

AMENDED IN ASSEMBLY APRIL 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2715

Introduced by Assembly Member Olberg
(Principal coauthor: Assembly Member Rod Pacheco)

February 25, 2000

An act to amend Section 11353.6 of the Health and Safety Code, relating to drug trafficking.

LEGISLATIVE COUNSEL'S DIGEST

AB 2715, as amended, Olberg. Controlled substances: schoolyard drug trafficking.

Existing law, the Juvenile Drug Trafficking and Schoolyard Act of 1988, provides that any person 18 years of age or over who is convicted of specified controlled substance offenses or of a conspiracy to commit one of those offenses, where the violation takes place upon the grounds of, or within 1,000 feet of, a public or private school, as specified, during the hours that the school is open for classes or school-related programs, or at any time when minors are using the facility, shall receive an additional punishment of 3, 4, or 5 years in prison.

This bill would ~~include violations of that act with regard to convictions for marijuana, PCP, LSD, and cocaine, in addition, provide that the additional punishment would apply to convictions for a violation, conspiracy to commit a violation, and attempt to commit a violation of additional specified provisions of law pertaining to controlled substances.~~ The bill would expand the scope of the act to include an offense, as

described, that occurs at any time upon or within 1,000 of a school, as specified.

By changing the definition of 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 11353.6 of the Health and Safety
2 Code is amended to read:
3 11353.6. (a) This section shall be known, and may be
4 cited, as the Juvenile Drug Trafficking and Schoolyard
5 Act of 1988.
6 (b) Any person 18 years of age or over who is convicted
7 of a violation ~~of Section 11351.5, 11352,~~ *a conspiracy to*
8 *commit a violation, or an attempt to commit a violation,*
9 *of Section 11351, 11351.5, 11352, 11358, 11359, 11360, 11378,*
10 *11378.5, 11379, 11379.5, or 11379.6, as those sections apply*
11 *to paragraph (1) of subdivision (f) of Section 11054, or of*
12 *Section 11351, 11352, or 11379.6, as those sections apply to*
13 *paragraph (11) of subdivision (c) of Section 11054, ~~or to~~*
14 *~~paragraph (12) or paragraph (13) of subdivision (d) of~~*
15 *~~Section 11054, or to paragraph (6) of subdivision (b) of~~*
16 *~~Section 11055, or to paragraph (12), or paragraph (13) of~~*
17 *~~subdivision (d) of Section 11055, or to paragraph (3) of~~*
18 *~~subdivision (e) of Section 11055,~~ or of Section 11378,*
19 *11379, or 11379.6, as those sections apply to paragraph (2)*
20 *of subdivision (d) of Section 11055, or ~~of a conspiracy to~~*
21 *~~commit one of those offenses, Section 11383,~~ where the*
22 *violation takes place upon the grounds of, or within 1,000*
23 *feet of, a public or private elementary, vocational, junior*
24 *high, or high school at any time, shall receive an*



1 additional punishment of 3, 4, or 5 years at the court's
2 discretion.

3 (c) Any person 18 years of age or older who is
4 convicted of a violation pursuant to subdivision (b) which
5 involves a minor who is at least four years younger than
6 that person, as a full and separately served enhancement
7 to that provided in subdivision (b), shall be punished by
8 imprisonment in the state prison for 3, 4, or 5 years at the
9 court's discretion.

10 (d) The additional terms provided in this section shall
11 not be imposed unless the allegation is charged in the
12 accusatory pleading and admitted or found to be true by
13 the trier of fact.

14 (e) The additional terms provided in this section shall
15 be in addition to any other punishment provided by law
16 and shall not be limited by any other provision of law.

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

23 (g) "Within 1,000 feet of a public or private
24 elementary, vocational, junior high, or high school"
25 means any public area or business establishment where
26 minors are legally permitted to conduct business which
27 is located within 1,000 feet of any public or private
28 elementary, vocational, junior high, or high school.

29 SEC. 2. No reimbursement is required by this act
30 pursuant to Section 6 of Article XIII B of the California
31 Constitution because the only costs that may be incurred
32 by a local agency or school district will be incurred
33 because this act creates a new crime or infraction,
34 eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section
36 17556 of the Government Code, or changes the definition
37 of a crime within the meaning of Section 6 of Article
38 XIII B of the California Constitution.

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