

AMENDED IN SENATE AUGUST 27, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 870

Introduced by Assembly Member Huber

February 26, 2009

An act to amend Section 626.10 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 870, as amended, Huber. Crime: school grounds: prohibited weapons.

Existing law makes it a misdemeanor or a felony for a person, subject to exceptions, to bring or possess any of specified weapons, including dirks, daggers, ice picks, certain knives, razors with unguarded blades, tasers, stun guns, instruments expelling metallic projectiles, and spot marker guns, upon the grounds of, or within, any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive.

This bill would, in addition, make it a misdemeanor to bring or possess a razor blade or box cutter upon those school grounds, except as provided. Because this bill ~~create~~ *creates* new crimes, it would impose a state-mandated local program.

This bill would incorporate additional changes to Section 626.10 of the Penal Code, proposed by AB 322, 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:

1 SECTION 1. Section 626.10 of the Penal Code is amended to
2 read:

3 626.10. (a) (1) Any person, except a duly appointed peace
4 officer as defined in Chapter 4.5 (commencing with Section 830)
5 of Title 3 of Part 2, a full-time paid peace officer of another state
6 or the federal government who is carrying out official duties while
7 in this state, a person summoned by any officer to assist in making
8 arrests or preserving the peace while the person is actually engaged
9 in assisting any officer, or a member of the military forces of this
10 state or the United States who is engaged in the performance of
11 his or her duties, who brings or possesses any dirk, dagger, ice
12 pick, knife having a blade longer than 2 ½ inches, folding knife
13 with a blade that locks into place, razor with an unguarded blade,
14 taser, or stun gun, as defined in subdivision (a) of Section 244.5,
15 any instrument that expels a metallic projectile such as a BB or a
16 pellet, through the force of air pressure, CO₂ pressure, or spring
17 action, or any spot marker gun, upon the grounds of, or within,
18 any public or private school providing instruction in kindergarten
19 or any of grades 1 to 12, inclusive, is guilty of a public offense,
20 punishable by imprisonment in a county jail not exceeding one
21 year, or by imprisonment in the state prison.

22 (2) Any person, except a duly appointed peace officer as defined
23 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
24 2, a full-time paid peace officer of another state or the federal
25 government who is carrying out official duties while in this state,
26 a person summoned by any officer to assist in making arrests or
27 preserving the peace while the person is actually engaged in
28 assisting any officer, or a member of the military forces of this
29 state or the United States who is engaged in the performance of
30 his or her duties, who brings or possesses a razor blade or a box
31 cutter; upon the grounds of, or within, any public or private school
32 providing instruction in kindergarten or any of grades 1 to 12,

1 inclusive, is guilty of a public offense, punishable by imprisonment
2 in a county jail not exceeding one year.

3 (b) Any person, except a duly appointed peace officer as defined
4 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part
5 2, a full-time paid peace officer of another state or the federal
6 government who is carrying out official duties while in this state,
7 a person summoned by any officer to assist in making arrests or
8 preserving the peace while the person is actually engaged in
9 assisting any officer, or a member of the military forces of this
10 state or the United States who is engaged in the performance of
11 his or her duties, who brings or possesses any dirk, dagger, ice
12 pick, or knife having a fixed blade longer than 2½ inches upon
13 the grounds of, or within, any private university, the University of
14 California, the California State University, or the California
15 Community Colleges is guilty of a public offense, punishable by
16 imprisonment in a county jail not exceeding one year, or by
17 imprisonment in the state prison.

18 (c) Subdivisions (a) and (b) do not apply to any person who
19 brings or possesses a knife having a blade longer than 2½ inches,
20 a razor with an unguarded blade, a razor blade, or a box cutter
21 upon the grounds of, or within, a public or private school providing
22 instruction in kindergarten or any of grades 1 to 12, inclusive, or
23 any private university, state university, or community college at
24 the direction of a faculty member of the private university, state
25 university, or community college, or a certificated or classified
26 employee of the school for use in a private university, state
27 university, community college, or school-sponsored activity or
28 class.

29 (d) Subdivisions (a) and (b) do not apply to any person who
30 brings or possesses an ice pick, a knife having a blade longer than
31 2½ inches, a razor with an unguarded blade, a razor blade, or a
32 box cutter upon the grounds of, or within, a public or private school
33 providing instruction in kindergarten or any of grades 1 to 12,
34 inclusive, or any private university, state university, or community
35 college for a lawful purpose within the scope of the person's
36 employment.

37 (e) Subdivision (b) does not apply to any person who brings or
38 possesses an ice pick or a knife having a fixed blade longer than
39 2½ inches upon the grounds of, or within, any private university,
40 state university, or community college for lawful use in or around

1 a residence or residential facility located upon those grounds or
2 for lawful use in food preparation or consumption.

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

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

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

26 (i) Any person who, without the written permission of the
27 college or university president or chancellor or his or her designee,
28 brings or possesses a less lethal weapon, as defined in Section
29 12601, or a stun gun, as defined in Section 12650, upon the grounds
30 of or within, a public or private college or university campus is
31 guilty of a misdemeanor.

32 *SEC. 1.5. Section 626.10 of the Penal Code is amended to*
33 *read:*

34 626.10. (a) (1) Any person, except a duly appointed peace
35 officer as defined in Chapter 4.5 (commencing with Section 830)
36 of Title 3 of Part 2, a full-time paid peace officer of another state
37 or the federal government who is carrying out official duties while
38 in this state, a person summoned by any officer to assist in making
39 arrests or preserving the peace while the person is actually engaged
40 in assisting any officer, or a member of the military forces of this

state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, knife having a blade longer than 2½ inches, folding knife with a blade that locks into place, a razor with an unguarded blade, a taser less lethal weapon, as defined in Section 12601, or a stun gun, as defined in subdivision (a) of Section 244.5, any instrument that expels a metallic projectile such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun, upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

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

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, or knife having a fixed blade longer than 2½ inches upon the grounds of, or within, any private university, the University of California, the California State University, or the California Community Colleges is guilty of a public offense, punishable by

1 imprisonment in a county jail not exceeding one year, or by
2 imprisonment in the state prison.

3 (c) Subdivisions (a) and (b) do not apply to any person who
4 brings or possesses a knife having a blade longer than 2 ½ inches
5 ~~or~~, a razor with an unguarded blade, *a razor blade, or a box cutter*
6 upon the grounds of, or within, a public or private school providing
7 instruction in kindergarten or any of grades 1 to 12, inclusive, or
8 any private university, state university, or community college at
9 the direction of a faculty member of the private university, state
10 university, or community college, or a certificated or classified
11 employee of the school for use in a private university, state
12 university, community college, or school-sponsored activity or
13 class.

14 (d) Subdivisions (a) and (b) do not apply to any person who
15 brings or possesses an ice pick, a knife having a blade longer than
16 2 ½ inches, ~~or~~ a razor with an unguarded blade, *a razor blade, or*
17 *a box cutter* upon the grounds of, or within, a public or private
18 school providing instruction in kindergarten or any of grades 1 to
19 12, inclusive, or any private university, state university, or
20 community college for a lawful purpose within the scope of the
21 person's employment.

22 (e) Subdivision (b) does not apply to any person who brings or
23 possesses an ice pick or a knife having a fixed blade longer than
24 2 ½ inches upon the grounds of, or within, any private university,
25 state university, or community college for lawful use in or around
26 a residence or residential facility located upon those grounds or
27 for lawful use in food preparation or consumption.

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

36 (g) Any certificated or classified employee or school peace
37 officer of a public or private school providing instruction in
38 kindergarten or any of grades 1 to 12, inclusive, may seize any of
39 the weapons described in subdivision (a), and any certificated or
40 classified employee or school peace officer of any private

1 university, state university, or community college may seize any
2 of the weapons described in subdivision (b), from the possession
3 of any person upon the grounds of, or within, the school if he or
4 she knows, or has reasonable cause to know, the person is
5 prohibited from bringing or possessing the weapon upon the
6 grounds of, or within, the school.

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

11 (i) Any person who, without the written permission of the
12 college or university president or chancellor or his or her designee,
13 brings or possesses a less lethal weapon, as defined in Section
14 12601, or a stun gun, as defined in Section 12650, upon the grounds
15 of or within, a public or private college or university campus is
16 guilty of a misdemeanor.

17 *SEC. 2. Section 1.5 of this bill incorporates amendments to*
18 *Section 626.10 of the Penal Code proposed by both this bill and*
19 *AB 322. It shall only become operative if (1) both bills are enacted*
20 *and become effective on or before January 1, 2010, (2) each bill*
21 *amends Section 626.10 of the Penal Code, and (3) this bill is*
22 *enacted after AB 322, in which case Section 1 of this bill shall not*
23 *become operative.*

24 ~~SEC. 2.~~

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