

Senate Bill No. 525

Passed the Senate August 9, 2010

Secretary of the Senate

Passed the Assembly August 5, 2010

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 525, Padilla. 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 a 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, for each device. The bill would also provide that if a person visiting an inmate or ward in the custody of the department 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 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, but shall be returned on the same day the person visits the inmate or ward, except as provided. 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.

The people of the State of California do enact as follows:

SECTION 1. Section 4576 is added to the Penal Code, to read:

4576. (a) Except as otherwise authorized by law, or when authorized by either the person in charge of the prison or other institution under the jurisdiction of the Department of Corrections and Rehabilitation or an officer of the institution empowered to give that authorization, and except as provided in subdivision (b), a person who possesses with the intent to deliver, or delivers, to an inmate or ward in the custody of the department 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 to exceed five thousand dollars (\$5,000), for each device.

(b) If a person visiting an inmate or ward in the custody of the department, upon being searched or subjected to a metal detector, 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 SIM card or memory storage device, that device or component shall be subject to confiscation but shall be returned on the same day the person visits the inmate or ward, unless the cellular telephone or other wireless communication device or any component thereof is held as evidence in a case where the person is cited for a violation of subdivision (a). If upon investigation it is determined that no prosecution will take place, the cellular telephone or other wireless communication device or any component thereof shall be returned to the owner at the owner's expense. Notice of this provision shall be posted in all areas where visitors are searched prior to visitation with an inmate or ward in the custody of the department.

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

Approved _____, 2010

Governor