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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 UNIFORM CONTROLLED SUBSTANCES ACT [11000 - 11651] (*Division 10 repealed and added by Stats. 1972, Ch. 1407.*)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 5. Use of Controlled Substances [11210 - 11306] (*Chapter 5 added by Stats. 1972, Ch. 1407.*)

ARTICLE 5. Controlled Substance Checking Services [11300 - 11306] (*Article 5 added by Stats. 2024, Ch. 701, Sec. 2.*)

11300. For the purposes of this article, the following terms shall have the following meanings:

- (a) "Controlled substance analog" has the same meaning as described in Section 11041.
- (b) "Controlled substance checking" means the process of identifying, analyzing, or testing a substance, controlled or otherwise, or residue on drug paraphernalia or controlled substance packaging, to determine its chemical composition to assist in determining whether the substance contains contaminants, toxic substances, hazardous compounds, or other adulterants within a substance.
- (c) "Controlled substance checking equipment" means equipment, products, technologies, or materials used, designed for use, or intended for use to perform chemical analysis of controlled substances or controlled substance analogs, including materials and items used by the person operating the equipment or products to store, measure, or process samples for analysis. Controlled substance checking equipment includes, but is not limited to, fentanyl test strips, other controlled substance or controlled substance analog immunoassay strips, colorimetric reagents, spectrometers such as Fourier transform infrared and Raman spectrometers, and equipment that uses high-performance liquid chromatography, gas chromatography, mass spectrometry, or nuclear magnetic resonance techniques.
- (d) "Controlled substance checking service provider" means an eligible entity that provides the service of controlled substance checking. For purposes of this section, the following entities are eligible entities:
 - (1) An entity that provides syringe exchange services as defined in Section 121349.
 - (2) A research institution, college, or university.
 - (3) A community-based organization or nonprofit organization working in collaboration with public health departments, entities that provide syringe exchange services, or research institutions, colleges, and universities to reduce the potential harms associated with the use of controlled substances.
- (e) "Controlled substance packaging" means the materials or items used by persons selling, buying, or ingesting controlled substances or controlled substance analogs to store, contain, cover, or transport small amounts of one or more controlled substances or controlled substance analogs.
- (f) "Harm reduction" has the same meaning as described in subdivision (a) of Section 1954.08 of the Civil Code.
- (g) "Person" means an individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal, commercial, or informal entity or group.

(*Added by Stats. 2024, Ch. 701, Sec. 2. (AB 2136) Effective January 1, 2025.*)

11301. Notwithstanding any other law, it is not a violation of this division for a controlled substance checking service provider to do any of the following solely for the purpose of providing controlled substance checking services:

- (a) Receive voluntarily provided samples of substances potentially containing controlled substances or controlled substance analogs.
- (b) Possess, transport, transfer, or store a sample of a controlled substance or a controlled substance analog solely for the purpose of analyzing the substance to determine its chemical composition.

- (c) Use available technologies to analyze the contents of samples to obtain timely and accurate information regarding the composition of controlled substances or controlled substance analogs.
- (d) Provide results of analysis obtained from controlled substance checking equipment to the person requesting controlled substance checking services.
- (e) Provide information and harm reduction services and advice to help individuals make informed decisions about use of controlled substances and controlled substance analogs.
- (f) Disseminate data containing only the results of analysis and containing no personally identifiable information to community members at risk of overdose.
- (g) If necessary, arrange for a sample of a substance to be tested by a laboratory for secondary verification, including transportation of samples.
- (h) Purchase, obtain, possess, provide, transport, distribute, use, or evaluate the use of controlled substance checking equipment.
- (i) Provide training and technical assistance concerning controlled substance checking equipment, the process of controlled substance checking, and the purpose of controlled substance checking.
- (j) Work in collaboration with a local health officer, the State Department of Public Health, or a research institution to conduct or engage in any activities authorized by this article.

(Added by Stats. 2024, Ch. 701, Sec. 2. (AB 2136) Effective January 1, 2025.)

11302. Notwithstanding Section 11306, in operating a controlled substance checking service, personally identifiable information may be collected from a service user providing a controlled substance or a controlled substance analog to a controlled substance checking service provider only as necessary to communicate controlled substance checking results to the service user. Personally identifiable information collected solely for the purposes of communicating controlled substance checking results shall be destroyed after delivery of results.

(Added by Stats. 2024, Ch. 701, Sec. 2. (AB 2136) Effective January 1, 2025.)

11303. (a) A program, employee, contractor, volunteer, owner, or other person acting in the good faith provision of controlled substance checking services and acting in accordance with established protocols shall not be subject to any of the following:

- (1) Detention, arrest, or prosecution for a violation of this division, including for attempting to, aiding and abetting in, or conspiracy to commit a violation of this division.
- (2) Forfeiture of property.
- (3) Any civil or administrative penalty or liability of any kind, including disciplinary action by a professional licensing board, credentialing restrictions, contractual or civil liability, or employment action.
- (4) Denial of a right or privilege for actions, conduct, or omissions relating to the operation of a controlled substance checking service in compliance with this article and any rules adopted pursuant to this article.

(b) The exemption provided in this section shall not apply to a party acting as a controlled substance checking service in a negligent manner or in bad faith.

(Added by Stats. 2024, Ch. 701, Sec. 2. (AB 2136) Effective January 1, 2025.)

11304. (a) An individual possessing a controlled substance or a controlled substance analog who is engaged in obtaining controlled substances checking services from a controlled substance checking service provider pursuant to this section shall not be subject to any criminal or civil penalty or investigation based solely on the individual's utilization of a controlled substance checking service or actions authorized by this act, including, but not limited to, any of the following:

- (1) Detention or arrest.
- (2) Criminal prosecution, including a violation or revocation of a grant of probation, parole, pretrial release, or any other form of community supervision.
- (3) Civil, disciplinary, or administrative action.
- (4) Forfeiture of property.

(5) Referral or transfer to, or detention or investigation for the purpose of referral or transfer to, United States Immigration and Customs Enforcement or any immigration authority or joint law enforcement task force as those terms are defined in Section 7284.4 of the Government Code.

(b) The exemption provided in this section shall not apply to any party utilizing a controlled substance checking service in bad faith.

(Added by Stats. 2024, Ch. 701, Sec. 2. (AB 2136) Effective January 1, 2025.)

11305. Utilizing a controlled substance checking service shall not serve as the basis for, or a fact contributing to the existence of, reasonable suspicion or probable cause for a law enforcement officer to conduct a search or seizure.

(Added by Stats. 2024, Ch. 701, Sec. 2. (AB 2136) Effective January 1, 2025.)

11306. (a) A government agency, controlled substances checking service provider, or agent thereof, shall not collect, maintain, use, or disclose any personal information relating to an individual from whom the agency receives a controlled substance or controlled substance analog for checking or disposal and shall not provide this information to law enforcement.

(b) Notwithstanding subdivision (a), collection and disclosure of aggregate information that is not linked to an individual and does not contain a personal identifier may be released to clinicians, public health officials, researchers, or other local and state agencies as requested and may be stored or uploaded onto an internet website.

(Added by Stats. 2024, Ch. 701, Sec. 2. (AB 2136) Effective January 1, 2025.)