

AMENDED IN ASSEMBLY JUNE 8, 2004

AMENDED IN SENATE APRIL 29, 2004

AMENDED IN SENATE MARCH 25, 2004

SENATE BILL

No. 1858

Introduced by Senator Dunn

February 20, 2004

An act to add Section 451.5 to the Public Utilities Code, relating to the statewide emergency telephone system. An act to amend Section 53071.5 of the Government Code, to amend Sections 417.4 and 12021 of, to add Sections 12550, 12553, 12554, 12555, and 12556 to, to repeal Section 417.2 of, and to amend the heading of Article 1 (commencing with Section 12550) of Chapter 6 of Title 2 of Part 4 of, the Penal Code, relating to imitation firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 1858, as amended, Dunn. ~~Telephone corporations: statewide emergency telephone system~~ Imitation firearms.

Existing law defines "imitation firearm" which definition excludes BB guns.

This bill would include a BB device within the definition of "imitation firearm" for certain purposes.

Existing law generally regulates commerce in imitation firearms, as specified. This bill would repeal, recast and add those provisions, and expand certain exceptions to the scope of those provisions regulating commerce of imitation firearms.

Existing law, subject to exceptions, makes it an offense to draw or exhibit an imitation firearm in a threatening manner, as specified.

This bill would expand the definition of imitation firearm for purposes of that crime.

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

This bill would provide that, subject to exceptions, any person who alters a device that is not an imitation firearm with the result that the device appears more like a firearm, as specified, is punishable as a misdemeanor.

By creating a new crime, this bill would impose a state-mandated local program.

This bill would provide that any manufacturer, importer, or distributor of imitation firearms that fails to comply with any applicable federal law or regulation governing the marking of a toy, look-alike or imitation firearm as defined by federal law or regulation is punishable as a misdemeanor.

By creating a new crime, this bill would impose a state-mandated local program.

This bill would require an advisory label for imitation firearms, as specified. The bill would provide that failure to provide the advisory would make a manufacturer, importer, or distributor liable for a civil fine, as specified.

This bill would, subject to exceptions, make it an offense to openly display or expose any imitation firearm in a public place.

By creating a new crime, this bill would impose a state-mandated local program.

The bill would make other conforming changes.

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.

~~Existing law generally sets forth the criteria governing the statewide “911” emergency telephone system. Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, and authorizes the commission to fix just and reasonable rates and charges, and requires that all charges demanded or received by any public utility for any product or commodity furnished or any service rendered be just and reasonable.~~



~~This bill would require the commission to review the rates and charges by telephone corporations for “911” emergency telephone service to ensure that those rates and charges are just and reasonable.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

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

1 ~~SECTION 1.—Section 451.5 is added to the Public Utilities~~
2 *SECTION 1. Section 53071.5 of the Government Code is*
3 *amended to read:*

4 53071.5. By the enforcement of this section, the Legislature
5 occupies the whole field of regulation of the manufacture, sale, or
6 possession of imitation firearms, as defined in Section ~~417.2~~
7 *12550* of the Penal Code, and that section shall preempt and be
8 exclusive of all regulations relating to the manufacture, sale, or
9 possession of imitation firearms, including regulations governing
10 the manufacture, sale, or possession of BB ~~guns~~ *devices* and air
11 rifles described in subdivision (g) of Section 12001 of the Penal
12 Code.

13 *SEC. 2. Section 417.2 of the Penal Code is repealed.*

14 ~~417.2. (a) Any person who, for commercial purposes,~~
15 ~~purchases, sells, manufactures, ships, transports, distributes, or~~
16 ~~receives, by mail order or in any other manner, an imitation firearm~~
17 ~~except as permitted by this section shall be liable for a civil fine in~~
18 ~~an action brought by the city attorney of the city or the district~~
19 ~~attorney of the county of not more than ten thousand dollars~~
20 ~~(\$10,000) for each violation.~~

21 ~~(b) The manufacture, purchase, sale, shipping, transport,~~
22 ~~distribution, or receipt, by mail or in any other manner, of imitation~~
23 ~~firearms is permitted if the device is manufactured, purchased,~~
24 ~~sold, shipped, transported, distributed, or received for any of the~~
25 ~~following purposes:~~

26 ~~(1) Solely for export in interstate or foreign commerce.~~

27 ~~(2) Solely for lawful use in theatrical productions, including~~
28 ~~motion picture, television, and stage productions.~~

29 ~~(3) For use in a certified or regulated athletic event or~~
30 ~~competition.~~

31 ~~(4) For use in military or civil defense activities.~~

32 ~~(5) For public displays authorized by public or private schools.~~



1 ~~(c) As used in this section, “imitation firearm” means a replica~~
2 ~~of a firearm that is so substantially similar in physical properties~~
3 ~~to an existing firearm as to lead a reasonable person to conclude~~
4 ~~that the replica is a firearm.~~

5 ~~(d) As used in this section, “imitation firearm” does not~~
6 ~~include any of the following:~~

7 ~~(1) A nonfiring collector’s replica of an antique firearm that~~
8 ~~was designed prior to 1898, is historically significant, and is~~
9 ~~offered for sale in conjunction with a wall plaque or presentation~~
10 ~~case.~~

11 ~~(2) A nonfiring collector’s replica of a firearm that was~~
12 ~~designed after 1898, is historically significant, was issued as a~~
13 ~~commemorative by a nonprofit organization, and is offered for~~
14 ~~sale in conjunction with a wall plaque or presentation case.~~

15 ~~(3) A device, as defined in subdivision (g) of Section 12001.~~

16 ~~(4) An imitation firearm where the coloration of the entire~~
17 ~~exterior surface of the device is bright orange or bright green,~~
18 ~~either singly or in combination.~~

19 ~~(5) An instrument that expels a projectile, such as a BB or~~
20 ~~pellet, not exceeding 6mm caliber, through the force of air~~
21 ~~pressure, gas pressure, or spring action, or a spot marker gun.~~

22 *SEC. 3. Section 417.4 of the Penal Code is amended to read:*

23 417.4. Every person who, except in self-defense, draws or
24 exhibits an imitation firearm, *as defined in Section 12550*, in a
25 threatening manner against another in such a way as to cause a
26 reasonable person apprehension or fear of bodily harm is guilty of
27 a misdemeanor punishable by imprisonment in a county jail for a
28 term of not less than 30 days. ~~For purposes of this section, an~~
29 ~~imitation firearm means a replica of a firearm that is so~~
30 ~~substantially similar in physical properties to an existing firearm~~
31 ~~as to lead a reasonable person to conclude that the replica is a~~
32 ~~firearm.~~

33 *SEC. 4. Section 12021 of the Penal Code is amended to read:*

34 12021. (a) (1) Any person who has been convicted of a
35 felony under the laws of the United States, of the State of
36 California, or any other state, government, or country, or of an
37 offense enumerated in subdivision (a), (b), or (d) of Section
38 12001.6, or who is addicted to the use of any narcotic drug, who
39 owns, purchases, receives, or has in his or her possession or under
40 his or her custody or control any firearm is guilty of a felony.



1 (2) Any person who has two or more convictions for violating
2 paragraph (2) of subdivision (a) of Section 417 and who owns,
3 purchases, receives, or has in his or her possession or under his or
4 her custody or control any firearm is guilty of a felony.

5 (b) Notwithstanding subdivision (a), any person who has been
6 convicted of a felony or of an offense enumerated in Section
7 12001.6, when that conviction results from certification by the
8 juvenile court for prosecution as an adult in an adult court under
9 Section 707 of the Welfare and Institutions Code, who owns or has
10 in his or her possession or under his or her custody or control any
11 firearm is guilty of a felony.

12 (c) (1) Except as provided in subdivision (a) or paragraph (2)
13 of this subdivision, any person who has been convicted of a
14 misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140,
15 subdivision (d) of Section 148, Section 171b, 171c, 171d, 186.28,
16 240, 241, 242, 243, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6,
17 417, ~~417.1, 417.2~~, 417.6, 422, 626.9, 646.9, 12023, or 12024,
18 subdivision (b) or (d) of Section 12034, Section 12040,
19 subdivision (b) of Section 12072, subdivision (a) of former
20 Section 12100, Section 12220, 12320, or 12590, or Section 8100,
21 8101, or 8103 of the Welfare and Institutions Code, any
22 firearm-related offense pursuant to Sections 871.5 and 1001.5 of
23 the Welfare and Institutions Code, or of the conduct punished in
24 paragraph (3) of subdivision of Section 12072, and who, within 10
25 years of the conviction, owns, purchases, receives, or has in his or
26 her possession or under his or her custody or control, any firearm
27 is guilty of a public offense, which shall be punishable by
28 imprisonment in a county jail not exceeding one year or in the state
29 prison, by a fine not exceeding one thousand dollars (\$1,000), or
30 by both that imprisonment and fine. The court, on forms
31 prescribed by the Department of Justice, shall notify the
32 department of persons subject to this subdivision. However, the
33 prohibition in this paragraph may be reduced, eliminated, or
34 conditioned as provided in paragraph (2) or (3).

35 (2) Any person employed as a peace officer described in
36 Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose
37 employment or livelihood is dependent on the ability to legally
38 possess a firearm, who is subject to the prohibition imposed by this
39 subdivision because of a conviction under Section 273.5, 273.6, or
40 646.9, may petition the court only once for relief from this



1 prohibition. The petition shall be filed with the court in which the
2 petitioner was sentenced. If possible, the matter shall be heard
3 before the same judge that sentenced the petitioner. Upon filing the
4 petition, the clerk of the court shall set the hearing date and shall
5 notify the petitioner and the prosecuting attorney of the date of the
6 hearing. Upon making each of the following findings, the court
7 may reduce or eliminate the prohibition, impose conditions on
8 reduction or elimination of the prohibition, or otherwise grant
9 relief from the prohibition as the court deems appropriate:

10 (A) Finds by a preponderance of the evidence that the
11 petitioner is likely to use a firearm in a safe and lawful manner.

12 (B) Finds that the petitioner is not within a prohibited class as
13 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
14 and the court is not presented with any credible evidence that the
15 petitioner is a person described in Section 8100 or 8103 of the
16 Welfare and Institutions Code.

17 (C) Finds that the petitioner does not have a previous
18 conviction under this subdivision no matter when the prior
19 conviction occurred.

20 In making its decision, the court shall consider the petitioner's
21 continued employment, the interest of justice, any relevant
22 evidence, and the totality of the circumstances. The court shall
23 require, as a condition of granting relief from the prohibition under
24 this section, that the petitioner agree to participate in counseling
25 as deemed appropriate by the court. Relief from the prohibition
26 shall not relieve any other person or entity from any liability that
27 might otherwise be imposed. It is the intent of the Legislature that
28 courts exercise broad discretion in fashioning appropriate relief
29 under this paragraph in cases in which relief is warranted.
30 However, nothing in this paragraph shall be construed to require
31 courts to grant relief to any particular petitioner. It is the intent of
32 the Legislature to permit persons who were convicted of an offense
33 specified in Section 273.5, 273.6, or 646.9 to seek relief from the
34 prohibition imposed by this subdivision.

35 (3) Any person who is subject to the prohibition imposed by
36 this subdivision because of a conviction of an offense prior to that
37 offense being added to paragraph (1) may petition the court only
38 once for relief from this prohibition. The petition shall be filed
39 with the court in which the petitioner was sentenced. If possible,
40 the matter shall be heard before the same judge that sentenced the



1 petitioner. Upon filing the petition, the clerk of the court shall set
2 the hearing date and notify the petitioner and the prosecuting
3 attorney of the date of the hearing. Upon making each of the
4 following findings, the court may reduce or eliminate the
5 prohibition, impose conditions on reduction or elimination of the
6 prohibition, or otherwise grant relief from the prohibition as the
7 court deems appropriate:

8 (A) Finds by a preponderance of the evidence that the
9 petitioner is likely to use a firearm in a safe and lawful manner.

10 (B) Finds that the petitioner is not within a prohibited class as
11 specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1,
12 and the court is not presented with any credible evidence that the
13 petitioner is a person described in Section 8100 or 8103 of the
14 Welfare and Institutions Code.

15 (C) Finds that the petitioner does not have a previous
16 conviction under this subdivision, no matter when the prior
17 conviction occurred.

18 In making its decision, the court may consider the interest of
19 justice, any relevant evidence, and the totality of the
20 circumstances. It is the intent of the Legislature that courts exercise
21 broad discretion in fashioning appropriate relief under this
22 paragraph in cases in which relief is warranted. However, nothing
23 in this paragraph shall be construed to require courts to grant relief
24 to any particular petitioner.

25 (4) Law enforcement officials who enforce the prohibition
26 specified in this subdivision against a person who has been granted
27 relief pursuant to paragraph (2) or (3) shall be immune from any
28 liability for false arrest arising from the enforcement of this
29 subdivision unless the person has in his or her possession a
30 certified copy of the court order that granted the person relief from
31 the prohibition. This immunity from liability shall not relieve any
32 person or entity from any other liability that might otherwise be
33 imposed.

34 (d) (1) Any person who, as an express condition of probation,
35 is prohibited or restricted from owning, possessing, controlling,
36 receiving, or purchasing a firearm and who owns, purchases,
37 receives, or has in his or her possession or under his or her custody
38 or control, any firearm but who is not subject to subdivision (a) or
39 (c) is guilty of a public offense, which shall be punishable by
40 imprisonment in a county jail not exceeding one year or in the state



1 prison, by a fine not exceeding one thousand dollars (\$1,000), or
2 by both that imprisonment and fine. The court, on forms provided
3 by the Department of Justice, shall notify the department of
4 persons subject to this subdivision. The notice shall include a copy
5 of the order of probation and a copy of any minute order or abstract
6 reflecting the order and conditions of probation.

7 (2) For any person who is subject to subdivision (a), (b), or (c),
8 the court shall, at the time judgment is imposed, provide on a form
9 supplied by the Department of Justice, a notice to the defendant
10 prohibited by this section from owning, purchasing, receiving,
11 possessing or having under his or her custody or control, any
12 firearm. The notice shall inform the defendant of the prohibition
13 regarding firearms and include a form to facilitate the transfer of
14 firearms. Failure to provide the notice shall not be a defense to a
15 violation of this section.

16 (e) Any person who (1) is alleged to have committed an offense
17 listed in subdivision (b) of Section 707 of the Welfare and
18 Institutions Code, an offense described in subdivision (b) of
19 Section 1203.073, or any offense enumerated in paragraph (1) of
20 subdivision (c), or any offense described in subdivision (a) of
21 Section 12025, subdivision (a) of Section 12031, or subdivision
22 (a) of Section 12034, and (2) is subsequently adjudged a ward of
23 the juvenile court within the meaning of Section 602 of the Welfare
24 and Institutions Code because the person committed an offense
25 listed in subdivision (b) of Section 707 of the Welfare and
26 Institutions Code, an offense described in subdivision (b) of
27 Section 1203.073, or any offense enumerated in paragraph (1) of
28 subdivision (c) shall not own, or have in his or her possession or
29 under his or her custody or control, any firearm until the age of 30
30 years. A violation of this subdivision shall be punishable by
31 imprisonment in a county jail not exceeding one year or in the state
32 prison, by a fine not exceeding one thousand dollars (\$1,000), or
33 by both that imprisonment and fine. The juvenile court, on forms
34 prescribed by the Department of Justice, shall notify the
35 department of persons subject to this subdivision.
36 Notwithstanding any other law, the forms required to be submitted
37 to the department pursuant to this subdivision may be used to
38 determine eligibility to acquire a firearm.



1 (f) Subdivision (a) shall not apply to a person who has been
2 convicted of a felony under the laws of the United States unless
3 either of the following criteria is satisfied:

4 (1) Conviction of a like offense under California law can only
5 result in imposition of felony punishment.

6 (2) The defendant was sentenced to a federal correctional
7 facility for more than 30 days, or received a fine of more than one
8 thousand dollars (\$1,000), or received both punishments.

9 (g) (1) Every person who purchases or receives, or attempts to
10 purchase or receive, a firearm knowing that he or she is prohibited
11 from doing so by a temporary restraining order or injunction
12 issued pursuant to Section 527.6 or 527.8 of the Code of Civil
13 Procedure, a protective order issued pursuant to Section 136.2 or
14 646.91 of this code, or by a protective order issued pursuant to
15 Section 15657.03 of the Welfare and Institutions Code, is guilty of
16 a public offense, which shall be punishable by imprisonment in a
17 county jail not exceeding one year or in the state prison, by a fine
18 not exceeding one thousand dollars (\$1,000), or by both that
19 imprisonment and fine.

20 (2) Every person who owns or possesses a firearm knowing that
21 he or she is prohibited from doing so by a temporary restraining
22 order or injunction issued pursuant to Section 527.6 or 527.8 of the
23 Code of Civil Procedure, a protective order as defined in Section
24 6218 of the Family Code, a protective order issued pursuant to
25 Section 136.2 or 646.91 of this code, or by a protective order
26 issued pursuant to Section 15657.03 of the Welfare and
27 Institutions Code, is guilty of a public offense, which shall be
28 punishable by imprisonment in a county jail not exceeding one
29 year, by a fine not exceeding one thousand dollars (\$1,000), or by
30 both that imprisonment and fine.

31 (3) Judicial Council shall provide notice on all protective
32 orders that the respondent is prohibited from owning, possessing,
33 purchasing, receiving, or attempting to purchase or receive a
34 firearm while the protective order is in effect. The order shall also
35 state that the firearm shall be relinquished to the local law
36 enforcement agency for that jurisdiction or sold to a licensed gun
37 dealer, and that proof of surrender or sale shall be filed within a
38 specified time of receipt of the order. The order shall state the
39 penalties for a violation of the prohibition. The order shall also
40 state on its face the expiration date for relinquishment.

1 (4) If probation is granted upon conviction of a violation of this
2 subdivision, the court shall impose probation consistent with the
3 provisions of Section 1203.097.

4 (h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is
5 justifiable where all of the following conditions are met:

6 (A) The person found the firearm or took the firearm from a
7 person who was committing a crime against him or her.

8 (B) The person possessed the firearm no longer than was
9 necessary to deliver or transport the firearm to a law enforcement
10 agency for that agency's disposition according to law.

11 (C) If the firearm was transported to a law enforcement agency,
12 it was transported in accordance with paragraph (18) of
13 subdivision (a) of Section 12026.2.

14 (D) If the firearm is being transported to a law enforcement
15 agency, the person transporting the firearm has given prior notice
16 to the law enforcement agency that he or she is transporting the
17 firearm to the law enforcement agency for disposition according
18 to law.

19 (2) Upon the trial for violating subdivision (a), (b), (c), (d), or
20 (e), the trier of fact shall determine whether the defendant was
21 acting within the provisions of the exemption created by this
22 subdivision.

23 (3) The defendant has the burden of proving by a
24 preponderance of the evidence that he or she comes within the
25 provisions of the exemption created by this subdivision.

26 (i) Subject to available funding, the Attorney General, working
27 with the State Judicial Council, the California Alliance Against
28 Domestic Violence, prosecutors, and law enforcement, probation,
29 and parole officers, shall develop a protocol for the
30 implementation of the provisions of this section. The protocol
31 shall be designed to facilitate the enforcement of restrictions on
32 firearm ownership, including provisions for giving notice to
33 defendants who are restricted, provisions for informing those
34 defendants of the procedures by which defendants shall dispose of
35 firearms when required to do so, provisions explaining how
36 defendants shall provide proof of the lawful disposition of
37 firearms, and provisions explaining how defendants may obtain
38 possession of seized firearms when legally permitted to do so
39 pursuant to this section or any other provision of law. The protocol
40 shall be completed on or before January 1, 2005.



1 SEC. 5. Article 1 (commencing with Section 12550) of
2 Chapter 6 of Title 2 of Part 4 of the Penal Code is amended to read:

3
4 Article 1. ~~Minors~~ BB Devices and Imitation Firearms

5 SEC. 6. Section 12550 is added to the Penal Code, to read:

6 12550. As used in this article, the following definitions apply:

7 (a) "BB device" is defined in subdivision (g) of Section 12001.

8 (b) "Firearm" is defined in subdivision (b) of Section 12001.

9 (c) "Imitation firearm" means any BB device, toy gun, replica
10 of a firearm, or other device that is so substantially similar in
11 coloration and overall appearance to an existing firearm as to lead
12 a reasonable person to perceive that the device is a firearm.

13 SEC. 7. Section 12553 is added to the Penal Code, to read:

14 12553. Any person who changes, alters, removes, or
15 obliterates any coloration or markings that are required for by any
16 applicable state or federal law or regulation, for any imitation
17 firearm, or device described in subdivision (c) of Section 12555,
18 in any way that makes the imitation firearm or device look more
19 like a firearm is guilty of a misdemeanor. This subdivision shall not
20 apply to manufacturer, importer, or distributor of imitation
21 firearms or to the lawful use in theatrical productions, including
22 motion pictures, television, and state productions.

23 (b) Any manufacturer, importer, or distributor of imitation
24 firearms that fails to comply with any applicable federal law or
25 regulation governing the marking of a toy, look-alike or imitation
26 firearm as defined by federal law or regulation is guilty of a
27 misdemeanor.

28 SEC. 8. Section 12554 is added to the Penal Code, to read:

29 12554. (a) Any imitation firearm manufactured after July 1,
30 2005, shall, at the time of offer for sale in this state, be
31 accompanied by a conspicuous advisory to the effect that the
32 product may be mistaken for a firearm by law enforcement officers
33 or others, that altering the coloration or markings required by
34 state or federal law or regulations so as to make the product look
35 more like a firearm is dangerous, and may be a crime, and that
36 brandishing or displaying the product in public may cause
37 confusion and may be a crime.

38 (b) Any manufacturer, importer, or distributor that fails to
39 comply with this advisory for any imitation firearm manufactured
40 after July 1, 2005, shall be liable for a civil fine for each action

1 brought by a city attorney or district attorney of not more than one
2 thousand dollars (\$1,000) for the first action, five thousand dollars
3 (\$5,000) for the second action, and ten thousand dollars (\$10,000)
4 for the third action and each subsequent action.

5 SEC. 9. Section 12555 is added to the Penal Code, to read:

6 12555. Any person who, for commercial purposes, purchases,
7 sells, manufactures, ships, transports, distributes, or receives, by
8 mail order or in any other manner, an imitation firearm except as
9 authorized by this section shall be liable for a civil fine in an action
10 brought by the city attorney or the district attorney of not more than
11 ten thousand dollars (\$10,000) for each violation.

12 (b) The manufacture, purchase, sale, shipping, transport,
13 distribution, or receipt, by mail or in any other manner, of imitation
14 firearms is authorized if the device is manufactured, purchased,
15 sold, shipped, transported, distributed, or received for any of the
16 following purposes:

17 (1) Solely for export in interstate or foreign commerce.

18 (2) Solely for lawful use in theatrical productions, including
19 motion picture, television, and stage productions.

20 (3) For use in a certified or regulated sporting event or
21 competition.

22 (4) For use in military or civil defense activities, or ceremonial
23 activities.

24 (5) For public displays authorized by public or private schools.

25 (c) As used in this section, "imitation firearm" does not include
26 any of the following:

27 (1) A nonfiring collector's replica of an antique firearm that
28 was designed prior to 1898, is historically significant, and is
29 offered for sale in conjunction with a wall plaque or presentation
30 case.

31 (2) A BB device, as defined in subdivision (g) of Section 12001.

32 (3) A device where the entire exterior surface of the device is
33 white, bright red, bright orange, bright yellow, bright green, bright
34 blue, bright pink, or bright purple, either singly or as the
35 predominant color in combination with other colors in any
36 pattern, as provided by federal regulations governing imitation
37 firearms, or where the entire device is constructed of transparent
38 or translucent materials which permits unmistakable observation
39 of the device's complete contents, as provided by federal
40 regulations governing imitation firearms.



1 *SEC. 10. Section 12556 is added to the Penal Code, to read:*
2 *12556. (a) No person may openly display or expose any*
3 *imitation firearm, as defined in Section 12550, in a public place.*

4 *(b) Violation of this section, except as provided in subdivision*
5 *(c), is an infraction punishable by a fine of one hundred dollars*
6 *(\$100) for the first offense, and three hundred dollars (\$300) for*
7 *a second offense.*

8 *(c) A third or subsequent violation of this section is punishable*
9 *as a misdemeanor.*

10 *(d) Subdivision (a) shall not apply to the following, when the*
11 *imitation firearm is:*

12 *(1) Packaged or concealed so that it is not subject to public*
13 *viewing.*

14 *(2) Displayed or exposed in the course of commerce, including*
15 *commercial film or vide productions, or for service, repair, or*
16 *restoration of the imitation firearm.*

17 *(3) Used in a theatrical production, a motion picture, video,*
18 *television, or stage production.*

19 *(4) Used in conjunction with a certified or regulated sporting*
20 *event or competition.*

21 *(5) Used in conjunction with lawful hunting, or lawful pest*
22 *control activities.*

23 *(6) Used or possessed at certified or regulated public or private*
24 *shooting ranges.*

25 *(7) Used at fairs, exhibitions, expositions, or activities*
26 *permitted by a government agency or museum collection.*

27 *(8) Used in military ceremonies or civil defense ceremonies.*

28 *(9) Used for public displays authorized by public or private*
29 *schools.*

30 *(10) Used in parades, ceremonies, or activities permitted by*
31 *local or state government.*

32 *(11) Displayed on a wall plaque or in a presentation case.*

33 *(12) A device where the entire exterior surface of the device is*
34 *white, bright red, bright orange, bright yellow, bright green, bright*
35 *blue, bright pink, or bright purple, either singly or as the*
36 *predominant color in combination with other colors in any*
37 *pattern, or where the entire device is constructed of transparent or*
38 *translucent materials which permits unmistakable observation of*
39 *the device's complete contents. Merely having an orange tip as*
40 *provided in federal law and regulations does not satisfy this*



1 requirement. The entire surface must be colored or transparent or
2 translucent.

3 (e) For purposes of this section, the term “public place” means
4 an area open to the public or exposed to public view and includes
5 streets, sidewalks, bridges, alleys, plazas, parks, driveways,
6 parking lots, automobiles, whether moving or not, and buildings
7 open to the general public, including those that serve food or drink,
8 or provide entertainment, and the doorways and entrances to
9 buildings or dwellings and the grounds enclosing them.

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

19 Code, to read:

20 ~~451.5.—The commission shall review the rates and charges by~~
21 ~~telephone corporations for “911” emergency telephone service to~~
22 ~~ensure that those rates and charges are just and reasonable.—~~

