

Introduced by Senator CedilloFebruary 16, 2006

An act to add Section 11380.7 to the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1318, as introduced, Cedillo. Controlled substances: sales near drug treatment center or homeless shelter.

Existing law makes it a felony, punishable by imprisonment in the state prison, to engage in specified unlawful activities involving heroin, cocaine, cocaine base, methamphetamine, or phencyclidine (PCP).

This bill would provide that any person who is convicted of trafficking, as defined, in any of these controlled substances, or of a conspiracy to traffick in any of these controlled substances, in addition to the punishment imposed for the conviction, shall be imprisoned in the state prison for an additional 2 years if the violation occurred upon the grounds of, or within 1,000 feet of, a drug treatment center, detoxification facility, or homeless shelter. The bill would set forth legislative findings, declarations, and intent relating to its provisions. By creating new enhancements for existing crimes, this bill would impose a state-mandated local program upon local governments.

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. (a) The Legislature makes the following
2 findings and declarations relating to drug trafficking near drug
3 treatment centers and homeless shelters:

4 (1) A substantial drug abuse and drug trafficking problem
5 exists among recovering drug addicts and homeless individuals
6 adjacent to and around drug treatment centers, homeless shelters,
7 and other service providers in this state.

8 (2) In order for drug abusers to overcome their addiction, the
9 areas around treatment centers must be free of drug traffickers
10 who prey on the vulnerability of victims of drug addiction.

11 (b) In recognition of these findings and declaration, it is the
12 intent of the Legislature, by enacting this legislation, to do the
13 following:

14 (1) Support increased efforts by local law enforcement
15 agencies, working in conjunction with drug treatment centers,
16 mental health centers, and other homeless service providers.

17 (2) Suppress trafficking adjacent to and around facilities and
18 agencies dedicated to drug recovery and rehabilitation to
19 eliminate the victimization of drug addicts attempting to recover.

20 SEC. 2. Section 11380.7 is added to the Health and Safety
21 Code, to read:

22 11380.7. (a) Notwithstanding any other provision of law, any
23 person who is convicted of trafficking in heroin, cocaine, cocaine
24 base, methamphetamine, or phencyclidine (PCP), or of a
25 conspiracy to commit trafficking in heroin, cocaine, cocaine
26 base, methamphetamine, or phencyclidine (PCP), in addition to
27 the punishment imposed for the conviction, shall be imprisoned
28 in the state prison for an additional two years if the violation
29 occurred upon the grounds of, or within 1,000 feet of, a drug
30 treatment center, detoxification facility, or homeless shelter.

31 (b) (1) The additional punishment provided in this section
32 shall not be imposed unless the allegation is charged in the
33 accusatory pleading and admitted by the defendant or found to be
34 true by the trier of fact.

35 (2) The additional punishment provided in this section shall
36 not be imposed in the event that any other additional punishment
37 is imposed pursuant to Section 11353.1, 11353.5, 11353.6,
38 11353.7, or 11380.1.

1 (c) Notwithstanding any other provision of law, the court may
2 strike the additional punishment provided for in this section if it
3 determines that there are circumstances in mitigation of the
4 additional punishment and states on the record its reasons for
5 striking the additional punishment.

6 (d) For the purposes of this section, the following terms have
7 the following meanings:

8 (1) “Detoxification facility” means any premises, place, or
9 building that provides 24-hour residential nonmedical services to
10 adults who are recovering from problems related to alcohol, drug,
11 or alcohol and drug misuse or abuse, and who need alcohol, drug,
12 or alcohol and drug recovery treatment or detoxification services.

13 (2) “Drug treatment program” or “drug treatment” has the
14 same meaning set forth in subdivision (b) of Section 1210 of the
15 Penal Code.

16 (3) “Trafficking” means any of the unlawful activities
17 specified in Sections 11351, 11351.5, 11352, 11353, 11354,
18 11377, 11378, 11379, 11379.6, and 11380. It does not include
19 simple possession or drug use.

20 SEC. 3. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the
25 penalty for a crime or infraction, within the meaning of Section
26 17556 of the Government Code, or changes the definition of a
27 crime within the meaning of Section 6 of Article XIII B of the
28 California Constitution.