

AMENDED IN SENATE SEPTEMBER 1, 2009

AMENDED IN SENATE JUNE 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 322

Introduced by Assembly Member Silva

February 18, 2009

An act to amend Sections 171b, 171.5, 245.5, 626.10, 11160, and 12650 of the Penal Code, relating to less lethal weapons.

LEGISLATIVE COUNSEL'S DIGEST

AB 322, as amended, Silva. Less lethal weapons.

Existing law generally regulates dangerous weapons, including stun guns and tasers, and establishes offenses committed with stun guns and tasers.

This bill would replace the term “taser” with “less lethal weapon” for these purposes.

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

This bill would incorporate additional changes to Section 626.10 of the Penal Code, proposed by AB 870, contingent on the prior enactment of that bill.

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:

SECTION 1. Section 171b of the Penal Code is amended to read:

171b. (a) Any person who brings or possesses within any state or local public building or at any meeting required to be open to the public pursuant to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, or Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, the Government Code, any of the following is guilty of a public offense punishable by imprisonment in a county jail for not more than one year, or in the state prison:

(1) Any firearm.

(2) Any deadly weapon described in Section 653k or 12020.

(3) Any knife with a blade length in excess of four inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands.

(4) Any unauthorized tear gas weapon.

(5) Any less lethal weapon, as defined in Section 12601, or stun gun, as defined in Section 244.5.

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

(b) Subdivision (a) shall not apply to, or affect, any of the following:

(1) A person who possesses weapons in, or transports weapons into, a court of law to be used as evidence.

(2) (A) A duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a retired peace officer with authorization to carry concealed weapons as described in subdivision (a) of Section 12027, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer.

(B) Notwithstanding subparagraph (A), subdivision (a) shall apply to any person who brings or possesses any weapon specified therein within any courtroom if he or she is a party to an action pending before the court.

1 (3) A person holding a valid license to carry the firearm pursuant
2 to Article 3 (commencing with Section 12050) of Chapter 1 of
3 Title 2 of Part 4.

4 (4) A person who has permission to possess that weapon granted
5 in writing by a duly authorized official who is in charge of the
6 security of the state or local government building.

7 (5) A person who lawfully resides in, lawfully owns, or is in
8 lawful possession of, that building with respect to those portions
9 of the building that are not owned or leased by the state or local
10 government.

11 (6) A person licensed or registered in accordance with, and
12 acting within the course and scope of, Chapter 11.5 (commencing
13 with Section 7512) or Chapter 11.6 (commencing with Section
14 7590) of Division 3 of the Business and Professions Code who
15 has been hired by the owner or manager of the building if the
16 person has permission pursuant to paragraph (5).

17 (7) (A) A person who, for the purpose of sale or trade, brings
18 any weapon that may otherwise be lawfully transferred, into a gun
19 show conducted pursuant to Sections 12071.1 and 12071.4.

20 (B) A person who, for purposes of an authorized public
21 exhibition, brings any weapon that may otherwise be lawfully
22 possessed, into a gun show conducted pursuant to Sections 12071.1
23 and 12071.4.

24 (c) As used in this section, “state or local public building” means
25 a building that meets all of the following criteria:

26 (1) It is a building or part of a building owned or leased by the
27 state or local government, if state or local public employees are
28 regularly present for the purposes of performing their official
29 duties. A state or local public building includes, but is not limited
30 to, a building that contains a courtroom.

31 (2) It is not a building or facility, or a part thereof, that is referred
32 to in Section 171c, 171d, 626.9, 626.95, or 626.10 of this code, or
33 in Section 18544 of the Elections Code.

34 (3) It is a building not regularly used, and not intended to be
35 used, by state or local employees as a place of residence.

36 SEC. 2. Section 171.5 of the Penal Code is amended to read:

37 171.5. (a) For purposes of this section:

38 (1) “Airport” means an airport, with a secured area, that
39 regularly serves an air carrier holding a certificate issued by the
40 United States Secretary of Transportation.

(2) “Passenger vessel terminal” means only that portion of a harbor or port facility, as described in Section 105.105(a)(2) of Title 33 of the Code of Federal Regulations, with a secured area that regularly serves scheduled commuter or passenger operations.

(3) “Sterile area” means a portion of an airport defined in the airport security program to which access generally is controlled through the screening of persons and property, as specified in Section 1540.5 of Title 49 of the Code of Federal Regulations, or a portion of any passenger vessel terminal to which, pursuant to the requirements set forth in Sections 105.255(a)(1), 105.255(c)(1), and 105.260(a) of Title 33 of the Code of Federal Regulations, access is generally controlled in a manner consistent with the passenger vessel terminal’s security plan and the MARSEC level in effect at the time.

(b) It is unlawful for any person to knowingly possess, within any sterile area of an airport or a passenger vessel terminal, any of the items listed in subdivision (c).

(c) The following items are unlawful to possess as provided in subdivision (b):

(1) Any firearm.

(2) Any knife with a blade length in excess of four inches, the blade of which is fixed, or is capable of being fixed, in an unguarded position by the use of one or two hands.

(3) Any box cutter or straight razor.

(4) Any metal military practice hand grenade.

(5) Any metal replica hand grenade.

(6) Any plastic replica hand grenade.

(7) Any imitation firearm as defined in Section 417.4.

(8) Any frame, receiver, barrel, or magazine of a firearm.

(9) Any unauthorized tear gas weapon.

(10) Any less lethal weapon, as defined in Section 12601, or stun gun, as defined in Section 244.5.

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

(12) Any ammunition as defined in Section 12316.

(d) Subdivision (b) shall not apply to, or affect, any of the following:

(1) A duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a retired peace

1 officer with authorization to carry concealed weapons as described
2 in subdivision (a) of Section 12027, a full-time paid peace officer
3 of another state or the federal government who is carrying out
4 official duties while in California, or any person summoned by
5 any of these officers to assist in making arrests or preserving the
6 peace while he or she is actually engaged in assisting the officer.

7 (2) A person who has authorization to possess a weapon
8 specified in subdivision (c), granted in writing by an airport
9 security coordinator who is designated as specified in Section
10 1542.3 of Title 49 of the Code of Federal Regulations, and who is
11 responsible for the security of the airport.

12 (3) A person, including an employee of a licensed contract guard
13 service, who has authorization to possess a weapon specified in
14 subdivision (c) granted in writing by a person discharging the
15 duties of Facility Security Officer or Company Security Officer
16 pursuant to an approved United States Coast Guard facility security
17 plan, and who is responsible for the security of the passenger vessel
18 terminal.

19 (e) A violation of this section is punishable by imprisonment
20 in a county jail for a period not exceeding six months, or by a fine
21 not exceeding one thousand dollars (\$1,000), or by both that fine
22 and imprisonment.

23 (f) The provisions of this section are cumulative, and shall not
24 be construed as restricting the application of any other law.
25 However, an act or omission that is punishable in different ways
26 by this and any other provision of law shall not be punished under
27 more than one provision.

28 (g) Nothing in this section is intended to affect existing state or
29 federal law regarding the transportation of firearms on airplanes
30 in checked luggage, or the possession of the items listed in
31 subdivision (c) in areas that are not “sterile areas.”

32 SEC. 3. Section 245.5 of the Penal Code is amended to read:

33 245.5. (a) Every person who commits an assault with a deadly
34 weapon or instrument, other than a firearm, or by any means likely
35 to produce great bodily injury upon the person of a school
36 employee, and who knows or reasonably should know that the
37 victim is a school employee engaged in the performance of his or
38 her duties, when that school employee is engaged in the
39 performance of his or her duties, shall be punished by

1 imprisonment in the state prison for three, four, or five years, or
2 in a county jail not exceeding one year.

3 (b) Every person who commits an assault with a firearm upon
4 the person of a school employee, and who knows or reasonably
5 should know that the victim is a school employee engaged in the
6 performance of his or her duties, when the school employee is
7 engaged in the performance of his or her duties, shall be punished
8 by imprisonment in the state prison for four, six, or eight years, or
9 in a county jail for not less than six months and not exceeding one
10 year.

11 (c) Every person who commits an assault upon the person of a
12 school employee with a stun gun, as defined in Section 244.5, or
13 a less lethal weapon, as defined in Section 12601, and who knows
14 or reasonably should know that the person is a school employee
15 engaged in the performance of his or her duties, when the school
16 employee is engaged in the performance of his or her duties, shall
17 be punished by imprisonment in a county jail for a term not
18 exceeding one year or by imprisonment in the state prison for two,
19 three, or four years.

20 This subdivision shall not be construed to preclude or in any
21 way limit the applicability of Section 245 in any criminal
22 prosecution.

23 (d) As used in the section, “school employee” means any person
24 employed as a permanent or probationary certificated or classified
25 employee of a school district on a part-time or full-time basis,
26 including a substitute teacher. “School employee,” as used in this
27 section, also includes a student teacher, or a school board member.
28 “School,” as used in this section, has the same meaning as that
29 term is defined in Section 626.

30 SEC. 4. Section 626.10 of the Penal Code is amended to read:

31 626.10. (a) Any person, except a duly appointed peace officer
32 as defined in Chapter 4.5 (commencing with Section 830) of Title
33 3 of Part 2, a full-time paid peace officer of another state or the
34 federal government who is carrying out official duties while in
35 this state, a person summoned by any officer to assist in making
36 arrests or preserving the peace while the person is actually engaged
37 in assisting any officer, or a member of the military forces of this
38 state or the United States who is engaged in the performance of
39 his or her duties, who brings or possesses any dirk, dagger, ice
40 pick, knife having a blade longer than 2 ½ inches, folding knife

1 with a blade that locks into place, a razor with an unguarded blade,
2 a less lethal weapon, as defined in Section 12601, or a stun gun,
3 as defined in subdivision (a) of Section 244.5, any instrument that
4 expels a metallic projectile such as a BB or a pellet, through the
5 force of air pressure, CO₂ pressure, or spring action, or any spot
6 marker gun, upon the grounds of, or within, any public or private
7 school providing instruction in kindergarten or any of grades 1 to
8 12, inclusive, is guilty of a public offense, punishable by
9 imprisonment in a county jail not exceeding one year, or by
10 imprisonment in the state prison.

11 (b) Any person, except a duly appointed peace officer as defined
12 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
13 2, a full-time paid peace officer of another state or the federal
14 government who is carrying out official duties while in this state,
15 a person summoned by any officer to assist in making arrests or
16 preserving the peace while the person is actually engaged in
17 assisting any officer, or a member of the military forces of this
18 state or the United States who is engaged in the performance of
19 his or her duties, who brings or possesses any dirk, dagger, ice
20 pick, or knife having a fixed blade longer than 2½ inches upon
21 the grounds of, or within, any private university, the University of
22 California, the California State University, or the California
23 Community Colleges is guilty of a public offense, punishable by
24 imprisonment in a county jail not exceeding one year, or by
25 imprisonment in the state prison.

26 (c) Subdivisions (a) and (b) do not apply to any person who
27 brings or possesses a knife having a blade longer than 2½ inches
28 or a razor with an unguarded blade upon the grounds of, or within,
29 a public or private school providing instruction in kindergarten or
30 any of grades 1 to 12, inclusive, or any private university, state
31 university, or community college at the direction of a faculty
32 member of the private university, state university, or community
33 college, or a certificated or classified employee of the school for
34 use in a private university, state university, community college,
35 or school-sponsored activity or class.

36 (d) Subdivisions (a) and (b) do not apply to any person who
37 brings or possesses an ice pick, a knife having a blade longer than
38 2½ inches, or a razor with an unguarded blade upon the grounds
39 of, or within, a public or private school providing instruction in
40 kindergarten or any of grades 1 to 12, inclusive, or any private

1 university, state university, or community college for a lawful
2 purpose within the scope of the person's employment.

3 (e) Subdivision (b) does not apply to any person who brings or
4 possesses an ice pick or a knife having a fixed blade longer than
5 2½ inches upon the grounds of, or within, any private university,
6 state university, or community college for lawful use in or around
7 a residence or residential facility located upon those grounds or
8 for lawful use in food preparation or consumption.

9 (f) Subdivision (a) does not apply to any person who brings an
10 instrument that expels a metallic projectile such as a BB or a pellet,
11 through the force of air pressure, CO₂ pressure, or spring action,
12 or any spot marker gun upon the grounds of, or within, a public
13 or private school providing instruction in kindergarten or any of
14 grades 1 to 12, inclusive, if the person has the written permission
15 of the school principal or his or her designee.

16 (g) Any certificated or classified employee or school peace
17 officer of a public or private school providing instruction in
18 kindergarten or any of grades 1 to 12, inclusive, may seize any of
19 the weapons described in subdivision (a), and any certificated or
20 classified employee or school peace officer of any private
21 university, state university, or community college may seize any
22 of the weapons described in subdivision (b), from the possession
23 of any person upon the grounds of, or within, the school if he or
24 she knows, or has reasonable cause to know, the person is
25 prohibited from bringing or possessing the weapon upon the
26 grounds of, or within, the school.

27 (h) As used in this section, "dirk" or "dagger" means a knife or
28 other instrument with or without a handguard that is capable of
29 ready use as a stabbing weapon that may inflict great bodily injury
30 or death.

31 (i) Any person who, without the written permission of the
32 college or university president or chancellor or his or her designee,
33 brings or possesses a less lethal weapon, as defined in Section
34 12601, or a stun gun, as defined in Section 12650, upon the grounds
35 of or within, a public or private college or university campus is
36 guilty of a misdemeanor.

37 *SEC. 4.5. Section 626.10 of the Penal Code is amended to*
38 *read:*

39 626.10. (a) (1) Any person, except a duly appointed peace
40 officer as defined in Chapter 4.5 (commencing with Section 830)

1 of Title 3 of Part 2, a full-time paid peace officer of another state
 2 or the federal government who is carrying out official duties while
 3 in this state, a person summoned by any officer to assist in making
 4 arrests or preserving the peace while the person is actually engaged
 5 in assisting any officer, or a member of the military forces of this
 6 state or the United States who is engaged in the performance of
 7 his or her duties, who brings or possesses any dirk, dagger, ice
 8 pick, knife having a blade longer than 2½ inches, folding knife
 9 with a blade that locks into place, a razor with an unguarded blade,
 10 ~~a taser less lethal weapon, as defined in Section 12601, or a stun~~
 11 ~~gun, as defined in subdivision (a) of Section 244.5, any instrument~~
 12 ~~that expels a metallic projectile such as a BB or a pellet, through~~
 13 ~~the force of air pressure, CO₂ pressure, or spring action, or any~~
 14 ~~spot marker gun, upon the grounds of, or within, any public or~~
 15 ~~private school providing instruction in kindergarten or any of~~
 16 ~~grades 1 to 12, inclusive, is guilty of a public offense, punishable~~
 17 ~~by imprisonment in a county jail not exceeding one year, or by~~
 18 ~~imprisonment in the state prison.~~

19 *(2) Any person, except a duly appointed peace officer as defined*
 20 *in Chapter 4.5 (commencing with Section 830) of Title 3 of Part*
 21 *2, a full-time paid peace officer of another state or the federal*
 22 *government who is carrying out official duties while in this state,*
 23 *a person summoned by any officer to assist in making arrests or*
 24 *preserving the peace while the person is actually engaged in*
 25 *assisting any officer, or a member of the military forces of this*
 26 *state or the United States who is engaged in the performance of*
 27 *his or her duties, who brings or possesses a razor blade or a box*
 28 *cutter upon the grounds of, or within, any public or private school*
 29 *providing instruction in kindergarten or any of grades 1 to 12,*
 30 *inclusive, is guilty of a public offense, punishable by imprisonment*
 31 *in a county jail not exceeding one year.*

32 (b) Any person, except a duly appointed peace officer as defined
 33 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
 34 2, a full-time paid peace officer of another state or the federal
 35 government who is carrying out official duties while in this state,
 36 a person summoned by any officer to assist in making arrests or
 37 preserving the peace while the person is actually engaged in
 38 assisting any officer, or a member of the military forces of this
 39 state or the United States who is engaged in the performance of
 40 his or her duties, who brings or possesses any dirk, dagger, ice

1 pick, or knife having a fixed blade longer than 2½ inches upon
2 the grounds of, or within, any private university, the University of
3 California, the California State University, or the California
4 Community Colleges is guilty of a public offense, punishable by
5 imprisonment in a county jail not exceeding one year, or by
6 imprisonment in the state prison.

7 (c) Subdivisions (a) and (b) do not apply to any person who
8 brings or possesses a knife having a blade longer than 2½ inches
9 ~~or~~, a razor with an unguarded blade, *a razor blade*, or *a box cutter*
10 upon the grounds of, or within, a public or private school providing
11 instruction in kindergarten or any of grades 1 to 12, inclusive, or
12 any private university, state university, or community college at
13 the direction of a faculty member of the private university, state
14 university, or community college, or a certificated or classified
15 employee of the school for use in a private university, state
16 university, community college, or school-sponsored activity or
17 class.

18 (d) Subdivisions (a) and (b) do not apply to any person who
19 brings or possesses an ice pick, a knife having a blade longer than
20 2½ inches, ~~or~~ a razor with an unguarded blade, *a razor blade*, or
21 *a box cutter* upon the grounds of, or within, a public or private
22 school providing instruction in kindergarten or any of grades 1 to
23 12, inclusive, or any private university, state university, or
24 community college for a lawful purpose within the scope of the
25 person's employment.

26 (e) Subdivision (b) does not apply to any person who brings or
27 possesses an ice pick or a knife having a fixed blade longer than
28 2½ inches upon the grounds of, or within, any private university,
29 state university, or community college for lawful use in or around
30 a residence or residential facility located upon those grounds or
31 for lawful use in food preparation or consumption.

32 (f) Subdivision (a) does not apply to any person who brings an
33 instrument that expels a metallic projectile such as a BB or a pellet,
34 through the force of air pressure, CO₂ pressure, or spring action,
35 or any spot marker gun, *or any razor blade or box cutter* upon the
36 grounds of, or within, a public or private school providing
37 instruction in kindergarten or any of grades 1 to 12, inclusive, if
38 the person has the written permission of the school principal or
39 his or her designee.

(g) Any certificated or classified employee or school peace officer of a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or school peace officer of any private university, state university, or community college may seize any of the weapons described in subdivision (b), from the possession of any person upon the grounds of, or within, the school if he or she knows, or has reasonable cause to know, the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

(h) As used in this section, “dirk” or “dagger” means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.

(i) Any person who, without the written permission of the college or university president or chancellor or his or her designee, brings or possesses a less lethal weapon, as defined in Section 12601, or a stun gun, as defined in Section 12650, upon the grounds of or within, a public or private college or university campus is guilty of a misdemeanor.

SEC. 5. Section 11160 of the Penal Code is amended to read:

11160. (a) Any health practitioner employed in a health facility, clinic, physician’s office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in his or her professional capacity or within the scope of his or her employment, provides medical services for a physical condition to a patient whom he or she knows or reasonably suspects is a person described as follows, shall immediately make a report in accordance with subdivision

(b):

(1) Any person suffering from any wound or other physical injury inflicted by his or her own act or inflicted by another where the injury is by means of a firearm.

(2) Any person suffering from any wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct.

(b) Any health practitioner employed in a health facility, clinic, physician’s office, local or state public health department, or a clinic or other type of facility operated by a local or state public

1 health department shall make a report regarding persons described
2 in subdivision (a) to a local law enforcement agency as follows:

3 (1) A report by telephone shall be made immediately or as soon
4 as practically possible.

5 (2) A written report shall be prepared on the standard form
6 developed in compliance with paragraph (4) of this subdivision,
7 and Section 11160.2, and adopted by the agency or agencies
8 designated by the Director of Finance pursuant to Section 13820,
9 or on a form developed and adopted by another state agency that
10 otherwise fulfills the requirements of the standard form. The
11 completed form shall be sent to a local law enforcement agency
12 within two working days of receiving the information regarding
13 the person.

14 (3) A local law enforcement agency shall be notified and a
15 written report shall be prepared and sent pursuant to paragraphs
16 (1) and (2) even if the person who suffered the wound, other injury,
17 or assaultive or abusive conduct has expired, regardless of whether
18 or not the wound, other injury, or assaultive or abusive conduct
19 was a factor contributing to the death, and even if the evidence of
20 the conduct of the perpetrator of the wound, other injury, or
21 assaultive or abusive conduct was discovered during an autopsy.

22 (4) The report shall include, but shall not be limited to, the
23 following:

24 (A) The name of the injured person, if known.

25 (B) The injured person's whereabouts.

26 (C) The character and extent of the person's injuries.

27 (D) The identity of any person the injured person alleges
28 inflicted the wound, other injury, or assaultive or abusive conduct
29 upon the injured person.

30 (c) For the purposes of this section, "injury" shall not include
31 any psychological or physical condition brought about solely
32 through the voluntary administration of a narcotic or restricted
33 dangerous drug.

34 (d) For the purposes of this section, "assaultive or abusive
35 conduct" shall include any of the following offenses:

36 (1) Murder, in violation of Section 187.

37 (2) Manslaughter, in violation of Section 192 or 192.5.

38 (3) Mayhem, in violation of Section 203.

39 (4) Aggravated mayhem, in violation of Section 205.

40 (5) Torture, in violation of Section 206.

1 (6) Assault with intent to commit mayhem, rape, sodomy, or
2 oral copulation, in violation of Section 220.

3 (7) Administering controlled substances or anesthetic to aid in
4 commission of a felony, in violation of Section 222.

5 (8) Battery, in violation of Section 242.

6 (9) Sexual battery, in violation of Section 243.4.

7 (10) Incest, in violation of Section 285.

8 (11) Throwing any vitriol, corrosive acid, or caustic chemical
9 with intent to injure or disfigure, in violation of Section 244.

10 (12) Assault with a stun gun or less lethal weapon, in violation
11 of Section 244.5.

12 (13) Assault with a deadly weapon, firearm, assault weapon, or
13 machinegun, or by means likely to produce great bodily injury, in
14 violation of Section 245.

15 (14) Rape, in violation of Section 261.

16 (15) Spousal rape, in violation of Section 262.

17 (16) Procuring any female to have sex with another man, in
18 violation of Section 266, 266a, 266b, or 266c.

19 (17) Child abuse or endangerment, in violation of Section 273a
20 or 273d.

21 (18) Abuse of spouse or cohabitant, in violation of Section
22 273.5.

23 (19) Sodomy, in violation of Section 286.

24 (20) Lewd and lascivious acts with a child, in violation of
25 Section 288.

26 (21) Oral copulation, in violation of Section 288a.

27 (22) Sexual penetration, in violation of Section 289.

28 (23) Elder abuse, in violation of Section 368.

29 (24) An attempt to commit any crime specified in paragraphs
30 (1) to (23), inclusive.

31 (e) When two or more persons who are required to report are
32 present and jointly have knowledge of a known or suspected
33 instance of violence that is required to be reported pursuant to this
34 section, and when there is an agreement among these persons to
35 report as a team, the team may select by mutual agreement a
36 member of the team to make a report by telephone and a single
37 written report, as required by subdivision (b). The written report
38 shall be signed by the selected member of the reporting team. Any
39 member who has knowledge that the member designated to report
40 has failed to do so shall thereafter make the report.

1 (f) The reporting duties under this section are individual, except
2 as provided in subdivision (e).

3 (g) No supervisor or administrator shall impede or inhibit the
4 reporting duties required under this section and no person making
5 a report pursuant to this section shall be subject to any sanction
6 for making the report. However, internal procedures to facilitate
7 reporting and apprise supervisors and administrators of reports
8 may be established, except that these procedures shall not be
9 inconsistent with this article. The internal procedures shall not
10 require any employee required to make a report under this article
11 to disclose his or her identity to the employer.

12 (h) For the purposes of this section, it is the Legislature's intent
13 to avoid duplication of information.

14 SEC. 6. Section 12650 of the Penal Code is amended to read:

15 12650. "Stun gun" as used in this chapter shall include any
16 item, except a less lethal weapon, as defined in Section 12601,
17 used or intended to be used as either an offensive or defensive
18 weapon capable of temporarily immobilizing a person by the
19 infliction of an electrical charge.

20 *SEC. 6.5. Section 4.5 of this bill incorporates amendments to*
21 *Section 626.10 of the Penal Code proposed by both this bill and*
22 *AB 870. It shall only become operative if (1) both bills are enacted*
23 *and become effective on or before January 1, 2010, (2) each bill*
24 *amends Section 626.10 of the Penal Code, and (3) this bill is*
25 *enacted after AB 870, in which case Section 4 of this bill shall not*
26 *become operative.*

27 SEC. 7. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.