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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 10. UNIFORM CONTROLLED SUBSTANCES ACT [11000 - 11651]** ( *Division 10 repealed and added by Stats. 1972, Ch. 1407.* )

**CHAPTER 10. Control of Users of Controlled Substances [11550 - 11594]** ( *Chapter 10 added by Stats. 1972, Ch. 1407.* )

**ARTICLE 1. Addicts [11550 - 11555]** ( *Article 1 added by Stats. 1972, Ch. 1407.* )

**11550.** (a) A person shall not use, or be under the influence of any controlled substance that is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. A person convicted of violating this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not more than one year in a county jail. The court may also place a person convicted under this subdivision on probation for a period not to exceed five years.

(b) (1) A person who is convicted of violating subdivision (a) when the offense occurred within seven years of that person being convicted of two or more separate violations of that subdivision, and refuses to complete a licensed drug rehabilitation program offered by the court pursuant to subdivision (c), shall be punished by imprisonment in a county jail for not less than 180 days nor more than one year. In no event does the court have the power to absolve a person convicted of a violation of subdivision (a) who is punishable under this subdivision from the obligation of spending at least 180 days in confinement in a county jail unless there are no licensed drug rehabilitation programs reasonably available.

(2) For the purpose of this section, a drug rehabilitation program is not reasonably available unless the person is not required to pay more than the court determines that he or she is reasonably able to pay in order to participate in the program.

(c) (1) The court may, when it would be in the interest of justice, permit a person convicted of a violation of subdivision (a) punishable under subdivision (a) or (b) to complete a licensed drug rehabilitation program in lieu of part or all of the imprisonment in a county jail. As a condition of sentencing, the court may require the offender to pay all or a portion of the drug rehabilitation program.

(2) In order to alleviate jail overcrowding and to provide recidivist offenders with a reasonable opportunity to seek rehabilitation pursuant to this subdivision, counties are encouraged to include provisions to augment licensed drug rehabilitation programs in their substance abuse proposals and applications submitted to the state for federal and state drug abuse funds.

(d) In addition to any fine assessed under this section, the judge may assess a fine not to exceed seventy dollars (\$70) against a person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay, and a defendant shall not be denied probation because of his or her inability to pay the fine permitted under this subdivision.

(e) (1) Notwithstanding subdivisions (a) and (b) or any other law, a person who is unlawfully under the influence of cocaine, cocaine base, heroin, methamphetamine, or phencyclidine while in the immediate personal possession of a loaded, operable firearm is guilty of a public offense punishable by imprisonment in a county jail for not exceeding one year or in state prison.

(2) As used in this subdivision "immediate personal possession" includes, but is not limited to, the interior passenger compartment of a motor vehicle.

(f) Every person who violates subdivision (e) is punishable upon the second and each subsequent conviction by imprisonment in the state prison for two, three, or four years.

(g) This section does not prevent deferred entry of judgment or a defendant's participation in a preguilty plea drug court program under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code unless the person is charged with violating subdivision (b) or (c) of Section 243 of the Penal Code. A person charged with violating this section by being under the influence of any controlled substance which is specified in paragraph (21), (22), or (23) of subdivision (d) of Section 11054 or in paragraph (3) of subdivision (e) of Section 11055 and with violating either subdivision (b) or (c) of Section 243 of the Penal Code or with a violation of subdivision (e) shall be ineligible for deferred entry of judgment or a preguilty plea drug court program.

*(Amended by Stats. 2014, Ch. 819, Sec. 1. (AB 2492) Effective January 1, 2015.)*

**11551.** (a) Whenever any court in this state grants probation to a person who the court has reason to believe is or has been a user of controlled substances, the court may require as a condition to probation that the probationer submit to periodic tests by a city or county health officer, or by a physician and surgeon appointed by the city or county health officer with the approval of the Attorney General, to determine, by whatever means is available, whether the probationer is addicted to a controlled substance.

In any case provided for in this subdivision, the city or county health officer, or the physician and surgeon appointed by the city or county health officer with the approval of the Attorney General shall report the results of the tests to the probation officer.

(b) In any case in which a person is granted parole by a county parole board and the person is or has been a user of controlled substances, a condition of the parole may be that the parolee undergo periodic tests as provided in subdivision (a) and that the county or city health officer, or the physician and surgeon appointed by the city or county health officer with the approval of the Attorney General, shall report the results to the board.

(c) In any case in which any state agency grants a parole to a person who is or has been a user of controlled substances, it may be a condition of the parole that the parolee undergo periodic tests as provided in subdivision (a) and that the county or city health officer, or the physician and surgeon appointed by the city or county health officer with the approval of the Attorney General, shall report the results of the tests to such state agency.

(d) The cost of administering tests pursuant to subdivisions (a) and (b) shall be a charge against the county. The cost of administering tests pursuant to subdivision (c) shall be paid by the state.

(e) The state department, in conjunction with the Attorney General, shall issue regulations governing the administering of the tests provided for in this section and providing the form of the report required by this section.

*(Added by Stats. 1972, Ch. 1407.)*

**11552.** 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 such person may, with the written consent of such person, request the city or county health officer, or physician appointed by such health officer pursuant to Section 11551, 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 such health officer or physician may administer such test to such arrested person.

*(Added by Stats. 1972, Ch. 1407.)*

**11553.** The fact that a person is or has been, or is suspected of being, a user of cannabis is not alone sufficient grounds upon which to invoke Section 11551 or 11552.

This section shall not be construed to limit the discretion of a judge to invoke Section 11551 or 11552 if the court has reason to believe a person is or has been a user of narcotics or drugs other than cannabis.

*(Amended by Stats. 2017, Ch. 27, Sec. 159. (SB 94) Effective June 27, 2017.)*

**11554.** The rehabilitation of persons addicted to controlled substances and the prevention of continued addiction to controlled substances is a matter of statewide concern. It is the policy of the state to encourage each county and city and county to make use, whenever applicable, of testing procedures to determine addiction to controlled substances or the absence thereof, and to foster research in means of detecting the existence of addiction to controlled substances and in medical methods and procedures for that purpose.

*(Added by Stats. 1972, Ch. 1407.)*

**11555.** The Attorney General is directed to promote and sponsor the use by agencies of local government of the provisions of this article. The Attorney General may assist such agencies to establish facilities for, and to train personnel to conduct testing procedures pursuant to Section 11551, and may conduct demonstrations thereof for limited periods. For these purposes the Attorney General may procure such medical supplies, equipment, and temporary services of physicians and qualified consultants as may reasonably be necessary. Subject to the availability of funds appropriated for the purpose, the Attorney General may contract with any county or city and county which undertakes to establish facilities and a testing program pursuant to Section 11551, and such contract may

provide for payment by the state of such costs of initially establishing and demonstrating such program as the Attorney General may approve.

*(Repealed and added by Stats. 1972, Ch. 1407.)*