

**Introduced by Senator Padilla**December 6, 2010

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An act to add Section 4576 to the Penal Code, relating to correctional facilities.

## LEGISLATIVE COUNSEL'S DIGEST

SB 25, as introduced, Padilla. Correctional facilities: wireless communication devices.

Existing law establishes various offenses relating to the unauthorized provision of specified items to persons confined in local and state correctional facilities.

This bill would provide, subject to exceptions, that a person who possesses with the intent to deliver, or delivers, to an inmate or ward in the custody of the Department of Corrections and Rehabilitation any cellular telephone or other wireless communication device or any component thereof, including, but not limited to, a subscriber identity module (SIM card) or memory storage device, is guilty of a misdemeanor, punishable by a fine not exceeding \$5,000 for each device. The bill would also provide that if a person visiting an inmate or ward in the custody of the department, when searched or subjected to a metal detector, is found to be in possession of a cellular telephone or other wireless communication device or any component thereof, including, but not limited to, a SIM card or memory storage device, that cellular telephone or wireless communication device or component shall be subject to confiscation, but shall be returned on the same day the person visits the inmate or ward, except as provided. The bill would require posted notices regarding those search and confiscation provisions, as specified.

By creating a new crime, 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 4576 is added to the Penal Code, to read:  
2 4576. (a) Except as otherwise authorized by law, or when  
3 authorized by either the person in charge of the prison or other  
4 institution under the jurisdiction of the Department of Corrections  
5 and Rehabilitation or an officer of the institution empowered to  
6 give that authorization, and except as provided in subdivision (b),  
7 a person who possesses with the intent to deliver, or delivers, to  
8 an inmate or ward in the custody of the department any cellular  
9 telephone or other wireless communication device or any  
10 component thereof, including, but not limited to, a subscriber  
11 identity module (SIM card) or memory storage device, is guilty  
12 of a misdemeanor, punishable by a fine not to exceed five thousand  
13 dollars (\$5,000) for each device.

14 (b) If a person visiting an inmate or ward in the custody of the  
15 department, upon being searched or subjected to a metal detector,  
16 is found to be in possession of a cellular telephone or other wireless  
17 communication device or any component thereof, including, but  
18 not limited to, a SIM card or memory storage device, that device  
19 or component shall be subject to confiscation but shall be returned  
20 on the same day the person visits the inmate or ward, unless the  
21 cellular telephone or other wireless communication device or any  
22 component thereof is held as evidence in a case where the person  
23 is cited for a violation of subdivision (a). If, upon investigation, it  
24 is determined that no prosecution will take place, the cellular  
25 telephone or other wireless communication device or any  
26 component thereof shall be returned to the owner at the owner's  
27 expense. Notice of this provision shall be posted in all areas where

1 visitors are searched prior to visitation with an inmate or ward in  
2 the custody of the department.

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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