) *Any undetectable knife, as described in Section 12001.1.*
- 5 (c) (1) Subdivision (b) shall not apply to, or affect, any of the
- 6 following:
- 7 ~~(1)~~
- 8 (A) A duly appointed peace officer, as defined in Chapter 4.5
- 9 (commencing with Section 830) of Title 3 of Part 2.
- 10 ~~(2)~~
- 11 (B) A retired peace officer with authorization to carry concealed
- 12 weapons as described in subdivision (a) of Section 12027.
- 13 ~~(3)~~
- 14 (C) A full-time paid peace officer of another state or the federal
- 15 government who is carrying out official duties while in California.
- 16 ~~(4)~~
- 17 (D) Any person summoned by any of the officers listed in
- 18 ~~paragraphs (1) to (3) subparagraphs (A) to (C),~~ inclusive, to assist
- 19 in making arrests or preserving the peace while he or she is actually
- 20 engaged in assisting the officer.
- 21 (E) *A person who is responsible for the security of the public*
- 22 *transit system and who has been authorized by the public transit*
- 23 *authority's security coordinator, in writing, to possess a weapon*
- 24 *specified in subdivision (b).*
- 25 (2) *Paragraph (1) of subdivision (b) does not apply to or affect*
- 26 *a person who is exempt from the prohibition against carrying a*
- 27 *handgun pursuant to Section 12027 if the carrying of that handgun*
- 28 *is in accordance with the terms and conditions of the exemption*
- 29 *specified in Section 12027.*
- 30 (3) *Paragraph (7) of subdivision (b) shall not apply to or affect*
- 31 *the possession of a tear gas weapon when possession is permitted*
- 32 *pursuant to Chapter 4 (commencing with Section 12401) of Title*
- 33 *2 of Part 4.*
- 34 (d) A violation of this section is punishable by imprisonment
- 35 in a county jail for a period not exceeding six months, or by a fine
- 36 not exceeding one thousand dollars (\$1,000), or by both that fine
- 37 and imprisonment.
- 38 (e) The provisions of this section are cumulative, and shall not
- 39 be construed as restricting the application of any other law.
- 40 However, an act or omission that is punishable in different ways

1 by this and any other provision of law shall not be punished under
2 more than one provision.

3 (f) *This section does not prevent prosecution under any other*
4 *provision of law that may provide a greater punishment.*

5 SEC. 2. Section 602 of the Penal Code is amended to read:

6 602. Except as provided in ~~paragraph (2)~~ *subdivision (u)*, of
7 subdivision (v), subdivision (x), and Section 602.8, every person
8 who willfully commits a trespass by any of the following acts is
9 guilty of a misdemeanor:

10 (a) Cutting down, destroying, or injuring any kind of wood or
11 timber standing or growing upon the lands of another.

12 (b) Carrying away any kind of wood or timber lying on those
13 lands.

14 (c) Maliciously injuring or severing from the freehold of another
15 anything attached to it, or its produce.

16 (d) Digging, taking, or carrying away from any lot situated
17 within the limits of any incorporated city, without the license of
18 the owner or legal occupant, any earth, soil, or stone.

19 (e) Digging, taking, or carrying away from land in any city or
20 town laid down on the map or plan of the city, or otherwise
21 recognized or established as a street, alley, avenue, or park, without
22 the license of the proper authorities, any earth, soil, or stone.

23 (f) Maliciously tearing down, damaging, mutilating, or
24 destroying any sign, signboard, or notice placed upon, or affixed
25 to, any property belonging to the state, or to any city, county, city
26 and county, town or village, or upon any property of any person,
27 by the state or by an automobile association, which sign, signboard
28 or notice is intended to indicate or designate a road, or a highway,
29 or is intended to direct travelers from one point to another, or
30 relates to fires, fire control, or any other matter involving the
31 protection of the property, or putting up, affixing, fastening,
32 printing, or painting upon any property belonging to the state, or
33 to any city, county, town, or village, or dedicated to the public, or
34 upon any property of any person, without license from the owner,
35 any notice, advertisement, or designation of, or any name for any
36 commodity, whether for sale or otherwise, or any picture, sign, or
37 device intended to call attention to it.

38 (g) Entering upon any lands owned by any other person whereon
39 oysters or other shellfish are planted or growing; or injuring,
40 gathering, or carrying away any oysters or other shellfish planted,

1 growing, or on any of those lands, whether covered by water or
2 not, without the license of the owner or legal occupant; or
3 damaging, destroying, or removing, or causing to be removed,
4 damaged, or destroyed, any stakes, marks, fences, or signs intended
5 to designate the boundaries and limits of any of those lands.

6 (h) (1) Entering upon lands or buildings owned by any other
7 person without the license of the owner or legal occupant, where
8 signs forbidding trespass are displayed, and whereon cattle, goats,
9 pigs, sheep, fowl, or any other animal is being raised, bred, fed,
10 or held for the purpose of food for human consumption; or injuring,
11 gathering, or carrying away any animal being housed on any of
12 those lands, without the license of the owner or legal occupant; or
13 damaging, destroying, or removing, or causing to be removed,
14 damaged, or destroyed, any stakes, marks, fences, or signs intended
15 to designate the boundaries and limits of any of those lands.

16 (2) In order for there to be a violation of this subdivision, the
17 trespass signs under paragraph (1) must be displayed at intervals
18 not less than three per mile along all exterior boundaries and at all
19 roads and trails entering the land.

20 (3) This subdivision shall not be construed to preclude
21 prosecution or punishment under any other provision of law,
22 including, but not limited to, grand theft or any provision that
23 provides for a greater penalty or longer term of imprisonment.

24 (i) Willfully opening, tearing down, or otherwise destroying
25 any fence on the enclosed land of another, or opening any gate,
26 bar, or fence of another and willfully leaving it open without the
27 written permission of the owner, or maliciously tearing down,
28 mutilating, or destroying any sign, signboard, or other notice
29 forbidding shooting on private property.

30 (j) Building fires upon any lands owned by another where signs
31 forbidding trespass are displayed at intervals not greater than one
32 mile along the exterior boundaries and at all roads and trails
33 entering the lands, without first having obtained written permission
34 from the owner of the lands or the owner's agent, or the person in
35 lawful possession.

36 (k) Entering any lands, whether unenclosed or enclosed by
37 fence, for the purpose of injuring any property or property rights
38 or with the intention of interfering with, obstructing, or injuring
39 any lawful business or occupation carried on by the owner of the
40 land, the owner's agent or by the person in lawful possession.

- 1 (l) Entering any lands under cultivation or enclosed by fence,
2 belonging to, or occupied by, another, or entering upon uncultivated
3 or unenclosed lands where signs forbidding trespass are displayed
4 at intervals not less than three to the mile along all exterior
5 boundaries and at all roads and trails entering the lands without
6 the written permission of the owner of the land, the owner's agent
7 or of the person in lawful possession, and
- 8 (1) Refusing or failing to leave the lands immediately upon
9 being requested by the owner of the land, the owner's agent or by
10 the person in lawful possession to leave the lands, or
- 11 (2) Tearing down, mutilating, or destroying any sign, signboard,
12 or notice forbidding trespass or hunting on the lands, or
- 13 (3) Removing, injuring, unlocking, or tampering with any lock
14 on any gate on or leading into the lands, or
- 15 (4) Discharging any firearm.
- 16 (m) Entering and occupying real property or structures of any
17 kind without the consent of the owner, the owner's agent, or the
18 person in lawful possession.
- 19 (n) Driving any vehicle, as defined in Section 670 of the Vehicle
20 Code, upon real property belonging to, or lawfully occupied by,
21 another and known not to be open to the general public, without
22 the consent of the owner, the owner's agent, or the person in lawful
23 possession. This subdivision shall not apply to any person described
24 in Section 22350 of the Business and Professions Code who is
25 making a lawful service of process, provided that upon exiting the
26 vehicle, the person proceeds immediately to attempt the service
27 of process, and leaves immediately upon completing the service
28 of process or upon the request of the owner, the owner's agent, or
29 the person in lawful possession.
- 30 (o) Refusing or failing to leave land, real property, or structures
31 belonging to or lawfully occupied by another and not open to the
32 general public, upon being requested to leave by (1) a peace officer
33 at the request of the owner, the owner's agent, or the person in
34 lawful possession, and upon being informed by the peace officer
35 that he or she is acting at the request of the owner, the owner's
36 agent, or the person in lawful possession, or (2) the owner, the
37 owner's agent, or the person in lawful possession. The owner, the
38 owner's agent, or the person in lawful possession shall make a
39 separate request to the peace officer on each occasion when the
40 peace officer's assistance in dealing with a trespass is requested.

1 However, a single request for a peace officer's assistance may be
2 made to cover a limited period of time not to exceed 30 days and
3 identified by specific dates, during which there is a fire hazard or
4 the owner, owner's agent or person in lawful possession is absent
5 from the premises or property. In addition, a single request for a
6 peace officer's assistance may be made for a period not to exceed
7 six months when the premises or property is closed to the public
8 and posted as being closed. However, this subdivision shall not
9 be applicable to persons engaged in lawful labor union activities
10 which are permitted to be carried out on the property by the
11 California Agricultural Labor Relations Act, Part 3.5 (commencing
12 with Section 1140) of Division 2 of the Labor Code, or by the
13 National Labor Relations Act. For purposes of this section, land,
14 real property, or structures owned or operated by any housing
15 authority for tenants as defined under Section 34213.5 of the Health
16 and Safety Code constitutes property not open to the general public;
17 however, this subdivision shall not apply to persons on the premises
18 who are engaging in activities protected by the California or United
19 States Constitution, or to persons who are on the premises at the
20 request of a resident or management and who are not loitering or
21 otherwise suspected of violating or actually violating any law or
22 ordinance.

23 (p) Entering upon any lands declared closed to entry as provided
24 in Section 4256 of the Public Resources Code, if the closed areas
25 shall have been posted with notices declaring the closure, at
26 intervals not greater than one mile along the exterior boundaries
27 or along roads and trails passing through the lands.

28 (q) Refusing or failing to leave a public building of a public
29 agency during those hours of the day or night when the building
30 is regularly closed to the public upon being requested to do so by
31 a regularly employed guard, watchman, or custodian of the public
32 agency owning or maintaining the building or property, if the
33 surrounding circumstances would indicate to a reasonable person
34 that the person has no apparent lawful business to pursue.

35 (r) Knowingly skiing in an area or on a ski trail which is closed
36 to the public and which has signs posted indicating the closure.

37 (s) Refusing or failing to leave a hotel or motel, where he or
38 she has obtained accommodations and has refused to pay for those
39 accommodations, upon request of the proprietor or manager, and
40 the occupancy is exempt, pursuant to subdivision (b) of Section

1 1940 of the Civil Code, from Chapter 2 (commencing with Section
2 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For
3 purposes of this subdivision, occupancy at a hotel or motel for a
4 continuous period of 30 days or less shall, in the absence of a
5 written agreement to the contrary, or other written evidence of a
6 periodic tenancy of indefinite duration, be exempt from Chapter
7 2 (commencing with Section 1940) of Title 5 of Part 4 of Division
8 3 of the Civil Code.

9 (t) Entering upon private property, including contiguous land,
10 real property, or structures thereon belonging to the same owner,
11 whether or not generally open to the public, after having been
12 informed by a peace officer at the request of the owner, the owner's
13 agent, or the person in lawful possession, and upon being informed
14 by the peace officer that he or she is acting at the request of the
15 owner, the owner's agent, or the person in lawful possession, that
16 the property is not open to the particular person; or refusing or
17 failing to leave the property upon being asked to leave the property
18 in the manner provided in this subdivision.

19 This subdivision shall apply only to a person who has been
20 convicted of a violent felony, as specified in subdivision (c) of
21 Section 667.5, committed upon the particular private property. A
22 single notification or request to the person as set forth above shall
23 be valid and enforceable under this subdivision unless and until
24 rescinded by the owner, the owner's agent, or the person in lawful
25 possession of the property.

26 (u) (1) Knowingly entering, by an unauthorized person, upon
27 any airport operations area, passenger vessel terminal, or public
28 ~~transit-vehicle-station~~ *facility* if the area has been posted with
29 notices restricting access to authorized personnel only and the
30 postings occur not greater than every 150 feet along the exterior
31 boundary, to the extent, in the case of a passenger vessel terminal,
32 as defined in subparagraph (B) of paragraph (3), that the exterior
33 boundary extends shoreside. To the extent that the exterior
34 boundary of a passenger vessel terminal operations area extends
35 waterside, this prohibition shall apply if notices have been posted
36 in a manner consistent with the requirements for the shoreside
37 exterior boundary, or in any other manner approved by the captain
38 of the port.

39 (2) Any person convicted of a violation of paragraph (1) shall
40 be punished as follows:

1 (A) By a fine not exceeding one hundred dollars (\$100).

2 (B) By imprisonment in the county jail not exceeding six
3 months, or by a fine not exceeding one thousand dollars (\$1,000),
4 or both, if the person refuses to leave the airport or passenger vessel
5 terminal after being requested to leave by a peace officer or
6 authorized personnel.

7 (C) By imprisonment in the county jail not exceeding six
8 months, or by a fine not exceeding one thousand dollars (\$1,000),
9 or both, for a second or subsequent offense.

10 (3) As used in this subdivision the following definitions shall
11 control:

12 (A) "Airport operations area" means that part of the airport used
13 by aircraft for landing, taking off, surface maneuvering, loading
14 and unloading, refueling, parking, or maintenance, where aircraft
15 support vehicles and facilities exist, and which is not for public
16 use or public vehicular traffic.

17 (B) "Passenger vessel terminal" means only that portion of a
18 harbor or port facility, as described in Section 105.105(a)(2) of
19 Title 33 of the Code of Federal Regulations, with a secured area
20 that regularly serves scheduled commuter or passenger operations.
21 For the purposes of this section, "passenger vessel terminal" does
22 not include any area designated a public access area pursuant to
23 Section 105.106 of Title 33 of the Code of Federal Regulations.

24 ~~(C) "Public transit vehicle station" means any station on a public~~
25 ~~transportation route, to which access is controlled in a manner~~
26 ~~consistent with the public transit authority's security plan, used~~
27 ~~by motor vehicles, streetcars, trackless trolleys, buses, shuttles,~~
28 ~~light rail systems, rapid transit systems, subways, trains, taxi cabs,~~
29 ~~or jitneys, that transport members of the public for hire.~~

30 (C) "Public transit facility" has the same meaning as specified
31 in Section 171.7.

32 (D) "Authorized personnel" means any person who has a valid
33 airport identification card issued by the airport operator or has a
34 valid airline identification card recognized by the airport operator,
35 or any person not in possession of an airport or airline identification
36 card who is being escorted for legitimate purposes by a person
37 with an airport or airline identification card. "Authorized
38 personnel" also means any person who has a valid port
39 identification card issued by the harbor operator, or who has a
40 valid company identification card issued by a commercial maritime

1 enterprise recognized by the harbor operator, or any other person
2 who is being escorted for legitimate purposes by a person with a
3 valid port or qualifying company identification card. “Authorized
4 personnel” also means any person who has a valid public transit
5 employee identification.

6 (E) “Airport” means any facility whose function is to support
7 commercial aviation.

8 (v) (1) Except as permitted by federal law, intentionally
9 avoiding submission to the screening and inspection of one’s
10 person and accessible property in accordance with the procedures
11 being applied to control access when entering or reentering a sterile
12 area of an airport, passenger vessel terminal, as defined in Section
13 171.5, or public transit ~~vehicle station~~ *facility*, as defined in
14 subdivision (u).

15 *(2) A violation of this subdivision is punishable by a fine of not*
16 *more than five hundred dollars (\$500) for the first offense. A*
17 *second and subsequent violation is a misdemeanor, punishable by*
18 *imprisonment in a county jail for a period of not more than one*
19 *year, or by a fine not to exceed one thousand dollars (\$1,000), or*
20 *by both that fine and imprisonment.*

21 ~~(2) A~~

22 *(3) Notwithstanding paragraph (2), if a first violation of this*
23 *subdivision ~~that~~ is responsible for the evacuation of an airport*
24 *terminal, passenger vessel terminal, or public transit ~~vehicle station~~*
25 *facility and is responsible in any part for delays or cancellations*
26 *of scheduled flights or departures, it is punishable by imprisonment*
27 *of not more than one year in a county jail if the sterile area is posted*
28 *with a statement providing reasonable notice that prosecution may*
29 *result from a trespass described in this subdivision.*

30 (w) Refusing or failing to leave a battered women’s shelter at
31 any time after being requested to leave by a managing authority
32 of the shelter.

33 (1) A person who is convicted of violating this subdivision shall
34 be punished by imprisonment in a county jail for not more than
35 one year.

36 (2) The court may order a defendant who is convicted of
37 violating this subdivision to make restitution to a battered woman
38 in an amount equal to the relocation expenses of the battered
39 woman and her children if those expenses are incurred as a result
40 of trespass by the defendant at a battered women’s shelter.

1 (x) (1) Knowingly entering or remaining in a neonatal unit,
2 maternity ward, or birthing center located in a hospital or clinic
3 without lawful business to pursue therein, if the area has been
4 posted so as to give reasonable notice restricting access to those
5 with lawful business to pursue therein and the surrounding
6 circumstances would indicate to a reasonable person that he or she
7 has no lawful business to pursue therein. Reasonable notice is that
8 which would give actual notice to a reasonable person, and is
9 posted, at a minimum, at each entrance into the area.

10 (2) Any person convicted of a violation of paragraph (1) shall
11 be punished as follows:

12 (A) As an infraction, by a fine not exceeding one hundred dollars
13 (\$100).

14 (B) By imprisonment in a county jail not exceeding one year,
15 or by a fine not exceeding one thousand dollars (\$1,000), or both,
16 if the person refuses to leave the posted area after being requested
17 to leave by a peace officer or other authorized person.

18 (C) By imprisonment in a county jail not exceeding one year,
19 or by a fine not exceeding two thousand dollars (\$2,000), or both,
20 for a second or subsequent offense.

21 (D) If probation is granted or the execution or imposition of
22 sentencing is suspended for any person convicted under this
23 subdivision, it shall be a condition of probation that the person
24 participate in counseling, as designated by the court, unless the
25 court finds good cause not to impose this requirement. The court
26 shall require the person to pay for this counseling, if ordered, unless
27 good cause not to pay is shown.

28 (y) Except as permitted by federal law, intentionally avoiding
29 submission to the screening and inspection of one's person and
30 accessible property in accordance with the procedures being applied
31 to control access when entering or reentering a courthouse or a
32 city, county, city and county, or state building if entrances to the
33 courthouse or the city, county, city and county, or state building
34 have been posted with a statement providing reasonable notice
35 that prosecution may result from a trespass described in this
36 subdivision.

37 SEC. 3. Section 640 of the Penal Code is amended to read:

38 640. (a) (1) Any of the acts described in subdivision (b), upon
39 a first or second violation, is an infraction punishable by a fine not
40 to exceed two hundred fifty dollars (\$250) and by community

1 service for a total time not to exceed 48 hours over a period not to
2 exceed 30 days, during a time other than during his or her hours
3 of school attendance or employment. A third or subsequent
4 violation of any of the acts described in subdivision (b) is a
5 misdemeanor punishable by a fine of not more than four hundred
6 dollars (\$400) or by imprisonment in the county jail for a period
7 of not more than 90 days, or by both that fine and imprisonment.
8 Any of the acts described in subdivision (c) shall be punishable
9 by a fine of not more than four hundred dollars (\$400), by
10 imprisonment in the county jail for a period of not more than 90
11 days, or by both that fine and imprisonment.

12 (2) This section shall apply only to acts committed on or in a
13 facility or vehicle of a public transportation system.

14 (b) (1) Evasion of the payment of a fare of the system. *For*
15 *purposes of this section, fare evasion includes entering an enclosed*
16 *area of a public transit facility beyond posted signs prohibiting*
17 *entrance without obtaining valid fare, in addition to entering a*
18 *transit vehicle without valid fare.*

19 (2) Misuse of a transfer, pass, ticket, or token with the intent to
20 evade the payment of a fare.

21 (3) Playing sound equipment on or in a system facility or
22 vehicle.

23 (4) Smoking, eating, or drinking in or on a system facility or
24 vehicle in those areas where those activities are prohibited by that
25 system.

26 (5) Expectoating upon a system facility or vehicle.

27 (6) Skateboarding, roller skating, bicycle riding, ~~or roller blading~~
28 *roller blading, or operating an electronic personal assistive*
29 *mobility device (EPAMD) or similar device as defined in Section*
30 *313 of the Vehicle Code, or a motorized scooter or similar device*
31 *as defined in Section 407.5 of the Vehicle Code* in a system facility,
32 vehicle, or parking structure. This paragraph does not apply to an
33 activity that is necessary for utilization of the transit facility by a
34 bicyclist, including, but not limited to, an activity that is necessary
35 for parking a bicycle or transporting a bicycle aboard a transit
36 vehicle, if that activity is conducted with the permission of the
37 transit agency in a manner that does not interfere with the safety
38 of the bicyclist or other patrons of the transit facility.

39 (7) (A) Unauthorized use of a discount ticket or failure to
40 present, upon request from a transit system representative,

1 acceptable proof of eligibility to use a discount ticket, in
2 accordance with Section 99155 of the Public Utilities Code and
3 posted system identification policies when entering or exiting a
4 transit station or vehicle. Acceptable proof of eligibility must be
5 clearly defined in the posting.

6 (B) In the event that an eligible discount ticket user is not in
7 possession of acceptable proof at the time of request, any citation
8 issued shall be held for a period of 72 hours to allow the user to
9 produce acceptable proof. If the proof is provided, the citation
10 shall be voided. If the proof is not produced within that time period,
11 the citation shall be processed.

12 (c) (1) Willfully disturbing others on or in a system facility or
13 vehicle by engaging in boisterous or unruly behavior.

14 (2) Carrying an explosive or acid, flammable liquid, or toxic or
15 hazardous material in a public transit facility or vehicle.

16 (3) Urinating or defecating in a system facility or vehicle, except
17 in a lavatory. However, this paragraph shall not apply to a person
18 who cannot comply with this paragraph as a result of a disability,
19 age, or a medical condition.

20 (4) Willfully blocking the free movement of another person in
21 a system facility or vehicle. This paragraph shall not be interpreted
22 to affect any lawful activities permitted or first amendment rights
23 protected under the laws of this state or applicable federal law,
24 including, but not limited to, laws related to collective bargaining,
25 labor relations, or labor disputes.

26 (5) Willfully tampering with, removing, displacing, injuring,
27 or destroying any part of any light rail train or bus equipment.

28 (d) Notwithstanding subdivision (a), the City and County of
29 San Francisco and the Los Angeles County Metropolitan
30 Transportation Authority may enact and enforce an ordinance
31 providing that any of the acts described in subdivision (b) on or
32 in a facility or vehicle described in subdivision (a) for which the
33 City and County of San Francisco or the Los Angeles County
34 Metropolitan Transportation Authority has jurisdiction shall be
35 subject only to an administrative penalty imposed and enforced in
36 a civil proceeding. The ordinance for imposing and enforcing the
37 administrative penalty shall be governed by Chapter 8
38 (commencing with Section 99580) of Part 11 of Division 10 of
39 the Public Utilities Code and shall not apply to minors.

1 (e) For purposes of this section, a “facility or vehicle of a public
2 transportation system” means any of the following:

3 (1) A facility or vehicle of a public transportation system as
4 defined by Section 99211 of the Public Utilities Code.

5 (2) A facility of, or vehicle operated by any entity subsidized
6 by, the Department of Transportation.

7 (3) A leased or rented facility or vehicle for which any of the
8 entities described in paragraph (1) or (2) incur costs of cleanup,
9 repair, or replacement as a result of any of those acts.

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