

ASSEMBLY BILL

No. 1890

Introduced by Assembly Member Rod Pacheco

February 10, 2000

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1890, as introduced, Rod Pacheco. Controlled substances: schools.

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 with regard to cocaine base, heroin, and methamphetamine, 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 elementary, vocational, junior high, or high school, as defined, 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, shall receive an additional punishment of 3, 4, or 5 years at the court's discretion.

This bill would modify this provision to instead provide that any person, 18 years of age or over, who is convicted of a violation, a conspiracy to commit a violation, or an attempt to commit a violation of a greater number of controlled substance offenses with regard to a greater number of controlled substances, where the violation takes place upon the grounds, of or within 1,000 feet of, a public or private

elementary, vocational, junior high, or high school, shall receive an additional punishment of 3, 4, or 5 years. The bill would delete the definition regarding distance from a school and would make other conforming and clarifying changes. By creating new enhancements, 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
7 convicted of a *violation, a conspiracy to commit a*
8 *violation, or an attempt to commit a* violation of Section
9 *11351, 11351.5, 11352, or 11358, 11359, 11360, 11378,*
10 *11378.5, 11379, 11379.5, 11379.6, as those sections apply to*
11 ~~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 (e) of Section 11054, or of~~
14 ~~Section 11378, 11379, or 11379.6, as those sections apply to~~
15 ~~paragraph (2) of subdivision (d) of Section 11055, or of a~~
16 ~~conspiracy to commit one of those offenses or 11383,~~
17 where the violation takes place upon the grounds, of;
18 within 1,000 feet of, a public or private elementary,
19 vocational, junior high, or high school ~~during hours that~~
20 ~~the school is open for classes or school-related programs,~~
21 ~~or at any time when minors are using the facility where~~
22 ~~the offense occurs,~~ shall receive an additional punishment
23 of 3, 4, or 5 years ~~at the court's discretion.~~



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

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

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

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

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

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

