

AMENDED IN SENATE JUNE 12, 2000
AMENDED IN ASSEMBLY APRIL 12, 2000
AMENDED IN ASSEMBLY MARCH 27, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2523

Introduced by Assembly Member Thomson

February 24, 2000

An act to amend Sections 417 and 417.6 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2523, as amended, Thomson. Firearms: unlawful display.

(1) Existing law provides that every person who, except in self-defense, in the presence of another draws or exhibits any firearm, loaded or unloaded, in a rude, angry or threatening manner, or who in any manner unlawfully uses a firearm in any fight or quarrel, is guilty of a misdemeanor punishable by imprisonment in a county jail for not less than 3 months.

This bill would provide that if the violation occurs in a public place, as defined, and the firearm is a pistol, revolver, or other firearm capable of being concealed upon the person ~~and is not an antique firearm, as defined~~, the violation of these provisions is punishable by imprisonment in a county jail not exceeding one year, by a fine not to exceed \$1,000, or by both that fine and imprisonment. This bill would also make technical, nonsubstantive changes to these and related

provisions. By creating a new crime, this bill would impose a state-mandated local program.

(2) 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 417 of the Penal Code is
2 amended to read:

3 417. (a) (1) Every person who, except in
4 self-defense, in the presence of any other person, draws
5 or exhibits any deadly weapon whatsoever, other than a
6 firearm, in a rude, angry, or threatening manner, or who
7 in any manner, unlawfully uses a deadly weapon other
8 than a firearm in any fight or quarrel is guilty of a
9 misdemeanor, punishable by imprisonment in a county
10 jail for not less than 30 days.

11 (2) Every person who, except in self-defense, in the
12 presence of any other person, draws or exhibits any
13 firearm, whether loaded or unloaded, in a rude, angry, or
14 threatening manner, or who in any manner, unlawfully
15 uses a firearm in any fight or quarrel is punishable as
16 follows:

17 (A) If the violation occurs in a public place and the
18 firearm is a pistol, revolver, or other firearm capable of
19 being concealed upon the person ~~which is not an antique~~
20 ~~firearm as defined in paragraph (16) of subsection (a) of~~
21 ~~Section 921 of Title 18 of the United States Code,~~ by
22 imprisonment in a county jail not exceeding one year, by
23 a fine not to exceed one thousand dollars (\$1,000), or by
24 both that fine and imprisonment.

25 (B) In all cases other than that set forth in
26 subparagraph (A), a misdemeanor, punishable by



1 imprisonment in a county jail for not less than three
2 months.

3 (b) Every person who, except in self-defense, in the
4 presence of any other person, draws or exhibits any
5 loaded firearm in a rude, angry, or threatening manner,
6 or who, in any manner, unlawfully uses any loaded
7 firearm in any fight or quarrel upon the grounds of any
8 day care center, as defined in Section 1596.76 of the
9 Health and Safety Code, or any facility where programs,
10 including day care programs or recreational programs,
11 are being conducted for persons under 18 years of age,
12 including programs conducted by a nonprofit
13 organization, during the hours in which the center or
14 facility is open for use, shall be punished by imprisonment
15 in the state prison for one, two, or three years, or by
16 imprisonment in a county jail for not less than three
17 months, nor more than one year.

18 (c) Every person who, in the immediate presence of
19 a peace officer, draws or exhibits any firearm, whether
20 loaded or unloaded, in a rude, angry, or threatening
21 manner, and who knows, or reasonably should know, by
22 the officer's uniformed appearance or other action of
23 identification by the officer, that he or she is a peace
24 officer engaged in the performance of his or her duties,
25 and that peace officer is engaged in the performance of
26 his or her duties, shall be punished by imprisonment in a
27 county jail for not less than nine months and not to exceed
28 one year, or in the state prison.

29 (d) Except where a different penalty applies, every
30 person who violates this section when the other person is
31 in the process of cleaning up graffiti or vandalism is guilty
32 of a misdemeanor, punishable by imprisonment in a
33 county jail for not less than three months nor more than
34 one year.

35 (e) As used in this section, "peace officer" means any
36 person designated as a peace officer pursuant to Chapter
37 4.5 (commencing with Section 830) of Title 3 of Part 2.

38 (f) As used in this section, "public place" means any of
39 the following:

- 40 (1) A public place in an incorporated city.



1 (2) A public street in an incorporated city.

2 (3) A public street in an unincorporated area.

3 SEC. 2. Section 417.6 of the Penal Code is amended to
4 read:

5 417.6. (a) If, in the commission of a violation of
6 Section 417 or 417.8, serious bodily injury is intentionally
7 inflicted by the person drawing or exhibiting the firearm
8 or deadly weapon, the offense shall be punished by
9 imprisonment in the county jail not exceeding one year
10 or by imprisonment in the state prison.

11 (b) As used in this section, “serious bodily injury”
12 means a serious impairment of physical condition,
13 including, but not limited to, the following: loss of
14 consciousness; concussion; bone fracture; protracted loss
15 or impairment of function of any bodily member or
16 organ; a wound requiring extensive suturing; and serious
17 disfigurement.

18 (c) When a person is convicted of a violation of Section
19 417 or 417.8 and the deadly weapon or firearm used by the
20 person is owned by that person, the court shall order that
21 the weapon or firearm be deemed a nuisance and
22 disposed of in the manner provided by Section 12028.

23 SEC. 3. No reimbursement is required by this act
24 pursuant to Section 6 of Article XIII B of the California
25 Constitution because the only costs that may be incurred
26 by a local agency or school district will be incurred
27 because this act creates a new crime or infraction,
28 eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section
30 17556 of the Government Code, or changes the definition
31 of a crime within the meaning of Section 6 of Article
32 XIII B of the California Constitution.

