

AMENDED IN ASSEMBLY JUNE 23, 2009

AMENDED IN ASSEMBLY JUNE 8, 2009

AMENDED IN SENATE APRIL 22, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 434

Introduced by Senators Benoit and Huff
(Principal coauthor: Senator Padilla)
(Coauthors: Senators Florez and Leno)
(Coauthor: Assembly Member Gilmore)

February 26, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

SB 434, as amended, Benoit. 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 any inmate or ward who possesses 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, or any 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. The bill would also provide that if a person visiting an inmate *or ward* 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 subscriber identity module (SIM card) or memory storage device, when searched or subjected to a metal detector, as specified, that cellular telephone or wireless communication device or component shall be subject to confiscation. 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 the person in charge of the prison or other institution
4 subject to this section or by an officer of the institution empowered
5 to give that authorization, and except as provided in subdivision
6 (b), any inmate or ward who possesses any cellular telephone or
7 other wireless communication device or any component thereof,
8 including, but not limited to, a subscriber identity module (SIM
9 card) or memory storage device, or any person who possesses with
10 the intent to deliver, or delivers, to an inmate or ward in the custody
11 of the Department of Corrections and Rehabilitation any cellular
12 telephone or other wireless communication device or any
13 component thereof, including, but not limited to, a subscriber
14 identity module (SIM card) or memory storage device, is guilty
15 of a misdemeanor, punishable by a fine not to exceed five thousand
16 dollars (\$5,000).
17 (b) If a person visiting an inmate *or ward* in the custody of the
18 Department of Corrections and Rehabilitation, upon being searched

1 or subjected to a metal detector, is found to be in possession of a
2 cellular telephone or other wireless communication device or any
3 component thereof, including, but not limited to, a subscriber
4 identity module (SIM card) or memory storage device, that device
5 or component shall be subject to confiscation. Notice of this
6 provision shall be posted in all areas where visitors are searched
7 prior to visitation with an inmate *or ward* in the custody of the
8 Department of Corrections and Rehabilitation.

9 SEC. 2. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.