

Introduced by Senator Mendoza

February 11, 2015

An act to amend Section 11353.6 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 212, as introduced, Mendoza. Controlled substances: enhanced penalties.

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 drug offenses is subject to an additional punishment of 3, 4, or 5 years imprisonment, at the court's discretion, where the offense takes place upon the grounds of, or within 1,000 feet of, a public or private elementary, vocational, junior high, or high school during hours that the school is open for classes or school-related programs, or at any time when minors are using the facility where the offense occurs. Existing law defines "within 1,000 feet of a public or private elementary, vocational, junior high, or high school," as a public area or business establishment where minors are legally permitted to conduct business that is located within 1,000 feet of a public or private elementary, vocational, junior high, or high school.

This bill would include a public or private preschool within the provisions described above. The bill would define "preschool" as a school for children under 6 years of age. The bill would delete the definition of "within 1,000 feet a public or private elementary, vocational, junior high, or high school" described above, and instead define "within 1,000 feet of a public or private preschool, elementary, vocational, junior high, or high school" as a public or private area that is located within 1,000 feet of a public or private preschool, elementary,

vocational, junior high, or high school. By expanding the scope of an existing crime, the 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 Code
2 is amended to read:

3 11353.6. (a) This section shall be known, and may be cited,
4 as the Juvenile Drug Trafficking and Schoolyard Act of 1988.

5 (b) Any person 18 years of age or over who is convicted of a
6 violation of Section 11351.5, 11352, or 11379.6, as those sections
7 apply to paragraph (1) of subdivision (f) of Section 11054, or of
8 Section 11351, 11352, or 11379.6, as those sections apply to
9 paragraph (11) of subdivision (c) of Section 11054, or of Section
10 11378, 11379, or 11379.6, as those sections apply to paragraph
11 (2) of subdivision (d) of Section 11055, or of a conspiracy to
12 commit one of those offenses, where the violation takes place upon
13 the grounds of, or within 1,000 feet of, a public or private
14 *preschool*, elementary, vocational, junior high, or high school
15 during hours that the school is open for classes or school-related
16 programs, or at any time when minors are using the facility where
17 the offense occurs, shall receive an additional punishment of three,
18 four, or five years at the court's discretion.

19 (c) Any person 18 years of age or older who is convicted of a
20 violation pursuant to subdivision (b) which involves a minor who
21 is at least four years younger than that person, as a full and
22 separately served enhancement to that provided in subdivision (b),
23 shall be punished by imprisonment pursuant to subdivision (h) of
24 Section 1170 of the Penal Code for three, four, or five years at the
25 court's discretion.

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

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

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

9 ~~(g) “Within 1,000 feet of a public or private elementary,~~
10 ~~vocational, junior high, or high school” means any public area or~~
11 ~~business establishment where minors are legally permitted to~~
12 ~~conduct business which is located within 1,000 feet of any public~~
13 ~~or private elementary, vocational, junior high, or high school.~~

14 (g) *For purposes of this section, the following definitions shall*
15 *apply:*

16 (1) *“Preschool” means a school for children under six years*
17 *of age.*

18 (2) *“Within 1,000 feet of a public or private preschool,*
19 *elementary, vocational, junior high, or high school” means a*
20 *public or private area that is located within 1,000 feet of a public*
21 *or private preschool, elementary, vocational, junior high, or high*
22 *school.*

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