

AMENDED IN ASSEMBLY MARCH 28, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2420

Introduced by Assembly Member Hueso
(Coauthor: Assembly Member Fletcher)
(Coauthor: Senator Vargas)

February 24, 2012

An act to amend *Section 48900 of the Education Code*, and to amend Sections 11357.5 and 11375.5 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2420, as amended, Hueso. Controlled substances: synthetic cannabinoids and synthetic stimulants.

Existing law provides that every person who sells, dispenses, distributes, furnishes, administers, or gives, or offers to sell, dispense, distribute, furnish, administer, or give, or possesses for sale any synthetic cannabinoid compound, or any synthetic cannabinoid derivative, to any person, is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding 6 months, or by a fine not exceeding \$1,000, or by both that fine and imprisonment. Existing law defines a synthetic cannabinoid compound for purposes of this provision.

Existing law also provides that every person who sells, dispenses, distributes, furnishes, administers, or gives, or offers to sell, dispense, distribute, furnish, administer, or give, any synthetic stimulant compound, as specified, or any synthetic stimulant derivative, to any person, or who possesses that compound or derivative for sale, is guilty of a misdemeanor punishable by imprisonment in a county jail not

exceeding 6 months, or by a fine not exceeding \$1,000, or by both that fine and imprisonment.

This bill would provide that every person who possesses, under circumstances that do not include possession for sale as proscribed pursuant to existing law, 28.5 grams or less of any synthetic cannabinoid is guilty of an infraction punishable by a fine of not more than \$100. The bill would provide that every person who possesses, under circumstances that do not include possession for sale as proscribed pursuant to existing law, 28.5 grams or less of any synthetic stimulant compound, as specified, or any synthetic stimulant derivative, shall be punished by imprisonment in a county jail for a period of not more than one month, or by a fine not exceeding \$500, or by both that fine and imprisonment. In addition, the bill would also provide that every person who possesses, under circumstances that do not include possession for sale as proscribed pursuant to existing law, more than 28.5 grams of any synthetic cannabinoid, any synthetic stimulant compound, as specified, or any synthetic stimulant derivative, shall be punished by imprisonment in a county jail for a period of not more than 6 months, or by a fine not exceeding \$1,000, or by both that fine and imprisonment.

The bill would also expand the definition of synthetic cannabinoids for purposes of the prohibitions described above to *mean synthetic cannabinoid agonists that include, among other compounds, naphthoylindoles, naphthylmethylinindoles, naphthoylpyrroles, naphthylmethylinindenes, phenylacetylindoles, cyclohexylphenols, benzoylindoles, and adamantoylindoles.*

Because the bill would create new crimes, the bill would impose a state-mandated local program.

Existing law authorizes the suspension or expulsion of a pupil from school if the superintendent or the principal of the school determines that the pupil has unlawfully possessed, used, sold, furnished, or was under the influence of a controlled substance, an alcoholic beverage, or an intoxicant of any kind.

This bill would expand those provisions to include synthetic cannabinoid compounds and synthetic stimulant compounds.

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 48900 of the Education Code is amended*
2 *to read:*

3 48900. A pupil shall not be suspended from school or
4 recommended for expulsion, unless the superintendent or the
5 principal of the school in which the pupil is enrolled determines
6 that the pupil has committed an act as defined pursuant to any of
7 subdivisions (a) to (r), inclusive:

8 (a) (1) Caused, attempted to cause, or threatened to cause
9 physical injury to another person.

10 (2) Willfully used force or violence upon the person of another,
11 except in self-defense.

12 (b) Possessed, sold, or otherwise furnished a firearm, knife,
13 explosive, or other dangerous object, unless, in the case of
14 possession of an object of this type, the pupil had obtained written
15 permission to possess the item from a certificated school employee,
16 which is concurred in by the principal or the designee of the
17 principal.

18 (c) Unlawfully possessed, used, sold, or otherwise furnished,
19 or been under the influence of, a controlled substance listed in
20 Chapter 2 (commencing with Section 11053) of Division 10 of the
21 Health and Safety Code, *a synthetic cannabinoid compound or a*
22 *synthetic stimulant compound, as those terms are defined in*
23 *Sections 11357.5 and 11375.5 of the Health and Safety Code*, an
24 alcoholic beverage, or an intoxicant of any kind.

25 (d) Unlawfully offered, arranged, or negotiated to sell a
26 controlled substance listed in Chapter 2 (commencing with Section
27 11053) of Division 10 of the Health and Safety Code, *a synthetic*
28 *cannabinoid compound or a synthetic stimulant compound, as*
29 *those terms are defined in Sections 11357.5 and 11375.5 of the*
30 *Health and Safety Code*, an alcoholic beverage, or an intoxicant
31 of any kind, and either sold, delivered, or otherwise furnished to
32 a person another liquid, substance, or material and represented the
33 liquid, substance, or material as a controlled substance, alcoholic
34 beverage, or intoxicant.

35 (e) Committed or attempted to commit robbery or extortion.

1 (f) Caused or attempted to cause damage to school property or
2 private property.

3 (g) Stolen or attempted to steal school property or private
4 property.

5 (h) Possessed or used tobacco, or products containing tobacco
6 or nicotine products, including, but not limited to, cigarettes, cigars,
7 miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew
8 packets, and betel. However, this section does not prohibit use or
9 possession by a pupil of his or her own prescription products.

10 (i) Committed an obscene act or engaged in habitual profanity
11 or vulgarity.

12 (j) Unlawfully possessed or unlawfully offered, arranged, or
13 negotiated to sell drug paraphernalia, as defined in Section 11014.5
14 of the Health and Safety Code.

15 (k) Disrupted school activities or otherwise willfully defied the
16 valid authority of supervisors, teachers, administrators, school
17 officials, or other school personnel engaged in the performance of
18 their duties.

19 (l) Knowingly received stolen school property or private
20 property.

21 (m) Possessed an imitation firearm. As used in this section,
22 “imitation firearm” means a replica of a firearm that is so
23 substantially similar in physical properties to an existing firearm
24 as to lead a reasonable person to conclude that the replica is a
25 firearm.

26 (n) Committed or attempted to commit a sexual assault as
27 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
28 Code or committed a sexual battery as defined in Section 243.4
29 of the Penal Code.

30 (o) Harassed, threatened, or intimidated a pupil who is a
31 complaining witness or a witness in a school disciplinary
32 proceeding for the purpose of either preventing that pupil from
33 being a witness or retaliating against that pupil for being a witness,
34 or both.

35 (p) Unlawfully offered, arranged to sell, negotiated to sell, or
36 sold the prescription drug Soma.

37 (q) Engaged in, or attempted to engage in, hazing. For purposes
38 of this subdivision, “hazing” means a method of initiation or
39 preinitiation into a pupil organization or body, whether or not the
40 organization or body is officially recognized by an educational

1 institution, which is likely to cause serious bodily injury or personal
2 degradation or disgrace resulting in physical or mental harm to a
3 former, current, or prospective pupil. For purposes of this
4 subdivision, “hazing” does not include athletic events or
5 school-sanctioned events.

6 (r) Engaged in an act of bullying. For purposes of this
7 subdivision, the following terms have the following meanings:

8 (1) “Bullying” means any severe or pervasive physical or verbal
9 act or conduct, including communications made in writing or by
10 means of an electronic act, and including one or more acts
11 committed by a pupil or group of pupils as defined in Section
12 48900.2, 48900.3, or 48900.4, directed toward one or more pupils
13 that has or can be reasonably predicted to have the effect of one
14 or more of the following:

15 (A) Placing a reasonable pupil or pupils in fear of harm to that
16 pupil’s or those pupils’ person or property.

17 (B) Causing a reasonable pupil to experience a substantially
18 detrimental effect on his or her physical or mental health.

19 (C) Causing a reasonable pupil to experience substantial
20 interference with his or her academic performance.

21 (D) Causing a reasonable pupil to experience substantial
22 interference with his or her ability to participate in or benefit from
23 the services, activities, or privileges provided by a school.

24 (2) “Electronic act” means the transmission of a communication,
25 including, but not limited to, a message, text, sound, or image, or
26 a post on a social network Internet Web site, by means of an
27 electronic device, including, but not limited to, a telephone,
28 wireless telephone or other wireless communication device,
29 computer, or pager.

30 (3) “Reasonable pupil” means a pupil, including, but not limited
31 to, an exceptional needs pupil, who exercises average care, skill,
32 and judgment in conduct for a person of his or her age, or for a
33 person of his or her age with his or her exceptional needs.

34 (s) A pupil shall not be suspended or expelled for any of the
35 acts enumerated in this section, unless that act is related to school
36 activity or school attendance occurring within a school under the
37 jurisdiction of the superintendent of the school district or principal
38 or occurring within any other school district. A pupil may be
39 suspended or expelled for acts that are enumerated in this section

1 and related to school activity or attendance that occur at any time,
2 including, but not limited to, any of the following:

3 (1) While on school grounds.

4 (2) While going to or coming from school.

5 (3) During the lunch period whether on or off the campus.

6 (4) During, or while going to or coming from, a
7 school-sponsored activity.

8 (t) A pupil who aids or abets, as defined in Section 31 of the
9 Penal Code, the infliction or attempted infliction of physical injury
10 to another person may be subject to suspension, but not expulsion,
11 pursuant to this section, except that a pupil who has been adjudged
12 by a juvenile court to have committed, as an aider and abettor, a
13 crime of physical violence in which the victim suffered great bodily
14 injury or serious bodily injury shall be subject to discipline pursuant
15 to subdivision (a).

16 (u) As used in this section, “school property” includes, but is
17 not limited to, electronic files and databases.

18 (v) A superintendent of the school district or principal may use
19 his or her discretion to provide alternatives to suspension or
20 expulsion, including, but not limited to, counseling and an anger
21 management program, for a pupil subject to discipline under this
22 section.

23 (w) It is the intent of the Legislature that alternatives to
24 suspension or expulsion be imposed against a pupil who is truant,
25 tardy, or otherwise absent from school activities.

26 **SECTION 1.**

27 **SEC. 2.** Section 11357.5 of the Health and Safety Code is
28 amended to read:

29 11357.5. (a) Every person who sells, dispenses, distributes,
30 furnishes, administers, or gives, or offers to sell, dispense,
31 distribute, furnish, administer, or give, or possesses for sale any
32 synthetic cannabinoid compound, or any synthetic cannabinoid
33 derivative, to any person, is guilty of a misdemeanor punishable
34 by imprisonment in a county jail not exceeding six months, or by
35 a fine not exceeding one thousand dollars (\$1,000), or by both that
36 fine and imprisonment.

37 (b) As used in this section, the term “synthetic cannabinoid
38 compound” refers to *synthetic cannabinoid agonists, including,*
39 *but not limited to,* any of the following substances:

40 (1) 1-pentyl-3-(1-naphthoyl)indole (JWH-018).

1 (2) 1-butyl-3-(1-naphthoyl)indole (JWH-073).

2 (3) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole
3 (JWH-200).

4 (4) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol
5 (CP-47,497).

6 (5) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol
7 (cannabicyclohexanol; CP-47, 497 C8 homologue).

8 ~~(6)~~

9 (6) *Synthetic equivalents of the psychoactive substances*
10 *contained in marijuana, or concentrated cannabis, as defined in*
11 *Sections 11018 and 11006.5, respectively, and synthetic substances,*
12 *derivatives, and their isomers with similar chemical structure and*
13 *pharmacological activity, such as the following: delta 1 cis- or*
14 *trans-tetrahydrocannabinol, and their optical isomers; delta 6 cis-*
15 *or trans-tetrahydrocannabinol, and their optical isomers; and*
16 *delta 3, 4 cis- or trans-tetrahydrocannabinol, and their optical*
17 *isomers.*

18 (7) Naphthoylindoles: any compound containing a
19 3-(1-naphthoyl)indole structure with substitution at the nitrogen
20 atom of the indole ring by an alkyl, haloalkyl, alkenyl,
21 cycloalkylmethyl, cycloalkylethyl,
22 1-(N-methyl-2-piperidiny)methyl, or 2-(4-morpholinyl)ethyl
23 group, whether or not further substituted in the indole ring to any
24 extent and whether or not substituted in the naphthyl ring to any
25 extent.

26 ~~(7)~~

27 (8) Naphthylmethylindoles: any compound containing a
28 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at
29 the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl,
30 cycloalkylmethyl, cycloalkylethyl,
31 1-(N-methyl-2-piperidiny)methyl, or 2-(4-morpholinyl)ethyl
32 group, whether or not further substituted in the indole ring to any
33 extent and whether or not substituted in the naphthyl ring to any
34 extent.

35 ~~(8)~~

36 (9) Naphthoylpyrroles: any compound containing a
37 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen
38 atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl,
39 cycloalkylmethyl, cycloalkylethyl,
40 1-(N-methyl-2-piperidiny)methyl, or 2-(4-morpholinyl)ethyl group,

whether or not further substituted in the indene ring to any extent
and whether or not substituted in the naphthyl ring to any extent.

(9)

(10) Naphthylmethylindenes: any compound containing a
naphthylideneindene structure with substitution at the 3-position
of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or
2-(4-morpholinyl)ethyl group, whether or not further substituted
in the indene ring to any extent and whether or not substituted in
the naphthyl ring to any extent.

(10)

(11) Phenylacetylindoles: any compound containing a
3-phenylacetylindole structure with substitution at the nitrogen
atom of the indole ring by an alkyl, haloalkyl, alkenyl,
cycloalkylmethyl, cycloalkylethyl,
1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
group, whether or not further substituted in the indole ring to any
extent and whether or not substituted in the phenyl ring to any
extent.

(11)

(12) Cyclohexylphenols: any compound containing a
2-(3-hydroxycyclohexyl)phenol structure with substitution at the
5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl,
cycloalkylmethyl, cycloalkylethyl,
1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
group, whether or not substituted in the cyclohexyl ring to any
extent.

(12)

(13) Benzoylindoles: any compound containing a
3-(benzoyl)indole structure with substitution at the nitrogen atom
of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or
2-(4-morpholinyl)ethyl group, whether or not further substituted
in the indole ring to any extent and whether or not substituted in
the phenyl ring to any extent.

(13)

(14) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo
[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone.

(14)

(1 5) 9 - (h y d r o x y m e t h y l) - 6 ,
6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10,
10a-tetrahydrobenzo[c]chromen-1-ol.

(15)

(16) Adamantoylindoles: any compound containing a
3-(1-adamantoyl)indole structure with substitution at the nitrogen
atom of the indole ring by an alkyl, haloalkyl, alkenyl,
cycloalkylmethyl, cycloalkylethyl,
1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morphonyl)ethyl group,
whether or not further substituted in the indole ring to any extent
and whether or not substituted in the adamantyl ring system to any
extent.

(c) Every person who possesses, under circumstances that do
not include possession for sale as described in subdivision (a),
28.5 grams or less of any synthetic cannabinoid is guilty of an
infraction punishable by a fine of not more than one hundred
dollars (\$100).

(d) Every person who possesses, under circumstances that do
not include possession for sale as described in subdivision (a),
more than 28.5 grams of any synthetic cannabinoid shall be
punished by imprisonment in a county jail for a period of not more
than six months, or by a fine not exceeding one thousand dollars
(\$1,000), or by both that fine and imprisonment.

~~SEC. 2.~~

SEC. 3. Section 11375.5 of the Health and Safety Code is
amended to read:

11375.5. (a) Every person who sells, dispenses, distributes,
furnishes, administers, or gives, or offers to sell, dispense,
distribute, furnish, administer, or give, any synthetic stimulant
compound specified in subdivision (b), or any synthetic stimulant
derivative, to any person, or who possesses that compound or
derivative for sale, is guilty of a misdemeanor punishable by
imprisonment in a county jail not exceeding six months, or by a
fine not exceeding one thousand dollars (\$1,000), or by both that
fine and imprisonment.

(b) Unless specifically excepted, or contained within a
pharmaceutical product approved by the United States Food and
Drug Administration, or unless listed in another schedule,
subdivision (a) applies to any material, compound, mixture, or
preparation which contains any quantity of the following substances

1 having a stimulant effect on the central nervous system, including
2 its salts, isomers, esters, or ethers, and salts of isomers, esters, or
3 ethers whenever the existence of such salts, isomers, esters, or
4 ethers, and salts of isomers, esters, or ethers is possible within any
5 of the following specific chemical designations:

6 (1) Naphthylpyrovalerone whether or not further substituted in
7 the naphthyl ring to any extent with alkyl, alkoxy, alkylendioxy,
8 haloalkyl, or halide substituents, whether or not further substituted
9 in the naphthyl ring by one or more other univalent substituents,
10 or whether or not further substituted in the carbon chain at the 3-,
11 4-, or 5-position with an alkyl substituent.

12 (2) 2-amino-1-phenyl-1-propanone (cathinone) or variation in
13 any of the following ways:

14 (A) By substitution in the phenyl ring to any extent with alkyl,
15 alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether
16 or not further substituted in the phenyl ring by one or more other
17 univalent substituents.

18 (B) By substitution at the 3-position with an alkyl substituent.

19 (C) By substitution at the nitrogen atom with alkyl, dialkyl, or
20 benzyl groups, or by inclusion of the nitrogen atom in a cyclic
21 structure.

22 (c) Every person who possesses, under circumstances that do
23 not include possession for sale as described in subdivision (a),
24 28.5 grams or less of any synthetic stimulant compound specified
25 in subdivision (b), or any synthetic stimulant derivative, shall be
26 punished by imprisonment in a county jail for a period of not more
27 than one month, or by a fine of five hundred dollars (\$500), or by
28 both that fine and imprisonment.

29 (d) Every person who possesses, under circumstances that do
30 not include possession for sale as described in subdivision (a),
31 more than 28.5 grams of any synthetic stimulant compound
32 specified in subdivision (b), or any synthetic stimulant derivative,
33 shall be punished by imprisonment in a county jail for a period of
34 not more than six months, or by a fine not exceeding one thousand
35 dollars (\$1,000), or by both that fine and imprisonment.

36 (e) This section shall not prohibit prosecution under any other
37 law.

38 ~~SEC. 3.~~

39 *SEC. 4.* No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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