

AMENDED IN SENATE AUGUST 24, 1998

AMENDED IN SENATE JUNE 30, 1998

AMENDED IN SENATE JUNE 17, 1998

CALIFORNIA LEGISLATURE—1997-98 REGULAR SESSION

ASSEMBLY BILL

No. 2569

Introduced by Assembly Member Kuehl

February 23, 1998

An act to ~~add and repeal~~ *amend* Section 11380.5 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2569, as amended, Kuehl. Controlled substances: public libraries.

Existing law makes it a felony, punishable by imprisonment in the state prison, to possess for sale or sell heroin, cocaine, cocaine base, methamphetamine, or phencyclidine (PCP).

~~Prior law that was operative from January 1, 1995, until January 1, 1998, provided that any person who was convicted of any of these offenses, in addition to the punishment imposed for that conviction, was required to be imprisoned in the state prison for an additional one year if the violation occurred upon the grounds of a public park or ocean-front beach, including adjacent public parking lots and sidewalks, and if no other additional punishment was imposed pursuant to specified provisions of the California Uniform Controlled Substances Act. That prior law also provided that its provisions~~

~~applied to a public park or ocean-front beach only if the city council or county board of supervisors having jurisdiction over the public park or ocean-front beach adopted an ordinance designating the public park or ocean-front beach as a “drug-free zone” and notice of that law’s provisions was posted at the public park or ocean-front beach. Existing law also provides that any person who is convicted of any of these offenses, in addition to the punishment imposed for that conviction, shall be imprisoned in the state prison for an additional one year if the violation occurred upon the grounds of a public park or ocean-front beach, including adjacent public parking lots and sidewalks, and if no other additional punishment is imposed pursuant to specified provisions of the Uniform Controlled Substances Act. Under existing law these provisions are applicable to a public park or ocean-front beach only if the city council or county board of supervisors having jurisdiction over the public park or ocean-front beach adopts an ordinance designating the public park or ocean-front beach as a “drug-free zone” and notice thereof is posted at the public park or ocean-front beach. These provisions are repealed as of January 1, 2003.~~

~~This bill would reenact those provisions until January 1, 2003, and would add public libraries, as defined, to those locations that may be designated as a drug-free zone. Under the bill, the term “public park” in these provisions would include a public swimming pool and a public youth center. Additionally, the bill would require that any city council or county board of supervisors which adopts an ordinance designating a public park or ocean-front beach as a “drug free zone” to report annually to the Legislature on the number of arrests, and the disposition of each arrest, made in each drug-free zone.~~

The bill would declare that it would take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. ~~Section 11380.5 is added to the Health~~
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1 SECTION 1. Section 11380.5 of the Health and Safety
2 Code is amended to read:

3 11380.5. (a) (1) Notwithstanding any other
4 provision of law, any person who is convicted of the
5 possession for sale or the sale of heroin, cocaine, cocaine
6 base, methamphetamine, or phencyclidine (PCP), in
7 addition to the punishment imposed for that conviction,
8 shall be imprisoned in the state prison for an additional
9 one year if the violation occurred upon the grounds of a
10 public park ~~or oceanfront~~, public library, or ocean-front
11 beach.

12 (2) For the purposes of this section, a “public park or
13 ~~oceanfront~~ ocean-front beach” includes adjacent public
14 parking lots and sidewalks.

15 (3) For the purposes of this section, “public library”
16 means a library, or two or more libraries, operated by a
17 single entity by one or more jurisdictions that serves the
18 general public without distinction.

19 (b) The additional punishment provided in this
20 section shall not be imposed unless the allegation is
21 charged in the accusatory pleading and admitted by the
22 defendant or found to be true by the trier of fact.

23 (c) The additional punishment provided in this
24 section shall not be imposed in the event that any other
25 additional punishment is imposed pursuant to Section
26 11353.1, 11353.5, 11353.6, 11353.7, or 11380.1.

27 (d) Notwithstanding any other provision of law, the
28 court may strike the additional punishment provided for
29 in this section if it determines that there are
30 circumstances in mitigation of the additional punishment
31 and states on the record its reasons for striking the
32 additional punishment.

33 (e) This section shall apply to a public park ~~or~~
34 ~~oceanfront~~, public library, or ocean-front beach only if
35 the following conditions are satisfied:

36 (1) The city council ~~or~~ county board of supervisors, or
37 special district board having jurisdiction over the public
38 park ~~or oceanfront~~, public library, or ocean-front beach
39 adopts an ordinance designating the public park ~~or~~



1 ~~oceanfront~~, public library, or ocean-front beach as a
2 “drug-free zone” pursuant to this section.

3 (2) Notice of this law is posted at the public park ~~or~~
4 ~~oceanfront~~, public library, or ocean-front beach.

5 (f) For purposes of this section, a “public park”
6 includes a public swimming pool and a public youth
7 center.

8 (g) This section shall remain in effect only until
9 January 1, 2003, and as of that date is repealed, unless a
10 later enacted statute, that is enacted before January 1,
11 2003, deletes or extends that date.

12 SEC. 2. This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or
14 safety within the meaning of Article IV of the
15 Constitution and shall go into immediate effect. The facts
16 constituting the necessity are:

17 In order to add public libraries to, and expressly include
18 public swimming pools and public youth centers in, the
19 definition of “public park” for purposes of establishing
20 “drug-free” zones under existing provisions at the earliest
21 possible time, it is necessary that this act take effect
22 immediately.

23 and Safety Code, to read:

24 ~~11380.5. (a) (1) Notwithstanding any other~~
25 ~~provision of law, any person who is convicted of the~~
26 ~~possession for sale or the sale of heroin, cocaine, cocaine~~
27 ~~base, methamphetamine, or phencyclidine (PCP), in~~
28 ~~addition to the punishment imposed for that conviction,~~
29 ~~shall be imprisoned in the state prison for an additional~~
30 ~~one year if the violation occurred upon the grounds of a~~
31 ~~public park, public library, or ocean-front beach.~~

32 ~~(2) For the purposes of this section, a “public park or~~
33 ~~ocean-front beach” includes adjacent public parking lots~~
34 ~~and sidewalks.~~

35 ~~(3) For the purposes of this section, “public library”~~
36 ~~means a library, or two or more libraries, operated by a~~
37 ~~single entity by one or more jurisdictions that serves the~~
38 ~~general public without distinction.~~

39 ~~(b) The additional punishment provided in this~~
40 ~~section shall not be imposed unless the allegation is~~



1 charged in the accusatory pleading and admitted by the
2 defendant or found to be true by the trier of fact.

3 (e) The additional punishment provided in this
4 section shall not be imposed in the event that any other
5 additional punishment is imposed pursuant to Section
6 11353.1, 11353.5, 11353.6, 11353.7, or 11380.1.

7 (d) Notwithstanding any other provision of law, the
8 court may strike the additional punishment provided for
9 in this section if it determines that there are
10 circumstances in mitigation of the additional punishment
11 and states on the record its reasons for striking the
12 additional punishment.

13 (e) This section shall apply to a public park, public
14 library, or ocean-front beach only if the following
15 conditions are satisfied:

16 (1) The city council, county board of supervisors, or
17 special district board having jurisdiction over the public
18 park, public library, or ocean-front beach adopts an
19 ordinance designating the public park, public library, or
20 ocean-front beach as a “drug-free zone” pursuant to this
21 section.

22 (2) Notice of this law is posted at the public park,
23 public library, or ocean-front beach.

24 (f) For purposes of this section, a “public park”
25 includes a public swimming pool and a public youth
26 center.

27 (g) This section shall remain in effect only until
28 January 1, 2003, and as of that date is repealed, unless a
29 later enacted statute, that is enacted before January 1,
30 2003, deletes or extends that date.

31 SEC. 2. Any city council or county board of
32 supervisors that adopts an ordinance designating a public
33 park or ocean-front beach as a “drug-free zone” shall
34 report annually to the Legislature on the number of
35 arrests, and the disposition of each arrest, made in each
36 drug-free zone.

37 SEC. 3. This act is an urgency statute necessary for the
38 immediate preservation of the public peace, health, or
39 safety within the meaning of Article IV of the



1 ~~Constitution and shall go into immediate effect. The facts~~
2 ~~constituting the necessity are:~~

3 ~~In order to reenact the provisions of Chapter 928 of the~~
4 ~~Statutes of 1994 relating to “drug-free zones” located on~~
5 ~~public parks and ocean-front beaches that were repealed~~
6 ~~by the operation of that statute on January 1, 1998, and to~~
7 ~~add public libraries to those provisions, at the earliest~~
8 ~~possible time, it is necessary that this act take effect~~
9 ~~immediately.~~

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