SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair
2015 - 2016 Regular

Bill No:	SB 707	**Hearing Date:**	April 14, 2015
Author:	Wolk		
Version:	February 27, 2015		
Urgency:	No	**Fiscal:**	Yes
Consultant:	JRD		

Subject: ***Firearms: Gun-free School Zone***

HISTORY

Source: Author

Prior Legislation: AB 624 (Allen) – Chap. 659, Stats. 1995
AB 2609 (Lampert) – Chap. 115, Stats. 1998

Support: California Chapters of the Brady Campaign to Prevent Violence; California Public Defenders Association; Friends Committee on Legislation of California; Law Center to Prevent Gun Violence; Physicians for Social Responsibility, Sacramento Chapter; Violence Prevention Coalition; Women Against Gun Violence

Opposition: Sacramento County Deputy Sheriffs' Association; California Correctional Supervisors Organization; California Narcotics Officers; California Rifle and Pistol Association, Inc.; Fraternal Order of Police, California State Lodge; Long Beach Police Officers Association; Los Angeles County Professional Peace Officers Association; Retired & Disabled Police of America; Santa Ana Police Officers Association; California College and University Police Chiefs Association (unless amended); 1 individual

PURPOSE

The purpose of this legislation is to: (1) allow a person holding a valid license to carry a concealed firearm, and a retired peace officer authorized to carry a concealed or loaded firearm, to carry a firearm in an area that is within 1,000 feet of, but not on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12; and, (2) delete the exemption that allows a person holding a valid license to carry a concealed firearm, and a retired peace officer authorized to carry a concealed or loaded firearm, to possess a firearm on the campus of a university or college.

Existing law creates the Gun-Free School Zone Act of 1995. (Penal Code § 626.9(a).)

Existing law defines a "school zone" to means an area in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, or within a distance of 1,000 feet from the grounds of the public or private school. (Penal Code § 626.9(e).)

Under existing law any person who possesses a firearm in a place that the person knows, or reasonably should know, is a school zone, unless it is with the written permission of the school district superintendent, or equivalent school authority, is punished as follows:

- Any person who possesses a firearm in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, is subject to imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years.

- Any person who possesses a firearm within a distance of 1,000 feet from a public or private school providing instruction in kindergarten or grades 1 to 12, is subject to:

    - Imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years; or,

    - Imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years, if any of the following circumstances apply:

        - If the person previously has been convicted of any felony, or of any crime made punishable by any provision listed in Section 16580.

        - If the person is within a class of persons prohibited from possessing or acquiring a firearm, as specified.

        - If the firearm is any pistol, revolver, or other firearm capable of being concealed upon the person and the offense is punished as a felony, as specified.

- Any person who, with reckless disregard for the safety of another, discharges, or attempts to discharge, a firearm in a school zone shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for three, five, or seven years.

- Every person convicted under this section for a misdemeanor violation who has been convicted previously of a misdemeanor offense, as specified, must be imprisoned in a county jail for not less than three months.

- Every person convicted under this section of a felony violation who has been convicted previously of a misdemeanor offense as specified, if probation is granted or if the execution of sentence is suspended, he or she must be imprisoned in a county jail for not less than three months.

- Every person convicted under this section for a felony violation who has been convicted previously of any felony, as specified, if probation is granted or if the execution or imposition of sentence is suspended, he or she must be imprisoned in a county jail for not less than three months.

- Any person who brings or possesses a loaded firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, without the written permission of the university or college president, his or her designee, or equivalent university or college

authority, must be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years.

- Any person who brings or possesses a firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, without the written permission of the university or college president, his or her designee, or equivalent university or college authority, must be punished by imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years.

(Penal Code § 626.9(f)-(i).)

*Existing law*s states that the Gun-Free School Zone Act of 1995 does not apply to possession of a firearm under any of the following circumstances:

- Within a place of residence or place of business or on private property, if the place of residence, place of business, or private property is not part of the school grounds and the possession of the firearm is otherwise lawful.

- When the firearm is an unloaded pistol, revolver, or other firearm capable of being concealed on the person and is in a locked container or within the locked trunk of a motor vehicle.

- The lawful transportation of any other firearm, other than a pistol, revolver, or other firearm capable of being concealed on the person, in accordance with state law.

- When the person possessing the firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety, as specified.

- When the person is exempt from the prohibition against carrying a concealed firearm, as specified.

(Penal Code § 626.9(c).)

Existing law states that the Gun-Free School Zone Act of 1995 does not apply to:

- A duly appointed peace officer;

- A full-time paid peace officer of another state or the federal government who is carrying out official duties while in California;

- Any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer;

- A member of the military forces of this state or of the United States who is engaged in the performance of his or her duties;

- A person holding a valid license to carry a concealed firearm;

- An armored vehicle guard, engaged in the performance of his or her duties, as specified;

- A security guard authorized to carry a loaded firearm;
- An honorably retired peace officer authorized to carry a concealed or loaded firearm; or,

- An existing shooting range at a public or private school or university or college campus.

(Penal Code § 626.9(l).)

This bill would allow a person holding a valid license to carry a concealed firearm, and a retired peace officer authorized to carry a concealed or loaded firearm, to carry a firearm in an area that is within 1,000 feet of, but not on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12.

This bill would delete the exemption that allows a person holding a valid license to carry a concealed firearm, and a retired peace officer authorized to carry a concealed or loaded firearm, to possess a firearm on the campus of a university or college.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as "of February 11, 2015, 112,993 inmates were housed in the State's 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity."(Defendants' February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the "durable solution" to prison overcrowding "consistently demanded" by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants' Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee's consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Legislation

According to the Author:

> In recent years there has been a disturbing increase in the number of active shooter incidents on school, college, and university campuses across the country, with 42 such incidents in 2014. There have also been an alarming number of sexual assaults on college and university campuses. Recently, some gun rights proponents in other states have sponsored legislation to increase the opportunity for students and teachers to bring firearms on school campuses with CCWs, claiming this will deter sexual assaults and defend against active shooters. These efforts have been vigorously opposed by school public safety officials, school administrators, and public safety advocates. Research also indicates that bringing more firearms on campus will lead to more campus violence and increase the danger to students and others on campus.
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> California law provides that the authority over school safety belongs with school/campus authorities. SB 707 maintains that authority and allows school officials to prohibit or allow a firearm on campus as they deem appropriate. Closing the CCW exemption in California law is consistent with efforts to maintain school and college campuses as safe, gun free, environments for students. SB 707 will ensure that students and parents who expect a campus to be safe and "gun free" can be confident that their expectation is being met and that school officials remain in charge of who, if anyone, is allowed to bring a firearm on their campus.

2. Effect of the Legislation

Honorably retired peace officers authorized to carry a concealed or loaded firearm and individuals who possess a valid concealed carry permit, are currently allowed to carry a firearm on school campuses, including grade schools, high schools and college campuses. This legislation would, instead, prohibit these two groups form carrying firearms on school grounds, but would allow them to carry firearms within 1,000 feet of a school.

California College and University Police Chiefs Association, who were the original sponsors of this legislation and now have an oppose unless amended position, request:

> … that SB 707 be amended to remove the provisions impacting honorably retired peace officers. If those provisions are amended, we will support the bill because the bill's focus will then properly be on addressing unrestricted campus access of persons who possess concealed weapons permits pursuant Penal Code Section 26150.
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> We believe that honorably retired peace officers represent a public safety asset and that it is a mistake not to have the ready availability of those officers. They are subject to stringent standards in determining if they are to be given a firearms endorsement upon retirement, must adhere to the same standards as the active officers employed by their agency in order to retain that endorsement, are subject to ongoing training requirements, and have demonstrated an ability to take positive public safety action when the occasion calls for that action. As officers sworn to protect school campuses, we consider the presence of an honorably retired peace officer – with their decades of training and professionalism – to be a distinct asset in our ability to carry out our mission. The sad reality is that active shooter incidents take place disproportionately on our campuses and an honorably retired peace officer can play a role in helping to keep such incidents in check.

SHOULD PERSONS WITH A CONCEALED CARRY PERMIT BE ALLOWED TO CARRY FIREARMS ON SCHOOL CAMPUSES, WITHOUT THE PERMISSION OF THE SCHOOL AUTHORITY?

SHOULD RETIRED PEACE OFFICERS AUTHORIZED TO CARRY A CONCEALED OR LOADED FIREARM, BE ALLOWED TO CARRY FIREARMS ON SCHOOL CAMPUSES, WITHOUT THE PERMISSION OF THE SCHOOL AUTHORITY?

3. Argument in Support

According to the California Chapters of the Brady Campaign to Prevent Violence:

> Existing law prohibits a person from possessing a firearm in a school zone without the written permission of certain school district officials. A school zone includes school grounds and a distance within 1,000 feet of a public or private K-12 school. Additionally, existing law prohibits a person from possessing a firearm upon the grounds of a public or private university or college campus without the written permission of specified university or college officials. Persons holding a valid license to carry a concealed and loaded weapon (CCW) and retired peace officers authorized to carry concealed and loaded firearms are exempt from the school zone and university or college prohibitions. SB 707 would allow CCW license holders to carry a concealed firearm within 1,000 feet but not on the grounds of a K-12 school and not on the campus of a university or college. Firearms, including concealed loaded handguns, could still be allowed on school grounds or campuses with the permission of school officials.

> The Brady Campaign strongly believes that the discretion to allow concealed, loaded guns on a school grounds and college or university campuses must lie with school authorities, who bear the responsibility for the wellbeing and safety of their students. Under existing law, county sheriffs issue CCW permits and thereby determine who may carry a concealed, loaded gun on school grounds or campuses. This creates the opportunity for a 21 year old from a rural county to obtain a CCW permit and carry a loaded, hidden handgun in a dormitory on an urban campus.
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> This is one area of firearm law in which California lags behind many other states. According to the Law Center to Prevent Gun Violence, which tracks state firearm laws, 39 states and the District of Columbia prohibit those with CCW permits from possessing concealed firearms within school zones and 23 states specify that CCW permit holders may not carry concealed firearms on college and university campuses. California is not one of these states.
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> The national trend on this issue is disturbing as legislation has been introduced in at least 16 states that would force guns onto college and university campuses. Proponents are even suggesting that more guns on campuses would stop student rape. Additionally, legislation is being pushed in 20 states to allow people to carry hidden, loaded handguns in public without a permit. Moreover, federal reciprocity legislation (H.R. 402 and S. 498) has been introduced that would require states to recognize CCW permits from other states, including those with reprehensibly low standards. States that use law enforcement discretion, such as California, would be forced to recognize CCW permits from other states, even if the permit holder would not pass a background check in the state. The threat of national CCW reciprocity heightens the importance of SB 707 and the need to remove the exemption that allows CCW license holders to carry guns on school grounds and campuses in California. . .
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> Under SB 707, the number of hidden, loaded firearms legally brought onto school grounds and college campuses will be reduced and the safety of students and others will increase.

4. Argument in Opposition

According to Sacramento County Deputy Sheriffs' Association:

> SB 707 would make criminals out of our retired peace officer members who visit a school campus. This bill would delete the exemption in current law that allows a retired peace officer who is authorized to carry a concealed or loaded firearm, to possess a firearm on a school campus. Although the bill allows school officials to determine whether or not an exception to this prohibition should ever be made, the safety of our retired members should not rest on the whim of a school official.
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> Retired peace officers protected and served the public while earning the enmity of those in society who ran afoul of the law. Retired officers carry their weapons as a means of personal protection. Recent attacks demonstrate the need for peace officers—even retired peace officers—to be able to defend themselves if necessary.

Forcing our retired members to choose between picking up their children or grandchildren form school or attending school events and ensuring their own ability to protect themselves or their loved ones is a decision they should not be required to make. Neither should retired officers be forced to jeopardize their safety in order to take college classes.

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