

Introduced by Senator Ackerman

February 19, 2004

An act to add Section 111827 to the Health and Safety Code, relating to counterfeit drugs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1427, as introduced, Ackerman. Sherman Food, Drug, and Cosmetic Law: violations: counterfeit drugs.

Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the packaging, labeling, and advertising of food, drugs, and cosmetics. Existing law defines "counterfeit" with respect to a food, drug, device, or cosmetic, and makes it unlawful for any person to cause any food, drug, device, or cosmetic to be a counterfeit, or to sell, dispense, or hold for sale or dispense, the counterfeit food, drug, device, or cosmetic. A violation of these provisions is punishable as a misdemeanor.

This bill would provide, notwithstanding existing penalties, that any person who initially introduces into commerce a drug that is counterfeit is guilty of a felony, punishable by imprisonment in the state prison, if that action results in the death of a human being. By creating a new crime, the bill would impose a state-mandated local program. The bill would also provide that a person found guilty under the bill shall be subject to economic penalties, including restitution and disgorgement of the proceeds of the violation.

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 111827 is added to the Health and
2 Safety Code, to read:

3 111827. (a) Notwithstanding Section 111825, or any other
4 provision of law, any person who initially introduces into
5 commerce a drug that is counterfeit is guilty of a felony,
6 punishable by imprisonment in the state prison, if that action
7 results in the death of a human being.

8 (b) In addition to imprisonment, any person found guilty under
9 this section shall be responsible for economic penalties including,
10 but not limited to, restitution to consumer victims, and
11 disgorgement of any proceeds or other consideration obtained as
12 a result of the violation.

13 SEC. 2. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.

