
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 424 **Hearing Date:** June 27, 2017
Author: McCarty
Version: June 19, 2017
Urgency: No **Fiscal:** Yes
Consultant: GC

Subject: *Possession of a Firearm in a School Zone*

HISTORY

Source: Everytown for Gun Safety

Prior Legislation: AB 2340 (Gallagher), 2016, failed Assembly Public Safety
SB 707 (Wolk), Ch. 766, Stats. of 2015
AB 2609 (Lempert), Ch. 115, Stats. of 1998
AB 624 (Allen), Ch. 659, Stats. of 1995

Support: Americans Against Gun Violence; Americans for Safe Access; California Federation of Teachers; California Public Health Association - North; California State PTA; California Teachers Association; City of West Hollywood; Equality California; Faculty Association of California Community Colleges; Moms Demand Action; National Association of Social Workers; San Francisco Bay Area Physicians for Social Responsibility; San Francisco Unified School District

Opposition: California Rifle and Pistol Association; California Sportsman's Lobby; Firearms Policy Coalition; Gun Owners of California; National Rifle Association of America; Safari Club International; San Bernardino County Sheriff

Assembly Floor Vote: 48 - 28

PURPOSE

The purpose of this bill is to delete the authority of a school district superintendent, his or her designee, or equivalent school authority to provide written permission for a person to possess a firearm within a school zone.

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

Existing law defines a "school zone" to mean 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. (Pen. Code, § 626.9, subd. (e).)

Existing law provides that 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: (Pen. Code, § 626.9, subs. (f)-(i).)

- 1) 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 for two, three, or five years.
- 2) 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:
 - a) Imprisonment in a county jail for not more than one year or by imprisonment for two, three, or five years; or,
 - b) Imprisonment 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 specified crime.
 - 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.
 - c) 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 for three, five, or seven years.
 - d) 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.
 - e) 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.
 - f) 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.
 - g) 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 for two, three, or four years.
 - h) 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 for one, two, or three years.

Existing law states that the Gun-Free School Zone Act of 1995 does not apply to possession of a firearm under any of the following circumstances: (Pen. Code, § 626.9, subd. (c).)

- 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.

Existing law states that the Gun-Free School Zone Act of 1995 does not apply to: (Pen. Code, § 626.9, subd. (l).)

- 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.

Existing law specifies that unless it is with the written permission of the school district superintendent, the superintendent's designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties or persons exempted under specified peace officer exceptions to concealed weapons prohibitions. Exempts the following persons: (Pen. Code, § 626.9, subd. (l).)

- A duly appointed peace officer as defined.
- 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 an arrest or preserving the peace while that person 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 that person's duties.
- A person holding a valid license to carry the firearm.
- An armored vehicle guard, who is engaged in the performance of that person's duties.

This bill deletes the authority of a school district superintendent, his or her designee, or equivalent school authority to provide written permission for a person to possess a firearm within a school zone.

This bill specifies that the provisions herein do not apply to the activities of a state-certified hunter education program if all firearms are unloaded and participants do not possess live ammunition in a school building.

COMMENTS

1. Need for This Bill

According to the author:

The Gun-Free School Zone Act of 1995 expressly prohibited the possession of a firearm on school grounds. The Act did not address the issue of CCW permits. At the time, the number of CCW permits issued was relatively small and was not an issue for school districts. Since 1995, there has been a significant increase in the number of CCW permits issued in California. Between 1995 and 2015, CCWs increased from 39,000 to over 80,000.

A recent bill, SB 707 (2015) by Senator Wolk, addressed the issue of CCWs on school grounds. The bill added CCWs to the Gun-Free School Zone Act, but did provide for a limited exemption. An individual is permitted to carry a concealed firearm if they receive written permission from a superintendent.

Unfortunately, some school boards have used the limited exemption as a way to allow any teacher or staff member to carry a CCW at school. This is a clear overreach of the intent of SB 707 and is raising serious safety concerns for students.

2. Authorization and Notice to School Officials of Concealed Weapons

Under the existing code section for the Gun-Free School Zone Act, any person can possess a concealed weapon on school grounds provided that they have permission from school officials. The relevant code sections read as follows:

"[A]ny 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..." (Pen. Code, § 626.9, subd (b).) (emphasis added.)

"Unless it is with the written permission of the school district superintendent, the superintendent's designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers in the scope of their duties." (Pen. Code, § 30310, subd. (a).) (emphasis added.)

The legislature has made a policy decision, that persons may carry firearms on school grounds with the written permission of school officials. The reason for this is to enhance public safety. Specifically, it is in the interests of public safety that school officials know that firearms are being carried on school grounds.

3. Intent of the "Superintendent Exception" in SB 707 (Wolk)

Prior to the passage of SB 707 (Wolk), Chapter 766, Statutes of 2015, any person who possessed a valid concealed weapon (CCW) permit could carry a concealed weapon onto a school campus and not notify anyone that they carried the weapon. SB 707 (Wolk) specified that persons who possess a concealed weapons permit may not possess that firearm on school grounds.

SB 707 (Wolk) contained an exception that permits concealed weapons on school campuses with the knowledge and written permission of school officials. The intent of this provision was to allow the carrying of a concealed weapon, with the knowledge of the school officials, and when the carrying of the weapon was necessary. Common examples that were given at the time included instances such as persons who may carry a concealed weapon due to a domestic violence restraining order, or some other threat to the safety of the individual. The intent of the exemption in the legislation was (1) to provide notice to the school officials, and (2) permit the carrying of a concealed weapon when the superintendent agreed that the circumstances of a particular case warranted the need to carry the weapon on campus.

The co-sponsors of the current bill have referred to the exception as a "loophole in California law." On the contrary, the provision providing an exception when the superintendent gave written permission was contemplated and debated at the time so as to provide a limited exception to the banning of weapons on campuses, and to provide notice to school districts when a teacher carried a concealed weapon on campus.

4. Application of SB 707 (Wolk) in Specified School Districts

Since SB 707 (Wolk), Chapter 776, Statutes of 2015, a number of local school districts have begun permitting some teachers with valid CCW permits to carry concealed weapons on school campuses. According to media reports Folsom Cordova, Kingsburg Joint Union, Anderson Union, and Kern High School District have all made varying decisions to allow their teachers to carry concealed weapons at school.¹

- ***Folsom Cordova School District:*** According to the Los Angeles Times, in the Folsom Cordova School District, Superintendent Deborah Bettencourt requires that any applicant to carry a concealed weapon on campus must carry their own liability insurance. Additionally, Bettencourt interviews each applicant and reviews his or her personnel and disciplinary records. Craig Reynolds, former chief of staff to State Senator Lois Wolk, who introduced and authored SB 707, states in the article that the three districts in question "are acting within the law."

¹ Song, Jason, "These 3 California School Districts Allow Staff to Pack Guns at Work," Los Angeles Times, April 13, 2016; Sepulvado, John, "Bakersfield District Gives OK for Teachers to Carry Guns on Campus," KQUED News, November 18, 2016.

- ***Kern High School District:*** According to KQED News, on November 17, 2016 the Kern High School District Board voted 3-2 to "allow teachers and other staff to bring concealed firearms into the classroom." The Kern High Board of Trustees President Mike Williams told the meeting that the decision will keep schools safe. According to the article, the policy was passed with no administrative regulations and that no direction was provided to schools or principals on how the new rule should be applied or rolled out. According to other media reports, the vote by the district did not grant permission to carry weapons, it merely adopted a board policy and stated the intent to adopt administrative regulations at a later date.² It is not clear whether the Kern High School District intends to adopt a similar policy of review as Folsom Cordova School District.

5. Gun-Free School Zone Act of 1995

Enacted by AB 645 (Allen), Chapter 1015, Statutes of 1994, the Gun-Free School Zone Act, hereafter referred to as the "Act," generally provides that any person who possesses, discharges, or attempts to discharge a firearm, in a place that the person knows, or reasonably should know, is within a distance of 1,000 feet from the grounds of any public or private school, kindergarten or Grades 1 to 12, (a "school zone"), without written permission, may be found guilty of a felony or misdemeanor and is subject to a term in county jail or state prison.

The Act does not require that notices be posted regarding prohibited conduct under the Act; therefore, it is incumbent on the individual possessing the firearm to be knowledgeable of and adhere to the Act.

A "school zone" is defined as an area in, or on the grounds of, a public or private school providing instruction in kindergarten or Grades 1 to 12, inclusive, and within a distance of 1,000 feet from the grounds of the public or private school. The Act also provides specific definitions of a "loaded" firearm and a "locked container" for securing firearms.

6. Argument in Support

According to Everytown for Gun Safety:

This legislation would close a loophole in California law that currently allows certain individuals to carry guns in California schools.

In 2015 the California legislature passed SB 707, which clarified that civilians should not bring guns into California's primary or secondary schools. But there is a loophole in the law that still allows school districts to let specified civilians bring a gun into a school. At least four school districts—Folsom Cordova, Kinsburg Joint Union, Anderson Union, and Kern—have begun exploiting this provision to encourage teachers or other staff to bring guns into schools, a move widely opposed by teachers, school safety experts and parents.

We believe that guns have no place in our schools, with the exception of law enforcement and licensed security guards.

² Pierce, Harold, "KHSD Board Allows Teachers to Carry Guns on Campus." www.balersfield.com, November 17, 2016.

7. Argument in Opposition

According to the Firearms Policy Coalition:

AB 424 removes the long time practice of allowing school district superintendents and/or their designees the ability to decide who (if anyone) would be allowed to possess a firearm on school grounds. Even with the passage of SB 707 (Wolk) in 2015, this authority remained as a recognition that local education officials were most likely to be in the best position to make decisions about the safety and protection of their students and staff.

One has to wonder why there is a need to remove such authority, given that SB 707 has been in effect for little more than a year. Has there been an uptick in school shootings? No. Has there been an increase in the number of firearms being found on school grounds? No. Has there been an increase in any negative incidents relating to Concealed Carry Permit holders? No. In fact, the only thing that has changed is the number of school districts that have chosen to exercise their legal authority to allow individuals (specifically concealed carry permit holders) to possess a firearm on campus.

To date, five out the state's 1000 plus school districts have approved policies allowing staff and/or community members who possess a ccw permit to have a firearm on school grounds. In fact, the only reason for this measure is that less than 0.5% of school districts chose to exercise the authority granted to them under law in a way contrary to that which is desired by the author.

Local control is based on the idea that decisions are best made by those who are most familiar with the needs and values of their community. The constitutional right to bear arms is based on the fundamental human right to self-defense. AB 424 undermines these very important principles based on little more than a whim; and thus should be soundly rejected by this committee.

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