

Memorandum

To: Doryanna Moreno
CC: Charles Vose
From: Austin Cattermole
Date: 04/25/2002
Re: Drug Free Zones

Questions Presented

What are Drug-Free Zones?

Brief Answer

The term “Drug-Free Zones” is used generally to refer to areas where the community has focused on eliminating drug trafficking. The term has a more precise meaning under State law. When used in its legal sense, the term “Drug-Free Zones” refers to specific locations where State law provides a penalty or, more typically, a penalty enhancement for persons convicted of possession for distribution of certain narcotics.

The locations subject to enhanced penalties are defined in Health and Safety Code §§ 11353.1, 11353.5, 11353.6, 11353.7, 113580.1, 11380.5 and Oakland’s Municipal Code § 12.64.400.¹ They include the grounds of a church or synagogue, a playground, public or private youth center, public swimming pool, and additional areas. The two enhancement areas most commonly referred to are school zones (within 1,000 feet of any public or private elementary, vocational, junior high, or high school, during school hours or when minors are using the facility) and park zones (public parks or ocean fronts including adjacent public parking lots and sidewalks).

There are several important distinctions between the drug laws pertaining to school zones and park zones. First, the park zone enhancement only applies if certain conditions are met. The city council must pass an ordinance designating public parks as drug-free zones, and notice of the law must be posted at the parks.² In contrast, the penalty enhancements for school zones and other areas do not require any special designation or posting of notice. Second, once they are established, the park zone enhancements are always in effect, while the school zone enhancements apply only when the school is open or children are present. Finally, the park zone enhancement is set to sunset on January 1, 2003. The school zone enhancement sections contain no sunset provisions.

¹ Federal law also prohibits certain narcotic activity within specific distances from schools and playgrounds. See 21 U.S.C. § 860a.

² In 1999, the Oakland City Council designated all of its public parks drug-free zones. See OMC § 12.64.400. There may still exist issues as to proper notice posted at the parks.

Answer

The Health and Safety Code prohibits the possession for distribution of certain narcotics. Some of these laws prohibit the sale of certain narcotics in specific locations. Other laws simply prohibit the sale of narcotics generally. In these cases, there may be separate enhancement sections of the Code that focus on the location of the violation. The laws concerning specific locations and the location enhancements for the more general laws are briefly summarized below. The areas covered in these sections are referred to as drug-free zones.

- 11353: Prohibits people from soliciting or hiring a minor to sell or transport certain narcotics
- 11353.1: Provides an enhancement if the above violation occurred in a church, synagogue, a playground, a public or private youth center, a child day care facility, a public swimming pool. The facility must be open for business or minors must be present for the enhancement to apply.
- 11353.5: Prohibits to sale or distribution of any controlled substance not covered by 11353 to a minor while on the grounds of a school, public playground, child day care facility, church, or synagogue.
- 11353.6: Any person convicted of violating 11351.5, 11352, or 11379.6 receives a mandatory enhancement if the violation occurred within 1,000 feet of a school.
- 11353.7: Prohibits giving minors under 14 controlled substances in public parks (including state parks).
- 11380.1: Requires an enhanced penalty if 11380 (using a minor to sell) is violated in church or synagogue, a playground, a public or private youth center, public swimming pool, or within 1,000 feet of a school.
- 11380.5: Provides a penalty enhancement for possession for sale or sale of heroin, cocaine, PCP, or methamphetamine if done in public park, public library, or ocean front property.

283825.1
Drug Free Zones
Austin Cattermole,
NLC Attorney