

ASSEMBLY BILL

No. 2340

Introduced by Assembly Member Gallagher

February 18, 2016

An act to amend Sections 626.9 and 30310 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2340, as introduced, Gallagher. Gun-free school zone.

Existing law, the Gun-Free School Zone Act of 1995, subject to exceptions, prohibits a person from possessing a firearm in a place that the person knows, or reasonably should know, is a school zone, unless with the written permission of certain school district officials. Existing law defines a school zone as an area on the grounds of a school providing instruction in kindergarten or grades 1 to 12, inclusive, or within a distance of 1,000 feet of that school. Existing law, subject to exceptions, prohibits a person from bringing or possessing a firearm upon the grounds of a campus of a public or private university or college, or buildings owned or operated for student housing, teaching, research, or administration by a public or private university or college, that are contiguous or are clearly marked university property, as specified, unless with the written permission of specified university or college officials. Under existing law, a violation of these provisions is a felony, or, under specified circumstances, a misdemeanor. Under existing law, certain persons are exempt from both the school zone and the university prohibitions, including, among others, a retired peace officer authorized to carry a concealed or loaded firearm.

This bill would exempt from both the school zone and the university prohibitions a person holding a valid license to carry a concealed firearm

who is also protected by a domestic violence protective order, as specified.

Existing law, subject to exceptions, prohibits carrying ammunition or reloaded ammunition onto school grounds unless it is with the written permission of the school district superintendent, the superintendent’s designee, or equivalent school authority.

This bill would exempt from that prohibition a person holding a valid license to carry a concealed firearm who is also protected by a domestic violence protective order, as specified. The bill would make additional technical, nonsubstantive changes.

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

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 the firearm is an unloaded pistol, revolver, or other
18 firearm capable of being concealed on the person and is in a locked
19 container or within the locked trunk of a motor vehicle.

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

24 (3) When the person possessing the firearm reasonably believes
25 that he or she is in grave danger because of circumstances forming

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

10 (4) When the person is exempt from the prohibition against
11 carrying a concealed firearm pursuant to Section 25615, 25625,
12 25630, or 25645.

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

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

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

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

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

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

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

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

38 (f) (1) Any person who violates subdivision (b) by possessing
39 a firearm in, or on the grounds of, a public or private school
40 providing instruction in kindergarten or grades 1 to 12, inclusive,

1 shall be punished by imprisonment pursuant to subdivision (h) of
2 Section 1170 for two, three, or five years.

3 (2) Any person who violates subdivision (b) by possessing a
4 firearm within a distance of 1,000 feet from the grounds of a public
5 or private school providing instruction in kindergarten or grades
6 1 to 12, inclusive, shall be punished as follows:

7 (A) By imprisonment pursuant to subdivision (h) of Section
8 1170 for two, three, or five years, if any of the following
9 circumstances apply:

10 (i) If the person previously has been convicted of any felony,
11 or of any crime made punishable by any provision listed in Section
12 16580.

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

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

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

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

28 (g) (1) Every person convicted under this section for a
29 misdemeanor violation of subdivision (b) who has been convicted
30 previously of a misdemeanor offense enumerated in Section 23515
31 shall be punished by imprisonment in a county jail for not less
32 than three months, or if probation is granted or if the execution or
33 imposition of sentence is suspended, it shall be a condition thereof
34 that he or she be imprisoned in a county jail for not less than three
35 months.

36 (2) Every person convicted under this section of a felony
37 violation of subdivision (b) or (d) who has been convicted
38 previously of a misdemeanor offense enumerated in Section 23515,
39 if probation is granted or if the execution of sentence is suspended,

1 it shall be a condition thereof that he or she be imprisoned in a
2 county jail for not less than three months.

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

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

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

33 (i) Notwithstanding Section 25605, any person who brings or
34 possesses a firearm upon the grounds of a campus of, or buildings
35 owned or operated for student housing, teaching, research, or
36 administration by, a public or private university or college, that
37 are contiguous or are clearly marked university property, unless
38 it is with the written permission of the university or college
39 president, his or her designee, or equivalent university or college
40 authority, shall be punished by imprisonment pursuant to

1 subdivision (h) of Section 1170 for one, two, or three years.
2 Notwithstanding subdivision (k), a university or college shall post
3 a prominent notice at primary entrances on noncontiguous property
4 stating that firearms are prohibited on that property pursuant to
5 this subdivision.

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

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

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

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

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

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

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

38 (2) Section 25650.

39 (3) Sections 25900 to 25910, inclusive.

40 (4) Section 26020.

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

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

5 *(q) This section does not apply to a person holding a valid*
6 *license to carry a concealed firearm pursuant to Chapter 4*
7 *(commencing with Section 26150) of Division 5 of Title 4 of Part*
8 *6 who also is protected by a domestic violence protective order*
9 *issued pursuant to Part 4 (commencing with Section 6300) of*
10 *Division 10 of the Family Code.*

11 SEC. 2. Section 30310 of the Penal Code is amended to read:

12 30310. (a) Unless it is with the written permission of the school
13 district superintendent, the superintendent's designee, or equivalent
14 school authority, no person shall carry ammunition or reloaded
15 ammunition onto school grounds, except sworn law enforcement
16 officers acting within the scope of their duties.

17 (b) This section shall not apply to any of the following:

18 (1) A duly appointed peace officer as defined in Chapter 4.5
19 (commencing with Section 830) of Title 3 of Part 2.

20 (2) A full-time paid peace officer of another state or the federal
21 government who is carrying out official duties while in California.

22 (3) ~~Any~~ A person summoned by any of these officers to assist
23 in making an arrest or preserving the peace while that person is
24 actually engaged in assisting the officer.

25 (4) A member of the military forces of this state or of the United
26 States who is engaged in the performance of that person's duties.

27 (5) An armored vehicle guard, who is engaged in the
28 performance of that person's duties, as defined in subdivision (d)
29 of Section 7582.1 of the Business and Professions Code.

30 (6) ~~Any~~ A peace officer, listed in Section 830.1 or 830.2, or
31 subdivision (a) of Section 830.33, whether active or honorably
32 retired.

33 (7) Any other duly appointed peace officer.

34 (8) ~~Any~~ An honorably retired peace officer listed in subdivision
35 (c) of Section 830.5.

36 (9) Any other honorably retired peace officer who during the
37 course and scope of his or her appointment as a peace officer was
38 authorized to, and did, carry a firearm.

- 1 (10) (A) A person carrying ammunition or reloaded ammunition
- 2 onto school grounds that is in a motor vehicle at all times and is
- 3 within a locked container or within the locked trunk of the vehicle.
- 4 (B) For purposes of this paragraph, the term “locked container”
- 5 has the same meaning as set forth in Section 16850.
- 6 *(11) A person holding a valid license to carry a concealed*
- 7 *firearm pursuant to Chapter 4 (commencing with Section 26150)*
- 8 *of Division 5 of Title 4 of Part 6 who also is protected by a*
- 9 *domestic violence protective order issued pursuant to Part 4*
- 10 *(commencing with Section 6300) of Division 10 of the Family*
- 11 *Code.*
- 12 (c) A violation of this section is punishable by imprisonment
- 13 in a county jail for a term not to exceed six months, a fine not to
- 14 exceed one thousand dollars (\$1,000), or both the imprisonment
- 15 and fine.