

AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 824

Introduced by Assembly Member House
(Coauthors: Assembly Members Cox and Robert Pacheco)
(Coauthors: Senators Knight and Leslie)

February 24, 1999

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

LEGISLATIVE COUNSEL'S DIGEST

AB 824, as amended, House. Designated drug-free zone neighborhoods.

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 specified 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 provide, ~~in addition,~~ that ~~the~~ *an* additional ~~terms~~ *term* of imprisonment in the state prison ~~pursuant to the latter provision~~ *for 2 years* shall ~~also~~ *be imposed in addition to this latter provision* if the offense *involved specified controlled substances and occurred* ~~in upon the grounds of a~~

designated drug-free zone neighborhood, as defined. By creating a new ~~enhancements~~ *enhancement*, 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 11353.1 of the Health and Safety
2 Code is amended to read:

3 11353.1. (a) Notwithstanding any other provision of
4 law, any person 18 years of age or over who is convicted
5 of a violation of Section 11353, in addition to the
6 punishment imposed for that conviction, shall receive an
7 additional punishment as follows:

8 (1) If the offense involved heroin, cocaine, cocaine
9 base, or any analog of these substances and occurred upon
10 the grounds of, or within, a church or synagogue, a
11 playground, a public or private youth center, a child day
12 care facility, or a public swimming pool, during hours in
13 which the facility is open for business, classes, or
14 school-related programs, or at any time when minors are
15 using the facility, the defendant shall, as a full and
16 separately served enhancement to any other
17 enhancement provided in paragraph (4), be punished by
18 imprisonment in the state prison for one year.

19 (2) If the offense involved heroin, cocaine, cocaine
20 base, or any analog of these substances and occurred
21 upon, or within 1,000 feet of, the grounds of any public or
22 private elementary, vocational, junior high, or high
23 school, during hours that the school is open for classes or
24 school-related programs, or at any time when minors are
25 using the facility where the offense occurs, the defendant
26 shall, as a full and separately served enhancement to any



1 other enhancement provided in paragraph (4), be
2 punished by imprisonment in the state prison for two
3 years.

4 (3) If the offense involved heroin, cocaine, cocaine
5 base, *methamphetamine*, *phencyclidine (PCP)*, or any
6 analog of these substances, and occurred upon, ~~or within~~
7 ~~1,000 feet of~~, the grounds of any designated drug-free
8 zone neighborhood, the defendant shall, as a full and
9 separately served enhancement to any other
10 enhancement provided in paragraph (4), be punished by
11 imprisonment in the state prison for two years.

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

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

22 (c) The additional punishment provided in this
23 section shall be in addition to any other punishment
24 provided by law and shall not be limited by any other
25 provision of law.

26 (d) Notwithstanding any other provision of law, the
27 court may strike the additional punishment provided for
28 in this section if it determines that there are
29 circumstances in mitigation of the additional punishment
30 and states on the record its reasons for striking the
31 additional punishment.

32 (e) As used in this section the following definitions
33 shall apply:

34 (1) "Child day care facility" has the meaning specified
35 in Section 1596.750.

36 (2) "Designated drug-free zone neighborhood"
37 means a neighborhood within a community which has
38 been designated as a drug-free zone by the local city
39 council, in conjunction with local law enforcement
40 agencies *and the county district attorney*, based upon



1 drug-related crime statistics evidencing high levels of
2 drug-related crime within that neighborhood. *For*
3 *purposes of this section, a neighborhood shall be deemed*
4 *to have been designated as a drug-free zone by the local*
5 *city council after public community hearings at regularly*
6 *scheduled city council meetings or otherwise have been*
7 *held and support for the establishment of a drug-free*
8 *zone by a majority of the residents of the neighborhood*
9 *has been evidenced to the satisfaction of the city council.*

10 (3) “Playground” means any park or recreational area
11 specifically designed to be used by children which has
12 play equipment installed, including public grounds
13 designed for athletic activities such as baseball, football,
14 soccer, or basketball, or any similar facility located on
15 public or private school grounds, or on city, county, or
16 state parks.

17 (4) “Youth center” means any public or private facility
18 that is primarily used to host recreational or social
19 activities for minors, including, but not limited to, private
20 youth membership organizations or clubs, social service
21 teenage club facilities, video arcades, or similar
22 amusement park facilities.

23 (5) “Video arcade” means any premises where 10 or
24 more video game machines or devices are operated, and
25 where minors are legally permitted to conduct business.

26 (6) “Video game machine” means any mechanical
27 amusement device, which is characterized by the use of
28 a cathode ray tube display and which, upon the insertion
29 of a coin, slug, or token in any slot or receptacle attached
30 to, or connected to, the machine, may be operated for use
31 as a game, contest, or amusement.

32 (7) “Within 1,000 feet of the grounds of any public or
33 private elementary, vocational, junior high, or high
34 school” means any public area or business establishment
35 where minors are legally permitted to conduct business
36 which is located within 1,000 feet of any public or private
37 elementary, vocational, junior high, or high school.

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



1 (g) *In establishing a drug-free zone in a neighborhood*
2 *pursuant to paragraph (3) of subdivision (a), it is the*
3 *intent of the Legislature that the city council should work*
4 *in partnership with the residents of the neighborhood to*
5 *establish the boundaries of the drug-free zone, and that*
6 *the drug-free zone should only exist for as long a period*
7 *of time as is designated by the city council with the*
8 *consent of the residents of the neighborhood.*

9 SEC. 2. 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.

