

Assembly Bill No. 2569

Passed the Assembly August 27, 1998

Chief Clerk of the Assembly

Passed the Senate August 26, 1998

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to 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, 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). 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 These provisions are repealed as of January 1, 2003.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 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.

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



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

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

11380.5. (a) (1) Notwithstanding any other provision of law, any person who is convicted of the possession for sale or the sale of heroin, cocaine, cocaine base, methamphetamine, or phencyclidine (PCP), 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, public library, or ocean-front beach.

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

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

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

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

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

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

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



ocean-front beach as a “drug-free zone” pursuant to this section.

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

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

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

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

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



Approved _____, 1998

Governor

