

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2650

Introduced by Assembly Member ~~Torrieo~~ *Buchanan*

February 19, 2010

An act to ~~amend Section 2653 of the Penal Code~~ *add Section 11362.768 to the Health and Safety Code*, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 2650, as amended, ~~Torrieo~~ *Buchanan*. ~~Inmates: medical treatment.~~
Medical marijuana.

Existing law added by initiative, the Compassionate Use Act of 1996, prohibits any physician from being punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes. The act prohibits the provisions of law making unlawful the possession or cultivation of marijuana from applying to a qualified patient, the qualified patient's primary caregiver, or an individual who provides assistance to the qualified patient or the qualified patient's primary caregiver, who possesses, cultivates, or distributes marijuana for the personal medical purposes of the qualified patient upon the written or oral recommendation or approval of a physician. Existing statutory law requires the State Department of Public Health to establish and maintain a voluntary program for the issuance of identification cards to qualified patients and establishes procedures under which a qualified patient with an identification card may use marijuana for medical purposes. Existing law regulates qualified patients, a qualified patient's primary caregiver, and individuals who provide assistance to the qualified patient or the qualified patient's primary caregiver, as specified. A violation of these provisions is generally a misdemeanor.

This bill would provide that no medical marijuana cooperative, collective, dispensary, operator, establishment, or provider, shall be located within a 1,000-foot radius of a school, public park, public library, religious institution, licensed child care facility, youth center, substance abuse rehabilitation center, or any preexisting medical marijuana cooperative, collective, dispensary, operator, establishment, or provider, as specified. By creating a new crime, this bill would impose a state-mandated local program.

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.

~~Existing law specifies procedures to be followed when a physician certifies in writing that a particular medical treatment is required for an inmate to prevent certain violations of law.~~

~~This bill would make a technical, nonsubstantive change to these provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
 State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11362.768 is added to the Health and
- 2 Safety Code, to read:
- 3 11362.768. (a) This section shall apply to individuals specified
- 4 in subdivision (b) of Section 11362.765.
- 5 (b) No medical marijuana cooperative, collective, dispensary,
- 6 operator, establishment, or provider who possesses, cultivates, or
- 7 distributes medical marijuana pursuant to this article shall be
- 8 located within a 1,000-foot radius of a school, public park, public
- 9 library, religious institution, licensed child care facility, youth
- 10 center, substance abuse rehabilitation center, or any preexisting
- 11 medical marijuana cooperative, collective, dispensary, operator,
- 12 establishment, or provider.
- 13 (c) The distances specified in this section shall be the horizontal
- 14 distance measured in a straight line from the property line of the
- 15 school, public park, public library, religious institution, licensed
- 16 child care facility, youth center, substance abuse rehabilitation

1 center, or preexisting medical marijuana cooperative, collective,
2 dispensary, operator, establishment, or provider, to the closest
3 property line of the lot on which the medical marijuana
4 cooperative, collective, dispensary, operator, establishment, or
5 provider is to be located without regard to intervening structures.

6 (d) This section shall not apply to a medical marijuana
7 cooperative, collective, dispensary, operator, establishment, or
8 provider that is also a licensed residential medical or elder care
9 facility.

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

19 SECTION 1. ~~Section 2653 of the Penal Code is amended to~~
20 ~~read:~~

21 ~~2653. (a) If a physician employed by the Department of~~
22 ~~Corrections and Rehabilitation certifies in writing that a particular~~
23 ~~medical treatment is required to prevent a violation of Section 147,~~
24 ~~673, 2650, or 2652, or is required to prevent serious and imminent~~
25 ~~harm to the health of a prisoner, the order for that particular medical~~
26 ~~treatment may not be modified or canceled by any employee of~~
27 ~~the department without the approval of the chief medical officer~~
28 ~~of the institution or the physician in attendance unless an inmate~~
29 ~~or ward has a known history of violent or otherwise disruptive~~
30 ~~behavior that requires additional measures to protect the safety~~
31 ~~and security of the institution specified in writing by the warden~~
32 ~~or superintendent, or unless immediate security needs require~~
33 ~~alternate or modified procedures. Following any necessary~~
34 ~~modified or alternate security procedures, treatment of the inmate~~
35 ~~or ward shall be effected as expeditiously as possible.~~

36 ~~Nothing in this section shall be construed to prevent a registered~~
37 ~~nurse from questioning, or seeking clarification of, an order from~~
38 ~~a physician that in the professional judgment of that nurse~~
39 ~~endangers patient health or safety, or otherwise is contrary to the~~
40 ~~professional ethics of the registered nurse.~~

- 1 ~~(b) Any person who violates this section shall be subject to~~
- 2 ~~appropriate disciplinary action by the department.~~

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