

ASSEMBLY BILL

No. 2182

Introduced by Assembly Member Torres

February 23, 2012

An act to amend Section 836 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 2182, as introduced, Torres. Airports: firearms: arrest.

Under existing law it is a misdemeanor to knowingly possess a firearm within any sterile area of an airport or a passenger vessel terminal. Existing law also generally prohibits the carrying of concealed firearms without a permit. Existing law authorizes a peace officer to make a warrantless arrest of a person for a violation of the provisions of law prohibiting the carrying of a concealed firearm when the violation occurs within an airport in an area to which access is controlled by the inspection of persons and property.

This bill would require a peace officer to arrest a person for violating the provisions of law prohibiting the carrying of concealed firearms when the offense occurs within an airport, as defined, in an area to which access is controlled by the inspection of persons and property, and would require the peace officer to confiscate the firearm. The bill would ban a person who is subsequently found guilty from entering the airport, and would make it a misdemeanor to enter the airport where the offense occurred. The bill would establish a rebuttable presumption that the area to which access is controlled by the inspection of persons and property begins wherever signs have been posted notifying airport users that the possession of restricted items is prohibited. 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 836 of the Penal Code is amended to
2 read:

3 836. (a) A peace officer may arrest a person in obedience to
4 a warrant, or, pursuant to the authority granted to him or her by
5 Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2,
6 without a warrant, may arrest a person whenever any of the
7 following circumstances occur:

8 (1) The officer has probable cause to believe that the person to
9 be arrested has committed a public offense in the officer's presence.

10 (2) The person arrested has committed a felony, although not
11 in the officer's presence.

12 (3) The officer has probable cause to believe that the person to
13 be arrested has committed a felony, whether or not a felony, in
14 fact, has been committed.

15 (b) Any time a peace officer is called out on a domestic violence
16 call, it shall be mandatory that the officer make a good faith effort
17 to inform the victim of his or her right to make a citizen's arrest.
18 This information shall include advising the victim how to safely
19 execute the arrest.

20 (c) (1) When a peace officer is responding to a call alleging a
21 violation of a domestic violence protective or restraining order
22 issued under Section 527.6 of the Code of Civil Procedure, the
23 Family Code, Section 136.2, 646.91, or paragraph (2) of
24 subdivision (a) of Section 1203.097 of this code, Section 213.5 or
25 15657.03 of the Welfare and Institutions Code, or of a domestic
26 violence protective or restraining order issued by the court of
27 another state, tribe, or territory and the peace officer has probable
28 cause to believe that the person against whom the order is issued
29 has notice of the order and has committed an act in violation of
30 the order, the officer shall, consistent with subdivision (b) of

1 Section 13701, make a lawful arrest of the person without a warrant
2 and take that person into custody whether or not the violation
3 occurred in the presence of the arresting officer. The officer shall,
4 as soon as possible after the arrest, confirm with the appropriate
5 authorities or the Domestic Violence Protection Order Registry
6 maintained pursuant to Section 6380 of the Family Code that a
7 true copy of the protective order has been registered, unless the
8 victim provides the officer with a copy of the protective order.

9 (2) The person against whom a protective order has been issued
10 shall be deemed to have notice of the order if the victim presents
11 to the officer proof of service of the order, the officer confirms
12 with the appropriate authorities that a true copy of the proof of
13 service is on file, or the person against whom the protective order
14 was issued was present at the protective order hearing or was
15 informed by a peace officer of the contents of the protective order.

16 (3) In situations where mutual protective orders have been issued
17 under Division 10 (commencing with Section 6200) of the Family
18 Code, liability for arrest under this subdivision applies only to
19 those persons who are reasonably believed to have been the
20 dominant aggressor. In those situations, prior to making an arrest
21 under this subdivision, the peace officer shall make reasonable
22 efforts to identify, and may arrest, the dominant aggressor involved
23 in the incident. The dominant aggressor is the person determined
24 to be the most significant, rather than the first, aggressor. In
25 identifying the dominant aggressor, an officer shall consider (A)
26 the intent of the law to protect victims of domestic violence from
27 continuing abuse, (B) the threats creating fear of physical injury,
28 (C) the history of domestic violence between the persons involved,
29 and (D) whether either person involved acted in self-defense.

30 (d) Notwithstanding paragraph (1) of subdivision (a), if a suspect
31 commits an assault or battery upon a current or former spouse,
32 fiancé, fiancée, a current or former cohabitant as defined in Section
33 6209 of the Family Code, a person with whom the suspect currently
34 is having or has previously had an engagement or dating
35 relationship, as defined in paragraph (10) of subdivision (f) of
36 Section 243, a person with whom the suspect has parented a child,
37 or is presumed to have parented a child pursuant to the Uniform
38 Parentage Act (Part 3 (commencing with Section 7600) of Division
39 12 of the Family Code), a child of the suspect, a child whose
40 parentage by the suspect is the subject of an action under the

1 Uniform Parentage Act, a child of a person in one of the above
2 categories, any other person related to the suspect by consanguinity
3 or affinity within the second degree, or any person who is 65 years
4 of age or older and who is related to the suspect by blood or legal
5 guardianship, a peace officer may arrest the suspect without a
6 warrant where both of the following circumstances apply:

7 (1) The peace officer has probable cause to believe that the
8 person to be arrested has committed the assault or battery, whether
9 or not it has in fact been committed.

10 (2) The peace officer makes the arrest as soon as probable cause
11 arises to believe that the person to be arrested has committed the
12 assault or battery, whether or not it has in fact been committed.

13 (e) (1) In addition to the authority to make an arrest without a
14 warrant pursuant to paragraphs (1) and (3) of subdivision (a), a
15 peace officer ~~may~~, *shall, with or without a warrant*, arrest a person
16 for a violation of Section 25400 when all of the following apply:

17 ~~(1)~~

18 (A) The officer has reasonable cause to believe that the person
19 to be arrested has committed the violation of Section 25400.

20 ~~(2)~~

21 (B) The violation of Section 25400 occurred within an airport,
22 as defined in Section 21013 of the Public Utilities Code, in an area
23 to which access is controlled by the inspection of persons and
24 property.

25 ~~(3)~~

26 (C) The peace officer makes the arrest as soon as reasonable
27 cause arises to believe that the person to be arrested has committed
28 the violation of Section 25400.

29 (2) *When an arrest is made pursuant to this subdivision, the*
30 *officer shall confiscate the firearm.*

31 (3) *A person who is arrested pursuant to these provisions and*
32 *found guilty of a violation of Section 25400 occurring within an*
33 *airport, as defined in Section 21013 of the Public Utilities Code,*
34 *in an area to which access is controlled by the inspection of*
35 *persons and property, shall be banned from using the airport where*
36 *the offense occurred. A person entering the airport after a*
37 *conviction described in this paragraph shall be guilty of a*
38 *misdemeanor.*

39 (4) *For purposes of this subdivision, there shall be a rebuttable*
40 *presumption that an area to which access is controlled by the*

1 *inspection of persons and property begins wherever a sign has*
2 *been posted notifying airport users that the possession of restricted*
3 *items is prohibited.*

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