

AMENDED IN ASSEMBLY MAY 5, 2008

AMENDED IN ASSEMBLY APRIL 22, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2973

**Introduced by Assembly Member Soto
(Coauthor: Assembly Member Ma)**

February 22, 2008

An act to amend Section 244.5 of, and to add Chapter 4.5 (commencing with Section 12430) to Title 2 of Part 4 of, the Penal Code, relating to stun guns.

LEGISLATIVE COUNSEL'S DIGEST

AB 2973, as amended, Soto. Stun guns.

Existing law makes it a misdemeanor or a felony to assault a person, or to assault a peace officer or firefighter during the performance of his or her duties, as specified, with a stun gun or a taser. Existing law defines "stun gun" for this purpose as any item, except a taser, used or intended to be used as a weapon that is capable of temporarily immobilizing a person by infliction of an electrical charge.

This bill would eliminate the reference to a taser in the definition of "stun gun." It would instead make it a misdemeanor or felony to assault a person ~~with a stun gun or remote stun gun, as defined~~, or to assault a peace officer or firefighter in the performance of his or her duties with a stun gun ~~that is not or a remote stun gun, and would make it a felony to commit an assault against a peace officer or firefighter in the performance of his or her duties with a remote stun gun, as specified.~~

By changing the definitions of crimes, the bill would impose a state-mandated local program.

This bill would also require any person selling a “permissible remote stun gun,” as defined, to register the identity of the purchaser with the manufacturer of the remote stun gun and would make a violation of that provision a misdemeanor. A person who is under 18 years of age would be prohibited from purchasing, owning, carrying, using, or having in his or her possession a permissible remote stun gun.

By creating new crimes, 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 244.5 of the Penal Code is amended to
2 read:

3 244.5. (a) (1) As used in this section, “stun gun” means any
4 item used or intended to be used as either an offensive or defensive
5 weapon that is capable of temporarily immobilizing a person by
6 the infliction of an electrical charge.

7 (2) As used in this section, the definition of “remote stun gun”
8 in Section 12430 applies.

9 (b) Every person who commits an assault upon the person of
10 another with a stun gun or remote stun gun shall be punished by
11 imprisonment in a county jail for a term not exceeding one year,
12 or by imprisonment in the state prison for 16 months, two, or three
13 years.

14 (c) Every person who commits an assault upon the person of a
15 peace officer or firefighter with a stun gun ~~that is not~~ or a remote
16 stun gun, who knows or reasonably should know that the person
17 is a peace officer or firefighter engaged in the performance of his
18 or her duties, when the peace officer or firefighter is engaged in
19 the performance of his or her duties, shall be punished by
20 imprisonment in the county jail for a term not exceeding one year,
21 or by imprisonment in the state prison for two, three, or four years.

1 (d) This section shall not be construed to preclude or in any way
2 limit the applicability of Section 245 in any criminal prosecution.

3 SEC. 2. Chapter 4.5 (commencing with Section 12430) is added
4 to Title 2 of Part 4 of the Penal Code, to read:

5
6 CHAPTER 4.5. REMOTE STUN GUNS
7

8 12430. As used in this chapter, the following terms apply:

9 (a) "Remote stun gun" means an electronic device that emits
10 an electrical charge and is designed and primarily employed to
11 incapacitate a person or animal either through contact with
12 electrodes on the device itself or remotely through wired probes
13 attached to the device, or through a spark, plasma, ionization, or
14 other conductive means emitting from the device.

15 (b) "Permissible remote stun gun" means a remote stun gun
16 having all of the following:

17 (1) An identification and tracking system that, in the course of
18 an investigation, can and shall be made available to any law
19 enforcement agency upon request.

20 (2) A training program offered by the manufacturer.

21 12431. (a) Any person selling a permissible remote stun gun
22 ~~which is activated~~ shall register the identity of the purchaser with
23 the manufacturer of the remote stun gun. The identification of the
24 purchaser shall be verified with a government-issued identification.

25 (b) Persons who are under 18 years of age are prohibited from
26 purchasing, owning, carrying, using, or having in his or her
27 possession a permissible remote stun gun.

28 ~~12433. Any person who commits an assault with a remote stun
29 gun upon the person of a peace officer or firefighter, who knows
30 or reasonably should know that the person is a peace officer or
31 firefighter engaged in the performance of his or her duties when
32 the peace officer or firefighter is engaged in the performance of
33 his or her duties, is guilty of a felony, punishable by imprisonment
34 in the state prison for two, three, or four years.~~

35 SEC. 3. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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