

AMENDED IN ASSEMBLY MARCH 15, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 278

Introduced by Assembly Member Huff
(Principal coauthor: Assembly Member Maze)
(Coauthors: Assembly Members Anderson, Benoit, Cook, and Jeffries)
(Coauthor: Senator Cogdill)

February 9, 2007

An act to amend Section 11366.8 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 278, as amended, Huff. Controlled substances.

Existing law makes it a crime for any person to possess, use, or control a false compartment with the intent to store, conceal, smuggle, or transport a controlled substance within the false compartment.

This bill would revise this provision to broaden the scope of its application by providing in addition that it is a crime for any person to possess, use, or control a false compartment with the intent to store, conceal, smuggle, or transport any unlawfully possessed firearm or destructive device, as defined, or specified currency, money, negotiable instruments, or securities valued at \$5,000 or more intended to be exchanged for an unlawful purchase of controlled substances or that are the proceeds of an unlawful sale of controlled substances, within the false compartment. By creating new crimes or expanding the scope of existing crimes, this bill would impose a state-mandated local program upon local government.

This bill would further provide that any vehicle driven by a person charged with violating these provisions shall be seized and impounded

as evidence and that no vehicle containing a false compartment shall be returned to the vehicle’s registered owner until the false compartment is rendered unusable by personnel of a law enforcement agency, as specified, and the registered owner, except as specified, pays all towing charges, storage charges related to the impoundment, costs associated with the disabling of the false compartment, and any applicable administrative charge . No vehicle may be otherwise disposed of until the false compartment is rendered unusable by personnel of a law enforcement agency, unless the vehicle is being sold for scrap metal. The bill would provide for the release of the impounded vehicle to a person having a community property interest in that vehicle under specified conditions. By imposing new duties on local peace officers, this bill would impose a state-mandated local program upon state government.

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 11366.8 of the Health and Safety Code
 2 is amended to read:
 3 11366.8. (a) Every person who possesses, uses, or controls a
 4 false compartment with the intent to store, conceal, smuggle, or
 5 transport a controlled substance, any unlawfully possessed firearm
 6 or destructive device, or at least five thousand dollars (\$5,000) in
 7 currency, money, negotiable instruments, or securities that are
 8 intended to be exchanged for an unlawful purchase of a controlled
 9 substance or are the proceeds from an unlawful sale of a controlled
 10 substance within the false compartment shall be punished by
 11 imprisonment in a county jail for a term of imprisonment not to
 12 exceed one year or in the state prison.

1 (b) Every person who designs, constructs, builds, alters, or
2 fabricates a false compartment for, or installs or attaches a false
3 compartment to, a vehicle with the intent to store, conceal,
4 smuggle, or transport a controlled substance, any unlawfully
5 possessed firearm or destructive device, or at least five thousand
6 dollars (\$5,000) in currency, money, negotiable instruments, or
7 securities that are intended to be exchanged for an unlawful
8 purchase of a controlled substance or are the proceeds from an
9 unlawful sale of a controlled substance shall be punished by
10 imprisonment in the state prison for 16 months or two or three
11 years.

12 (c) The term “vehicle” means any of the following vehicles
13 without regard to whether the vehicles are private or commercial,
14 including, but not limited to, cars, trucks, buses, aircraft, boats,
15 ships, yachts, and vessels.

16 (d) The term “false compartment” means any box, container,
17 space, or enclosure that is intended for use or designed for use to
18 conceal, hide, or otherwise prevent discovery of any controlled
19 substance, any unlawfully possessed firearm or destructive device,
20 or at least five thousand dollars (\$5,000) in currency, money,
21 negotiable instruments, or securities that are intended to be
22 exchanged for an unlawful purchase of a controlled substance or
23 are the proceeds from an unlawful sale of a controlled substance
24 within or attached to a vehicle, including, but not limited to, any
25 of the following:

26 (1) False, altered, or modified fuel tanks.

27 (2) Original factory equipment of a vehicle that is modified,
28 altered, or changed.

29 (3) Compartment, space, or box that is added to, or fabricated,
30 made, or created from, existing compartments, spaces, or boxes
31 within a vehicle.

32 (e) The term “firearm” means any device, designed to be used
33 as a weapon, from which is expelled through a barrel a projectile
34 by the force of any explosion or other form of combustion; the
35 term “firearm” includes the frame or receiver of the weapon; the
36 term “firearm” also shall include any rocket, rocket propelled
37 projectile launcher, or similar device containing any explosive or
38 incendiary material whether or not the device is designed for
39 emergency or distress signaling purposes. The term “firearm” does
40 not include an unloaded firearm that is defined as an “antique

1 firearm” in Section 921(a)(16) of Title 18 of the United States
2 Code.

3 (f) The term “destructive device” is defined in Section 12301
4 of the Penal Code.

5 (g) Any vehicle driven by a person charged with violating this
6 section shall be seized and impounded as evidence.

7 (h) (1) No vehicle containing a false compartment shall be
8 returned to the vehicle’s registered owner until the false
9 compartment is rendered unusable by personnel of a law
10 enforcement agency and the registered owner pays all applicable
11 towing charges, storage charges related to impoundment, costs
12 associated with the disabling of the false compartment, and any
13 applicable administrative charges.

14 (2) No vehicle may be otherwise disposed of, unless the vehicle
15 is being sold for scrap metal, until the false compartment is
16 rendered unusable by personnel of a law enforcement agency.

17 (3) If a vehicle was stolen from the registered owner and the
18 registered owner reported the theft to law enforcement, the
19 registered owner shall not be liable for the costs of disabling the
20 false compartment or for any administrative costs, regardless of
21 whether ~~or not~~ the defendant was found guilty of the crime charged
22 under this section.

23 (i) No false compartment shall be rendered unusable until either
24 a defendant charged with violating this section enters a plea of
25 guilty or nolo contendere, or a determination of guilt has been
26 entered by a judge or jury that a defendant is guilty of violating
27 this section.

28 (j) (1) If there is a community property interest in the vehicle
29 impounded pursuant to this section, owned at the time of
30 impoundment by a person other than the driver, and the vehicle is
31 the only vehicle available to the driver’s immediate family that
32 may be operated with a class C driver’s license, the vehicle shall
33 be released to the community property interest owner upon
34 compliance with all of the following requirements:

35 (A) The community property interest owner requests release of
36 the vehicle and the owner of the community property interest
37 submits proof of that interest.

38 (B) The community property interest owner submits proof that
39 he or she, or an authorized driver, is properly licensed and that the
40 impounded vehicle is properly registered.

1 (C) All towing, storage charges related to the impoundment,
2 and any costs related to the disabling of a false compartment, if
3 applicable, and any administrative charges, are paid.

4 (2) Before releasing a vehicle to the community property interest
5 owner or his or her authorized driver, personnel of a law
6 enforcement agency shall render the false compartment unusable
7 if doing so does not result in the vehicle being in violation of any
8 provision of the Vehicle Code, including, but not limited to, Section
9 24002 of the Vehicle Code, relating to vehicles that may be
10 lawfully operated with a class C driver's license.

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

20 However, if the Commission on State Mandates determines that
21 this act contains other costs mandated by the state, reimbursement
22 to local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.