

AMENDED IN SENATE JULY 2, 2008
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 *Section 12655*
to, 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~~ *replace* the reference to a taser in the definition of "~~stun-gun~~ *gun*" with "*less lethal weapon, as defined*." It would instead make it a misdemeanor or felony to assault a person or to assault a peace officer or firefighter in the performance of his or her duties with a stun gun or a ~~remote-stun-gun~~ *less lethal weapon*.

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.~~

Existing law prohibits a person from selling or furnishing any stun gun to a minor unless the minor is at least 16 years of age and has the written consent of his or her parent or legal guardian. A violation of this prohibition is punishable by a \$50 fine for the first offense, and a subsequent violation is a misdemeanor.

This bill would make it a misdemeanor, punishable as specified, to sell a stun gun or a less lethal weapon to a person under the age of 18 years.

By changing the penalty for a crime and infraction and 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) As used in this section, “stun gun” means any item,
4 except a ~~taser~~ less lethal weapon, as defined in Section 12601,
5 used or intended to be used as either an offensive or defensive
6 weapon that is capable of temporarily immobilizing a person by
7 the infliction of an electrical charge.

8 (b) Every person who commits an assault upon the person of
9 another with a stun gun or ~~taser~~ less lethal weapon, as defined in
10 Section 12601, shall be punished by imprisonment in a county jail
11 for a term not exceeding one year, or by imprisonment in the state
12 prison for 16 months, two, or three years.

13 (c) Every person who commits an assault upon the person of a
14 peace officer or firefighter with a stun gun or ~~taser~~ less lethal

1 *weapon, as defined in Section 12601, who knows or reasonably*
2 *should know that the person is a peace officer or firefighter engaged*
3 *in the performance of his or her duties, when the peace officer or*
4 *firefighter is engaged in the performance of his or her duties, shall*
5 *be punished by imprisonment in the county jail for a term not*
6 *exceeding one year, or by imprisonment in the state prison for two,*
7 *three, or four years.*

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

10 *SEC. 2. Section 12655 is added to the Penal Code, to read:*

11 *12655. Any person who sells a stun gun, as defined in Section*
12 *12650, or a less lethal weapon, as defined in Section 12601, to a*
13 *person under the age of 18 years is guilty of a misdemeanor,*
14 *punishable by imprisonment in the county jail for up to six months*
15 *or by a fine of not more than one thousand dollars (\$1,000), or by*
16 *both that imprisonment and fine.*

17 ~~SECTION 1. Section 244.5 of the Penal Code is amended to~~
18 ~~read:~~

19 ~~244.5. (a) (1) As used in this section, “stun gun” means any~~
20 ~~item used or intended to be used as either an offensive or defensive~~
21 ~~weapon that is capable of temporarily immobilizing a person by~~
22 ~~the infliction of an electrical charge.~~

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

25 ~~(b) Every person who commits an assault upon the person of~~
26 ~~another with a stun gun or remote stun gun shall be punished by~~
27 ~~imprisonment in a county jail for a term not exceeding one year,~~
28 ~~or by imprisonment in the state prison for 16 months, two, or three~~
29 ~~years.~~

30 ~~(c) Every person who commits an assault upon the person of a~~
31 ~~peace officer or firefighter with a stun gun or a remote stun gun,~~
32 ~~who knows or reasonably should know that the person is a peace~~
33 ~~officer or firefighter engaged in the performance of his or her~~
34 ~~duties, when the peace officer or firefighter is engaged in the~~
35 ~~performance of his or her duties, shall be punished by~~
36 ~~imprisonment in the county jail for a term not exceeding one year,~~
37 ~~or by imprisonment in the state prison for two, three, or four years.~~

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

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

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CHAPTER 4.5. REMOTE STUN GUNS

6 12430. As used in this chapter, the following terms apply:

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

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

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

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

19 12431. (a) Any person selling a permissible remote stun gun
20 shall register the identity of the purchaser with the manufacturer
21 of the remote stun gun. The identification of the purchaser shall
22 be verified with a government-issued identification.

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

26 SEC. 3. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.