

AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1085**

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**Introduced by Assembly Member Robert Pacheco**  
**(Coauthors: Assembly Members Battin, House, and Leach)**  
**(Coauthor: Senator Knight)**

February 25, 1999

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An act to amend Sections 11353.1 and 11380.1 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1085, as amended, Robert Pacheco. Controlled substances: family mobilehome parks.

Existing law makes it a felony, punishable by imprisonment in the state prison for 3, 6, or 9 years, for a person 18 years of age or older to engage in specified unlawful acts involving a minor with respect to specified controlled substances and provides for additional terms of imprisonment in the state prison if the offense involved certain controlled substances and occurred during specified hours in specified locations, such as a church, synagogue, playground, youth center, child day care facility, public swimming pool, or public or private elementary, vocational, junior high, or high school.

This bill would enact the Drug-Free Family Mobilehome Park Act of 1999, which would provide that the additional terms of imprisonment in the state prison pursuant to the latter provision above shall also be imposed if the offense occurred in a family mobilehome park ~~or the family section~~

of a ~~mixed mobilehome park~~, as defined. By creating new enhancements, this bill would impose a state-mandated local program. The bill would set forth legislative findings and declarations supporting its enactment.

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. (a) This act shall be known as, and may  
2 be cited as, the Drug-Free Family Mobilehome Park Act  
3 of 1999.

4 (b) The Legislature hereby makes the following  
5 findings and declarations in support of the enactment of  
6 this act:

7 (1) Family mobilehome parks ~~and family sections of~~  
8 ~~mobilehome parks~~ are locations in which schoolchildren  
9 live, play, and gather.

10 (2) Family mobilehome parks ~~and family sections of~~  
11 ~~mobilehome parks~~ are locations in which ~~low-cost~~  
12 *affordable* and high-density housing, ~~combined with a~~  
13 ~~lack of adequate security,~~ *may* result in nonresidents,  
14 including drug dealers, having ~~easy~~ access to the park and  
15 its residents.

16 (3) Family mobilehome parks ~~and family sections of~~  
17 ~~mobilehome parks~~ contain parks, playgrounds, and other  
18 facilities frequented by resident schoolchildren and their  
19 friends.

20 (4) Family mobilehome parks ~~and family sections of~~  
21 ~~mobilehome parks~~ are locations where drug dealers  
22 ~~particularly are able~~ *may attempt* to prey upon the parks'  
23 resident schoolchildren and their friends.

24 (5) Family mobilehome parks ~~and family sections of~~  
25 ~~mobilehome parks~~ have experienced an increase in drug



1 offenses involving minors occurring in the areas of the  
2 park in which schoolchildren live, play, or gather.

3 (6) In order to ~~prevent~~ *deter* drug trafficking with, *or*  
4 *around*, schoolchildren in family mobilehome parks ~~and~~  
5 ~~family sections of mobilehome parks~~ and to protect  
6 schoolchildren in family mobilehome parks ~~and family~~  
7 ~~sections of mobilehome parks~~ from exposure to drug  
8 transactions and the hazards they present, it is necessary  
9 that this bill be enacted.

10 SEC. 2. Section 11353.1 of the Health and Safety Code  
11 is amended to read:

12 11353.1. (a) Notwithstanding any other provision of  
13 law, any person 18 years of age or over who is convicted  
14 of a violation of Section 11353, in addition to the  
15 punishment imposed for that conviction, shall receive an  
16 additional punishment as follows:

17 (1) If the offense involved heroin, cocaine, cocaine  
18 base, or any analog of these substances and occurred upon  
19 the grounds of, or within, a church or synagogue, a  
20 playground, a public or private youth center, a child day  
21 care facility, a family mobilehome park, ~~a family section~~  
22 ~~of a mobilehome park~~, or a public swimming pool, during  
23 hours in which the facility is open for business, classes, or  
24 school-related programs, or at any time when minors are  
25 using the facility *or are present in the facility*, the  
26 defendant shall, as a full and separately served  
27 enhancement to any other enhancement provided in  
28 paragraph (3), be punished by imprisonment in the state  
29 prison for one year.

30 (2) If the offense involved heroin, cocaine, cocaine  
31 base, or any analog of these substances and occurred  
32 upon, or within 1,000 feet of, the grounds of any public or  
33 private elementary, vocational, junior high, or high  
34 school, during hours that the school is open for classes or  
35 school-related programs, or at any time when minors are  
36 using the facility where the offense occurs, the defendant  
37 shall, as a full and separately served enhancement to any  
38 other enhancement provided in paragraph (3), be  
39 punished by imprisonment in the state prison for two  
40 years.



1 (3) If the offense involved a minor who is at least four  
2 years younger than the defendant, the defendant shall, as  
3 a full and separately served enhancement to any other  
4 enhancement provided in this subdivision, be punished  
5 by imprisonment in the state prison for one, two, or three  
6 years, at the discretion of the court.

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

11 (c) The additional punishment provided in this  
12 section shall be in addition to any other punishment  
13 provided by law and shall not be limited by any other  
14 provision of law.

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

21 (e) As used in this section the following definitions  
22 shall apply:

23 (1) "Playground" means any park or recreational area  
24 specifically designed to be used by children which has  
25 play equipment installed, including public grounds  
26 designed for athletic activities such as baseball, football,  
27 soccer, or basketball, or any similar facility located on  
28 public or private school grounds, or on city, county, or  
29 state parks.

30 (2) "Youth center" means any public or private facility  
31 that is primarily used to host recreational or social  
32 activities for minors, including, but not limited to, private  
33 youth membership organizations or clubs, social service  
34 teenage club facilities, video arcades, or similar  
35 amusement park facilities.

36 (3) "Video arcade" means any premises where 10 or  
37 more video game machines or devices are operated, and  
38 where minors are legally permitted to conduct business.

39 (4) "Video game machine" means any mechanical  
40 amusement device, which is characterized by the use of



1 a cathode ray tube display and which, upon the insertion  
2 of a coin, slug, or token in any slot or receptacle attached  
3 to, or connected to, the machine, may be operated for use  
4 as a game, contest, or amusement.

5 (5) "Within 1,000 feet of the grounds of any public or  
6 private elementary, vocational, junior high, or high  
7 school" means any public area or business establishment  
8 where minors are legally permitted to conduct business  
9 which is located within 1,000 feet of any public or private  
10 elementary, vocational, junior high, or high school.

11 (6) "Child day care facility" has the meaning specified  
12 in Section 1596.750.

13 (7) "Family mobilehome park" means any  
14 mobilehome park ~~wherein~~ *which*, according to its rules  
15 and regulations *may be occupied by persons of all ages,*  
16 *including, families with minor children may* ~~reside~~.  
17 "Family mobilehome park" includes any playground,  
18 youth center, *clubhouse*, video arcade, or other *common*  
19 *area or* recreational facility on the grounds of the  
20 mobilehome park that minor children residing in the  
21 family mobilehome park are authorized to use.

22 ~~(8) "Family section" means any section of a mixed~~  
23 ~~mobilehome park wherein, according to its rules and~~  
24 ~~regulations, families with minor children may reside.~~  
25 ~~"Family section" includes any playground, youth center,~~  
26 ~~video arcade, or other recreational facility on the grounds~~  
27 ~~of the mixed mobilehome park that minor children~~  
28 ~~residing in the family section are authorized to use.~~

29 (f) This section does not require either that notice be  
30 posted regarding the proscribed conduct or that the  
31 applicable 1,000-foot boundary limit be marked.

32 SEC. 3. Section 11380.1 of the Health and Safety Code  
33 is amended to read:

34 11380.1. (a) Notwithstanding any other provision of  
35 law, any person 18 years of age or over who is convicted  
36 of a violation of Section 11380, in addition to the  
37 punishment imposed for that conviction, shall receive an  
38 additional punishment as follows:

39 (1) If the offense involved phencyclidine (PCP),  
40 methamphetamine, lysergic acid diethylamide (LSD), or



1 any analog of these substances and occurred upon the  
2 grounds of, or within, a church or synagogue, a  
3 playground, a public or private youth center, a child day  
4 care facility, a family mobilehome park, ~~a family section~~  
5 ~~of a mobilehome park~~, or a public swimming pool, during  
6 hours in which the facility is open for business, classes, or  
7 school-related programs, or at any time when minors are  
8 using the facility, the defendant shall, as a full and  
9 separately served enhancement to any other  
10 enhancement provided in paragraph (3), be punished by  
11 imprisonment in the state prison for one year.

12 (2) If the offense involved phencyclidine (PCP),  
13 methamphetamine, lysergic acid diethylamide (LSD), or  
14 any analog of these substances and occurred upon, or  
15 within 1,000 feet of, the grounds of any public or private  
16 elementary, vocational, junior high school, or high school,  
17 during hours that the school is open for classes or  
18 school-related programs, or at any time when minors are  
19 using the facility where the offense occurs, the defendant  
20 shall, as a full and separately served enhancement to any  
21 other enhancement provided in paragraph (3), be  
22 punished by imprisonment in the state prison for two  
23 years.

24 (3) If the offense involved a minor who is at least four  
25 years younger than the defendant, the defendant shall, as  
26 a full and separately served enhancement to any other  
27 enhancement provided in this subdivision, be punished  
28 by imprisonment in the state prison for one, two, or three  
29 years, at the discretion of the court.

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

34 (c) The additional punishment provided in this  
35 section shall be in addition to any other punishment  
36 provided by law and shall not be limited by any other  
37 provision of law.

38 (d) Notwithstanding any other provision of law, the  
39 court may strike the additional punishment provided for  
40 in this section if it determines that there are



1 circumstances in mitigation of the additional punishment  
2 and states on the record its reasons for striking the  
3 additional punishment.

4 (e) The definitions contained in subdivision (e) of  
5 Section 11353.1 shall apply to this section.

6 (f) This section does not require either that notice be  
7 posted regarding the proscribed conduct or that the  
8 applicable 1,000-foot boundary limit be marked.

9 SEC. 4. No reimbursement is required by this act  
10 pursuant to Section 6 of Article XIII B of the California  
11 Constitution because the only costs that may be incurred  
12 by a local agency or school district will be incurred  
13 because this act creates a new crime or infraction,  
14 eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section  
16 17556 of the Government Code, or changes the definition  
17 of a crime within the meaning of Section 6 of Article  
18 XIII B of the California Constitution.

