

# Terrorism Prevention

This Act makes it illegal to make, possess, use or threaten to use weapons of mass destruction against people, animals, property or the environment. The Act also makes it a crime to possess restricted biological agents, and requires police officers who encounter restricted biological agents to notify local health officials to determine the risk to public health from the agents.

Submitted as:

California

Chapter 563, Laws of 1999

Status: enacted into law in 1999.

## Suggested Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as “An Act to Prevent Terrorism.”

2  
3 Section 2. [*Legislative Findings.*] The [Legislature] hereby finds and declares that the threat of terror-  
4 ism involving weapons of mass destruction, including, but not limited to, chemical, biological, nuclear, or  
5 radiological agents, is a significant public safety concern. The [Legislature] recognizes that terrorism involving  
6 weapons of mass destruction could result in an intentional disaster placing residents of this state in great peril.  
7 The [Legislature] finds it necessary to sanction the possession, manufacture, use, or threatened use of chemi-  
8 cal, biological, nuclear, or radiological weapons, as well as the intentional use or threatened use of industrial or  
9 commercial chemicals as weapons against people or animals.

10 Section 3. [*Definitions.*]

11 (a) For the purposes of this Act, the following terms have the following meanings:

12 (1) “Weapon of mass destruction” includes chemical warfare agents, weaponized biological or  
13 biologic warfare agents, nuclear agents, radiological agents, or the intentional release of industrial agents as a weapon.

14 (2) “Chemical Warfare Agents” includes, but is not limited to, the following weaponized agents, or  
15 any analog of these agents:

16 (i) Nerve agents, including Tabun (GA), Sarin (GB), Soman (GD), GF, and VX.

17 (ii) Choking agents, including Phosgene (CG) and Diphosgene (DP).

18 (iii) Blood agents, including Hydrogen Cyanide (AC), Cyanogen Chloride (CK), and Arsine (SA).

19 (iv) Blister agents, including mustards (H, HD (sulfur mustard), HN-1, HN-2, HN-3 (nitrogen  
20 mustard)), arsenicals, such as Lewisite (L), urticants, such as CX; and incapacitating agents, such as BZ.

21 (3) “Weaponized biological or biologic warfare agents” include weaponized pathogens, such as  
22 bacteria, viruses, rickettsia, yeasts, fungi, or genetically engineered pathogens, toxins, vectors, and endogenous  
23 biological regulators (EBRs).

24 (4) “Nuclear or radiological agents” includes any improvised nuclear device (IND) which is any  
25 explosive device designed to cause a nuclear yield; any radiological dispersal device (RDD) which is any explo-  
26 sive device utilized to spread radioactive material; or a simple radiological dispersal device (SRDD) which is any  
27 act or container designed to release radiological material as a weapon without an explosion.

28 (5) “Vector” means a living organism or a molecule, including a recombinant molecule, or a  
29 biological product that may be engineered as a result of biotechnology, that is capable of carrying a biological  
30 agent or toxin to a host.

31 (6) “Weaponization” is the deliberate processing, preparation, packaging, or synthesis of any sub-  
32 stance for use as a weapon or munition. “Weaponized agents” are those agents or substances prepared for  
33 dissemination through any explosive, thermal, pneumatic, or mechanical means.  
34

35 (b) The intentional release of a dangerous chemical or hazardous material generally utilized in an  
36 industrial or commercial process shall be considered use of a weapon of mass destruction when a person  
37 knowingly utilizes those agents with the intent to cause harm and the use places persons or animals at risk of  
38 serious injury, illness, or death, or endangers the environment.

39 (c) The lawful use of chemicals for legitimate mineral extraction, industrial, agricultural, or commer-  
40 cial purposes is not proscribed by this Act.

41 (d) No university, research institution, private company, individual, or hospital engaged in scientific or  
42 public health research and, as required, registered with the Centers for Disease Control and Prevention (CDC)  
43 pursuant to Part 113 (commencing with Section 113.1) of Subchapter E of Chapter 1 of Title 9 or pursuant to  
44 Part 72 (commencing with Section 72.1) of Subchapter E of Chapter 1 of Title 42 of the Code of Federal  
45 Regulations, or any successor provisions, shall be subject to this Act.

46  
47 Section 4. [*Penalties: Weapons of Mass Destruction.*]

48 (a) Any person, without lawful authority, who possesses, develops, manufactures, produces, transfers,  
49 acquires, or retains any weapon of mass destruction, shall be guilty of a [felony] punishable in the state prison  
50 for [three (3)], [six (6)], or [nine (9)] years, provided that any person who has been previously convicted under  
51 [insert citation] shall be punished by imprisonment in the state prison for a period of [four (4)], [eight (8)], or  
52 [twelve (12)] years.

53 (b) (1) Any person who uses or directly employs against another person a weapon of mass destruction  
54 in a form that may cause widespread, disabling illness, or injury in human beings shall be punished by [life] in prison.

55 (2) Any person who uses a weapon of mass destruction in a form that may cause widespread  
56 damage to and disruption of the water or food supply shall be punished by imprisonment in the state prison for  
57 a term of [four (4)], [eight (8)], or [twelve (12)] years, and a fine of not more than [one hundred thousand  
58 (100,000)] dollars.

59 (3) Any person who maliciously uses against animals or crops a weapon of mass destruction in a  
60 form that may cause widespread and substantial diminution in the value of stock animals or crops shall be  
61 punished by a fine of not more than [one hundred thousand (100,000)] dollars, imprisonment in the state  
62 prison for [four (4)], [eight (8)], or [twelve (12)] years, or both.

63 (c) Any person who uses a weapon of mass destruction in a form that may cause widespread and  
64 significant damage to public natural resources, including coastal waterways and beaches, public parkland,  
65 surface waters, groundwater, and wildlife, shall be punished by imprisonment in the state prison for [three (3)],  
66 [four (4)], or [six (6)] years.

67 (d) Any person who uses recombinant technology or any other biological advance to create new patho-  
68 gens or more virulent forms of existing pathogens for the purposes specified in this section, shall be punished  
69 by imprisonment in a county jail for up to [one (1)] year or in the state prison for [three (3)], [six (6)], or [nine  
70 (9)] years, or by a fine of not more than [two hundred fifty thousand (250,000)] dollars, or by both that fine and  
71 imprisonment.

72 (e) Nothing in this section shall be construed to prevent punishment instead pursuant to any other  
73 provision of law that imposes a greater or more severe punishment.

74  
75 Section 5. [*Penalties: Threatening to Use of Weapons of Mass Destruction.*]

76 (a) Any person who knowingly threatens to use a weapon of mass destruction, with the specific intent  
77 that the statement, made verbally, in writing, or by means of an electronic communication device, is to be  
78 taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circum-  
79 stances in which it is made, is so unequivocal, immediate, and specific as to convey to the person threatened, a  
80 gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person rea-  
81 sonably to be in sustained fear for his or her own safety, or for his or her immediate family's safety, which results  
82 in an isolation, quarantine, or decontamination effort, shall be punished by imprisonment in a county jail for  
83 up to [one (1)] year or in the state prison for [three (3)], [four (4)], or [six (6)] years, or by a fine of not more than  
84 [two hundred fifty thousand (250,000)], or by both that fine and imprisonment.

Terrorism Prevention

85 (b) For the purposes of this section, “sustained fear” can be established by, but is not limited to, conduct  
86 such as evacuation of any building by any occupant, evacuation of any school by any employee or student,  
87 evacuation of any home by any resident or occupant, or any other action taken in direct response to the threat  
88 to use a weapon of mass destruction.

89 (c) The fact that the person who allegedly violated this section did not actually possess a biological  
90 agent, toxin, or chemical weapon does not constitute a defense to the crime specified in this section.

91 (d) Nothing in this section shall be construed to prevent punishment instead pursuant to any other  
92 provision of law that imposes a greater or more severe punishment.

93

94 Section 6. [*Penalties: Possessing Restricted Biological Agents.*]

95 (a) Any person or entity possessing any of the restricted biological agents enumerated in subdivision  
96 (b) shall be punished by a fine of not more than [two hundred fifty thousand dollars (250,000)], imprisonment  
97 in the state prison for [four (4)], [eight (8)], or [twelve (12)] years, or by both that fine and imprisonment.

98 (b) For the purposes of this section, “restricted biological agents” means the following:

99 (1) Viruses: Crimean-Congo hemorrhagic fever virus, Eastern equine encephalitis virus, ebola  
100 viruses, equine morbilli virus, lassa fever virus, marburg virus, Rift Valley fever virus, South African hemor-  
101 rhagic fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito), tick-borne encephalitis complex viruses, vari-  
102 ola major virus (smallpox virus), Venezuelan equine encephalitis virus, viruses causing hantavirus pulmonary  
103 syndrome, yellow fever virus.

104 (2) Bacteria: bacillus anthracis (commonly known as anthrax), brucella abortus, brucella meliten-  
105 sis, brucella suis, burkholderia (pseudomonas) mallei, burkholderia (pseudomonas) pseudomallei, clostridium  
106 botulinum, francisella tularensis, yersinia pestis (commonly known as plague).

107 (3) Rickettsiae: coxiella burnetii, rickettsia prowazekii, rickettsia rickettsii.

108 (4) Fungi: coccidioides immitis.

109 (5) Toxins: abrin, aflatoxins, botulinum toxins, clostridium perfringens epsilon toxin, conotoxins,  
110 diacetoxyscirpenol, ricin, saxitoxin, shigatoxin, staphylococcal enterotoxins, tetrodotoxin, T-2 toxin.

111 (c) (1) This section shall not apply to any physician, veterinarian, pharmacist, or licensed medical  
112 practitioner authorized to dispense a prescription under [insert citation], or universities, research institutions,  
113 or pharmaceutical corporations, or any person possessing the agents pursuant to a lawful prescription issued  
114 by a person defined in [insert citation], if the person possesses vaccine strains of the viral agents Junin virus  
115 strain #1, Rift Valley fever virus strain MP-12, Venezuelan equine encephalitis virus strain TC-83 and yellow  
116 fever virus strain 17-D; any vaccine strain described in Section 78.1 of Subpart A of Part 78 of Subchapter C of  
117 Chapter 1 of Title 9 of the Code of Federal Regulations, or any successor provisions, and any toxin for medical  
118 use, inactivated for use as vaccines, or toxin preparation for biomedical research use at a median lethal dose for  
119 vertebrates of more than 100 ng/kg, as well as any national standard toxin required for biologic potency testing  
120 as described in Part 113 (commencing with Section 113.1) of Subchapter E of Chapter 1 of Title 9 of the Code  
121 of Federal Regulations, or any successor provisions.

122 (2) For the purposes of this section, no person shall be deemed to be in possession of an agent if the  
123 person is naturally exposed to, or innocently infected or contaminated with, the agent.

124 (d) Any peace officer who encounters any of the restricted agents mentioned above shall immediately  
125 notify and consult with a local public health officer to ensure proper consideration of any public health risk.

126 (e) Nothing in this section shall be construed to prevent punishment instead pursuant to any other  
127 provision of law that imposes a greater or more severe punishment.

128

129 Section 7. [*Severability.*] [Insert severability clause.]

130

131 Section 8. [*Repealer.*] [Insert repealer clause.]

132

133 Section 9. [*Effective Date.*] [Insert effective date.]