

Assembly Bill No. 2973

Passed the Assembly August 18, 2008

Chief Clerk of the Assembly

Passed the Senate August 14, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 244.5 of, and to add Section 12655 to, the Penal Code, relating to stun guns.

LEGISLATIVE COUNSEL’S DIGEST

AB 2973, 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 replace the reference to a taser in the definition of “stun 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 less lethal weapon.

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

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 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.

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

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

244.5. (a) As used in this section, “stun gun” means any item, except a less lethal weapon, as defined in Section 12601, used or intended to be used as either an offensive or defensive weapon that is capable of temporarily immobilizing a person by the infliction of an electrical charge.

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

(c) Every person who commits an assault upon the person of a peace officer or firefighter with a stun gun or less lethal weapon, as defined in Section 12601, who knows or reasonably should know that the person is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the county jail for a term not exceeding one year, or by imprisonment in the state prison for two, three, or four years.

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

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

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

SEC. 3. 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 _____, 2008

Governor