

Introduced by Senator Bates

February 23, 2015

An act to amend Sections 11379.6 and 11379.7 of the Health and Safety Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 305, as introduced, Bates. Enhancements: concentrated cannabis.

Existing law makes it a felony for a person to manufacture, compound, convert, produce, derive, process, or prepare a controlled substance, and to possess specified chemicals with the intent to manufacture a controlled substance. Under existing law, a person convicted of either of these crimes, or an attempt to commit either crime, relating to methamphetamine or phencyclidine, when the commission or attempted commission of the crime occurs in a structure where a child under 16 years of age is present, shall, in addition and consecutive to the punishment prescribed for the felony of which he or she has been convicted, be punished by an additional term of two years in the state prison. If the child under 16 years of age suffers great bodily injury, the person shall, in addition and consecutive to the punishment prescribed for the felony of which he or she has been convicted, be punished by an additional term of five years in the state prison. If the enhancement is not pled and proved, the fact that a person under 16 years of age resided in a structure where a methamphetamine was manufactured, compounded, converted, produced, derived, processed, or prepared is considered a factor in aggravation at sentencing.

This bill would authorize the enhanced sentences for the commission or attempted commission of one of the above crimes, as those crimes relate to concentrated cannabis, in a structure where a child under 16 years of age is present or where a child under 16 years of age suffers

great bodily harm. The bill would also require the use of the fact that a child under 16 years of age resided in a structure used for the manufacture, compounding, conversion, production, derivation, processing, or preparing of concentrated cannabis as a factor in aggravation at sentencing if the enhancement is not proved and pled. By increasing the penalty for an existing 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.

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 11379.6 of the Health and Safety Code
2 is amended to read:

3 11379.6. (a) Except as otherwise provided by law, every person
4 who manufactures, compounds, converts, produces, derives,
5 processes, or prepares, either directly or indirectly by chemical
6 extraction or independently by means of chemical synthesis, any
7 controlled substance specified in Section 11054, 11055, 11056,
8 11057, or 11058 shall be punished by imprisonment pursuant to
9 subdivision (h) of Section 1170 of the Penal Code for three, five,
10 or seven years and by a fine not exceeding fifty thousand dollars
11 (\$50,000).

12 (b) Except when an enhancement pursuant to Section 11379.7
13 is pled and proved, the fact that a person under 16 years of age
14 resided in a structure in which a violation of this section involving
15 methamphetamine *or concentrated cannabis* occurred shall be
16 considered a factor in aggravation by the sentencing court.

17 (c) Except as otherwise provided by law, every person who
18 offers to perform an act ~~which~~ *that* is punishable under subdivision
19 (a) shall be punished by imprisonment pursuant to subdivision (h)
20 of Section 1170 of the Penal Code for three, four, or five years.

21 (d) All fines collected pursuant to subdivision (a) shall be
22 transferred to the State Treasury for deposit in the Clandestine
23 Drug Lab Clean-up Account, as established by Section 5 of Chapter

1 1295 of the Statutes of 1987. The transmission to the State Treasury
2 shall be carried out in the same manner as fines collected for the
3 state by the county.

4 SEC. 2. Section 11379.7 of the Health and Safety Code is
5 amended to read:

6 11379.7. (a) Except as provided in subdivision (b), ~~any a~~
7 person convicted of a violation of subdivision (a) of Section
8 11379.6 or Section 11383, or of an attempt to violate subdivision
9 (a) of Section 11379.6 or Section 11383, as those sections relate
10 to ~~methamphetamine or methamphetamine~~, phencyclidine, *or*
11 *concentrated cannabis*, when the commission or attempted
12 commission of the crime occurs in a structure where ~~any a~~ child
13 under 16 years of age is present, shall, in addition and consecutive
14 to the punishment prescribed for the felony of which he or she has
15 been convicted, be punished by an additional term of two years in
16 the state prison.

17 (b) ~~Any A~~ person convicted of a violation of subdivision (a) of
18 Section 11379.6 or Section 11383, or of an attempt to violate
19 subdivision (a) of Section 11379.6 or Section 11383, as those
20 sections relate to ~~methamphetamine or methamphetamine~~,
21 phencyclidine, *or concentrated cannabis*, where the commission
22 of the crime causes ~~any a~~ child under 16 years of age to suffer
23 great bodily injury, shall, in addition and consecutive to the
24 punishment prescribed for the felony of which he or she has been
25 convicted, be punished by an additional term of five years in the
26 state prison.

27 (c) As used in this section, “structure” means ~~any a~~ house,
28 apartment building, shop, warehouse, barn, building, vessel,
29 railroad car, cargo container, motor vehicle, housecar, trailer, trailer
30 coach, camper, mine, floating home, or other enclosed structure
31 capable of holding a child and manufacturing equipment.

32 (d) As used in this section, “great bodily injury” has the same
33 meaning as defined in Section 12022.7 of the Penal Code.

34 SEC. 3. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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