

AMENDED IN SENATE APRIL 27, 2015

**SENATE BILL**

**No. 305**

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**Introduced by Senator Bates**

*(Coauthors: Senators Anderson, Huff, and Nielsen)*

*(Coauthors: Assembly Members Travis Allen and Gallagher)*

February 23, 2015

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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 amended, 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~~ 2 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~~ 5 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. *The bill would define concentrated cannabis for its purposes.* 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 that is punishable under subdivision (a)

1 shall be punished by imprisonment pursuant to subdivision (h) of  
2 Section 1170 of the Penal Code for three, four, or five years.

3 (d) All fines collected pursuant to subdivision (a) shall be  
4 transferred to the State Treasury for deposit in the Clandestine  
5 Drug Lab Clean-up Account, as established by Section 5 of Chapter  
6 1295 of the Statutes of 1987. The transmission to the State Treasury  
7 shall be carried out in the same manner as fines collected for the  
8 state by the county.

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

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

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

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

35 (d) *As used in this section, “concentrated cannabis” means*  
36 *concentrated cannabis that is chemically extracted through use of*  
37 *a volatile solvent.*

38 ~~(d)~~

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

1 SEC. 3. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

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