

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 253

Introduced by Senator ~~Lara Hueso~~

February 13, 2013

An act to amend Section ~~11552~~ 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

SB 253, as amended, ~~Lara Hueso~~. ~~Controlled substances: testing addiction.~~ *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, except as otherwise authorized by law, 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, except as otherwise authorized by law, 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, except as otherwise authorized by law, 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 provide that a synthetic cannabinoid or synthetic stimulant may be obtained and used for bona fide research, instruction, or analysis if that possession and use does not violate federal law.

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, naphthylmethyloindoles, naphthoylpyrroles, naphthylmethyloindenes, 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, or furnished, or offered, arranged, or negotiated to sell, 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.

~~Existing law provides that in any case in which a person has been arrested for a criminal offense and is suspected of being addicted to a controlled substance, a law enforcement officer having custody of that person may, with the written consent of that person, request the city or county health officer, or physician appointed by the health officer, to administer to the arrested person a test to determine, by whatever means is available whether the arrested person is addicted to a controlled substance, and the health officer or physician may administer the test to the such arrested person.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-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 of the school
5 district or the principal of the school in which the pupil is enrolled
6 determines that the pupil has committed an act as defined pursuant
7 to any of 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

1 Health and Safety Code, *a synthetic cannabinoid compound or a*
2 *synthetic stimulant compound, as those terms are defined in*
3 *Sections 11357.5 and 11375.5 of the Health and Safety Code, an*
4 alcoholic beverage, or an intoxicant of any kind.

5 (d) Unlawfully offered, arranged, or negotiated to sell a
6 controlled substance listed in Chapter 2 (commencing with Section
7 11053) of Division 10 of the Health and Safety Code, *a synthetic*
8 *cannabinoid compound or a synthetic stimulant compound, as*
9 *those terms are defined in Sections 11357.5 and 11375.5 of the*
10 *Health and Safety Code, an alcoholic beverage, or an intoxicant*
11 *of any kind, and either sold, delivered, or otherwise furnished to*
12 *a person another liquid, substance, or material and represented the*
13 *liquid, substance, or material as a controlled substance, alcoholic*
14 *beverage, or intoxicant.*

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

16 (f) Caused or attempted to cause damage to school property or
17 private property.

18 (g) ~~Stole~~-*Stolen* or attempted to steal school property or private
19 property.

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

25 (i) Committed an obscene act or engaged in habitual profanity
26 or vulgarity.

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

30 (k) Disrupted school activities or otherwise willfully defied the
31 valid authority of supervisors, teachers, administrators, school
32 officials, or other school personnel engaged in the performance of
33 their duties.

34 (l) Knowingly received stolen school property or private
35 property.

36 (m) Possessed an imitation firearm. As used in this section,
37 “imitation firearm” means a replica of a firearm that is so
38 substantially similar in physical properties to an existing firearm
39 as to lead a reasonable person to conclude that the replica is a
40 firearm.

1 (n) Committed or attempted to commit a sexual assault as
2 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
3 Code or committed a sexual battery as defined in Section 243.4
4 of the Penal Code.

5 (o) Harassed, threatened, or intimidated a pupil who is a
6 complaining witness or a witness in a school disciplinary
7 proceeding for ~~purposes~~ *the purpose* of either preventing that pupil
8 from being a witness or retaliating against that pupil for being a
9 witness, or both.

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

12 (q) Engaged in, or attempted to engage in, hazing. For purposes
13 of this subdivision, “hazing” means a method of initiation or
14 preinitiation into a pupil organization or body, whether or not the
15 organization or body is officially recognized by an educational
16 institution, which is likely to cause serious bodily injury or personal
17 degradation or disgrace resulting in physical or mental harm to a
18 former, current, or prospective pupil. For purposes of this
19 subdivision, “hazing” does not include athletic events or
20 school-sanctioned events.

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

23 (1) “Bullying” means any severe or pervasive physical or verbal
24 act or conduct, including communications made in writing or by
25 means of an electronic act, and including one or more acts
26 committed by a pupil or group of pupils as defined in Section
27 48900.2, 48900.3, or 48900.4, directed toward one or more pupils
28 that has or can be reasonably predicted to have the effect of one
29 or more of the following:

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

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

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

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

39 (2) (A) “Electronic act” means the transmission, by means of
40 an electronic device, including, but not limited to, a telephone,

1 wireless telephone, or other wireless communication device,
2 computer, or pager, of a communication, including, but not limited
3 to, any of the following:

4 (i) A message, text, sound, or image.

5 (ii) A post on a social network Internet Web site including, but
6 not limited to:

7 (I) Posting to or creating a burn page. “Burn page” means an
8 Internet Web site created for the purpose of having one or more
9 of the effects listed in paragraph (1).

10 (II) Creating a credible impersonation of another actual pupil
11 for the purpose of having one or more of the effects listed in
12 paragraph (1). “Credible impersonation” means to knowingly and
13 without consent impersonate a pupil for the purpose of bullying
14 the pupil and such that another pupil would reasonably believe, or
15 has reasonably believed, that the pupil was or is the pupil who was
16 impersonated.

17 (III) Creating a false profile for the purpose of having one or
18 more of the effects listed in paragraph (1). “False profile” means
19 a profile of a fictitious pupil or a profile using the likeness or
20 attributes of an actual pupil other than the pupil who created the
21 false profile.

22 (B) Notwithstanding paragraph (1) and subparagraph (A), an
23 electronic act shall not constitute pervasive conduct solely on the
24 basis that it has been transmitted on the Internet or is currently
25 posted on the Internet.

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

30 (s) A pupil shall not be suspended or expelled for any of the
31 acts enumerated in this section unless the act is related to a school
32 activity or school attendance occurring within a school under the
33 jurisdiction of the superintendent of the school district or principal
34 or occurring within any other school district. A pupil may be
35 suspended or expelled for acts that are enumerated in this section
36 and related to a school activity or school attendance that occur at
37 any time, including, but not limited to, any of the following:

38 (1) While on school grounds.

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

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

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

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

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

13 (v) For a pupil subject to discipline under this section, a
14 superintendent of the school district or principal may use his or
15 her discretion to provide alternatives to suspension or expulsion
16 that are age appropriate and designed to address and correct the
17 pupil’s specific misbehavior as specified in Section 48900.5.

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

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

23 11357.5. (a) ~~Every~~ *Except as otherwise authorized by law,*
24 *every* person who sells, dispenses, distributes, furnishes,
25 administers, or gives, or offers to sell, dispense, distribute, furnish,
26 administer, or give, or possesses for sale any synthetic cannabinoid
27 compound, or any synthetic cannabinoid derivative, to any person,
28 is guilty of a misdemeanor punishable by imprisonment in a county
29 jail not exceeding six months, or by a fine not exceeding one
30 thousand dollars (\$1,000), or by both that fine and imprisonment.

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

34 (1) 1-pentyl-3-(1-naphthoyl)indole (JWH-018).

35 (2) 1-butyl-3-(1-naphthoyl)indole (JWH-073).

36 (3) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole
37 (JWH-200).

38 (4) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol
39 (CP-47,497).

- 1 (5) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol
2 (cannabicyclohexanol; ~~CP-47,497~~ CP-47, 497 C8 homologue).
- 3 (6) *Synthetic equivalents of the psychoactive substances*
4 *contained in marijuana, or concentrated cannabis, as defined in*
5 *Sections 11018 and 11006.5, respectively, and synthetic substances,*
6 *derivatives, and their isomers with similar chemical structure and*
7 *pharmacological activity, such as the following: delta 1 cis- or*
8 *trans-tetrahydrocannabinol, and their optical isomers; delta 6 cis-*
9 *or trans-tetrahydrocannabinol, and their optical isomers; and*
10 *delta 3, 4 cis- or trans-tetrahydrocannabinol, and their optical*
11 *isomers.*
- 12 (7) *Naphthoylindoles: any compound containing a*
13 *3-(1-naphthoyl)indole structure with substitution at the nitrogen*
14 *atom of the indole ring by an alkyl, haloalkyl, alkenyl,*
15 *cycloalkylmethyl, cycloalkylethyl,*
16 *1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group,*
17 *whether or not further substituted in the indole ring to any extent*
18 *and whether or not substituted in the naphthyl ring to any extent.*
- 19 (8) *Naphthylmethylinindoles: any compound containing a*
20 *1H-indol-3-yl-(1-naphthyl)methane structure with substitution at*
21 *the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl,*
22 *cycloalkylmethyl, cycloalkylethyl,*
23 *1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group,*
24 *whether or not further substituted in the indole ring to any extent*
25 *and whether or not substituted in the naphthyl ring to any extent.*
- 26 (9) *Naphthoylpyrroles: any compound containing a*
27 *3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen*
28 *atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl,*
29 *cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-t-piperidinyl)methyl,*
30 *or 2-(4-morpholinyl)ethyl group, whether or not further substituted*
31 *in the indene ring to any extent and whether or not substituted in*
32 *the naphthyl ring to any extent.*
- 33 (10) *Naphthylmethylinindenes: any compound containing a*
34 *naphthylideneindene structure with substitution at the 3-position*
35 *of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,*
36 *cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or*
37 *2-(4-morpholinyl)ethyl group, whether or not further substituted*
38 *in the indene ring to any extent and whether or not substituted in*
39 *the naphthyl ring to any extent.*

1 (11) Phenylacetylindoles: any compound containing a
2 3-phenylacetylindole structure with substitution at the nitrogen
3 atom of the indole ring by an alkyl, haloalkyl, alkenyl,
4 cycloalkylmethyl, cycloalkylethyl,
5 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group,
6 whether or not further substituted in the indole ring to any extent
7 and whether or not substituted in the phenyl ring to any extent.

8 (12) Cyclohexylphenols: any compound containing a
9 2-(3-hydroxycyclohexyl)phenol structure with substitution at the
10 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl,
11 cycloalkylmethyl, cycloalkylethyl,
12 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group,
13 whether or not substituted in the cyclohexyl ring to any extent.

14 (13) Benzoylindoles: any compound containing a
15 3-(benzoyl)indole structure with substitution at the nitrogen atom
16 of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
17 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or
18 2-(4-morpholinyl)ethyl group, whether or not further substituted
19 in the indole ring to any extent and whether or not substituted in
20 the phenyl ring to any extent.

21 (14) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo
22 [1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone.

23 (15) 9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,
24 7,10,10a-tetrahydrobenzo[c]chromen-1-ol.

25 (16) Adamantoylindoles: any compound containing a
26 3-(1-adamantoyl)indole structure with substitution at the nitrogen
27 atom of the indole ring by an alkyl, haloalkyl, alkenyl,
28 cycloalkylmethyl, cycloalkylethyl,
29 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morphonyl)ethyl group,
30 whether or not further substituted in the indole ring to any extent
31 and whether or not substituted in the adamantyl ring system to
32 any extent.

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

38 (d) Except as otherwise authorized by law, every person who
39 possesses, under circumstances that do not include possession for
40 sale as described in subdivision (a), more than 28.5 grams of any

1 *synthetic cannabinoid shall be punished by imprisonment in a*
2 *county jail for a period of not more than six months, or by a fine*
3 *not exceeding one thousand dollars (\$1,000), or by both that fine*
4 *and imprisonment.*

5 *(e) The substances identified in subdivision (b) may be lawfully*
6 *obtained and used for bona fide research, instruction, or analysis*
7 *if that possession and use does not violate federal law.*

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

10 11375.5. (a) ~~Every~~ *Except as otherwise authorized by law,*
11 *every person who sells, dispenses, distributes, furnishes,*
12 *administers, or gives, or offers to sell, dispense, distribute, furnish,*
13 *administer, or give, any synthetic stimulant compound specified*
14 *in subdivision (b), or any synthetic stimulant derivative, to any*
15 *person, or who possesses that compound or derivative for sale, is*
16 *guilty of a misdemeanor punishable by imprisonment in a county*
17 *jail not exceeding six months, or by a fine not exceeding one*
18 *thousand dollars (\$1,000), or by both that fine and imprisonment.*

19 (b) *Unless specifically excepted, or contained within a*
20 *pharmaceutical product approved by the United States Food and*
21 *Drug Administration, or unless listed in another schedule,*
22 *subdivision (a) applies to any material, compound, mixture, or*
23 *preparation which contains any quantity of the following substances*
24 *having a stimulant effect on the central nervous system, including*
25 *its salts, isomers, esters, or ethers, and salts of isomers, esters, or*
26 *ethers whenever the existence of such salts, isomers, esters, or*
27 *ethers, and salts of isomers, esters, or ethers is possible within any*
28 *of the following specific chemical designations:*

29 (1) *Naphthylpyrovalerone whether or not further substituted in*
30 *the naphthyl ring to any extent with alkyl, alkoxy, alkylendioxy,*
31 *haloalkyl, or halide substituents, whether or not further substituted*
32 *in the naphthyl ring by one or more other univalent substituents,*
33 *or whether or not further substituted in the carbon chain at the 3-,*
34 *4-, or 5-position with an alkyl substituent.*

35 (2) *2-amino-1-phenyl-1-propanone (cathinone) or variation in*
36 *any of the following ways:*

37 (A) *By substitution in the phenyl ring to any extent with alkyl,*
38 *alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether*
39 *or not further substituted in the phenyl ring by one or more other*
40 *univalent substituents.*

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

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

5 ~~(e) This section shall not prohibit prosecution under any other
6 provision of law.~~

7 (c) *Except as otherwise authorized by law, every person who
8 possesses, under circumstances that do not include possession for
9 sale as described in subdivision (a), 28.5 grams or less of any
10 synthetic stimulant compound specified in subdivision (b), or any
11 synthetic stimulant derivative, shall be punished by imprisonment
12 in a county jail for a period of not more than one month, or by a
13 fine of five hundred dollars (\$500), or by both that fine and
14 imprisonment.*

15 (d) *Except as otherwise authorized by law, every person who
16 possesses, under circumstances that do not include possession for
17 sale as described in subdivision (a), more than 28.5 grams of any
18 synthetic stimulant compound specified in subdivision (b), or any
19 synthetic stimulant derivative, shall be punished by imprisonment
20 in a county jail for a period of not more than six months, or by a
21 fine not exceeding one thousand dollars (\$1,000), or by both that
22 fine and imprisonment.*

23 (e) *This section shall not prohibit prosecution under any other
24 law.*

25 (f) *The substances identified in subdivision (b) may be lawfully
26 obtained and used for bona fide research, instruction, or analysis
27 if that possession and use does not violate federal law.*

28 *SEC. 4. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.*

37 ~~SECTION 1. Section 11552 of the Health and Safety Code is
38 amended to read:~~

39 ~~11552. In any case in which a person has been arrested for a
40 criminal offense and is suspected of being addicted to a controlled~~

1 substance, a law enforcement officer having custody of that person
2 may, with the written consent of that person, request the city or
3 county health officer, or physician appointed by the health officer
4 pursuant to Section 11551, to administer a test to the arrested
5 person to determine, by whatever means is available whether the
6 arrested person is addicted to a controlled substance, and the health
7 officer or physician may administer the test to the arrested person.

O