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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 UNIFORM CONTROLLED SUBSTANCES ACT [11000 - 11651]** ( *Division 10 repealed and added by Stats. 1972, Ch. 1407.* )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 6. Offenses and Penalties [11350 - 11395]** ( *Chapter 6 added by Stats. 1972, Ch. 1407.* )

**ARTICLE 4. Miscellaneous Offenses and Provisions [11364 - 11376.6]** ( *Article 4 added by Stats. 1972, Ch. 1407.* )

**11364.** (a) It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in subdivision (b), (c), or (e) or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of subdivision (d) of Section 11055, or (2) a controlled substance that is a narcotic drug classified in Schedule III, IV, or V.

(b) This section shall not apply to hypodermic needles or syringes that have been containerized for safe disposal in a container that meets state and federal standards for disposal of sharps waste.

(c) This section does not apply to an individual obtaining controlled substance checking services, as described in Article 5 (commencing with Section 11300) of Chapter 5.

(d) Until January 1, 2026, as a public health measure intended to prevent the transmission of HIV, viral hepatitis, and other bloodborne diseases among persons who use syringes and hypodermic needles, and to prevent subsequent infection of sexual partners, newborn children, or other persons, this section shall not apply to the possession solely for personal use of hypodermic needles or syringes.

(Amended by Stats. 2024, Ch. 701, Sec. 3. (AB 2136) Effective January 1, 2025.)

**11364.5.** (a) Except as authorized by law, a person shall not maintain or operate a place of business in which drug paraphernalia is kept, displayed, or offered in any manner, sold, furnished, transferred, or given away unless that drug paraphernalia is completely and wholly kept, displayed, or offered within a separate room or enclosure to which persons under 18 years of age who are not accompanied by a parent or legal guardian are excluded. Each entrance to such a room or enclosure shall be signposted in reasonably visible and legible words to the effect that drug paraphernalia is kept, displayed, or offered in the room or enclosure and that minors, unless accompanied by a parent or legal guardian, are excluded.

(b) Except as authorized by law, an owner, manager, proprietor, or other person in charge of a room or enclosure, within a place of business, in which drug paraphernalia is kept, displayed, or offered in any manner, sold, furnished, transferred, or given away shall not permit or allow a person under 18 years of age to enter, be in, remain in, or visit the room or enclosure unless that minor person is accompanied by their parent or legal guardian.

(c) Unless authorized by law, a person under 18 years of age shall not enter, be in, remain in, or visit a room or enclosure in a place of business in which drug paraphernalia is kept, displayed, or offered in any manner, sold, furnished, transferred, or given away unless accompanied by their parent or legal guardian.

(d) As used in this section, "drug paraphernalia" means all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "Drug paraphernalia" includes, but is not limited to, all of the following:

(1) Kits intended for use or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant that is a controlled substance or from which a controlled substance can be derived.

(2) Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(3) Isomerization devices intended for use or designed for use in increasing the potency of any species of plant that is a controlled substance.

(4) Scales and balances intended for use or designed for use in weighing or measuring controlled substances.

(5) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.

(6) Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, cannabis.

(7) Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.

(8) Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.

(9) Containers and other objects intended for use or designed for use in storing or concealing controlled substances.

(10) Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.

(11) Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body, such as the following:

(A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

(B) Water pipes.

(C) Carburetion tubes and devices.

(D) Smoking and carburetion masks.

(E) Roach clips, meaning objects used to hold burning material, such as a cannabis cigarette that has become too small or too short to be held in the hand.

(F) Miniature cocaine spoons, and cocaine vials.

(G) Chamber pipes.

(H) Carburetor pipes.

(I) Electric pipes.

(J) Air-driven pipes.

(K) Chillums.

(L) Bongs.

(M) Ice pipes or chillers.

(12) Testing equipment designed for use or marketed for use in identifying, or in analyzing the strength, effectiveness, or purity of, controlled substances, except as otherwise provided in subdivision (g).

(e) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

(3) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom they know, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

(4) Instructions, oral or written, provided with the object concerning its use.

(5) Descriptive materials, accompanying the object which explain or depict its use.

(6) National and local advertising concerning its use.

(7) The manner in which the object is displayed for sale.

(8) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(9) The existence and scope of legitimate uses for the object in the community.

(10) Expert testimony concerning its use.

(f) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes drug paraphernalia described in paragraph (10) of subdivision (d) upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who furnishes or prescribes drug paraphernalia described in paragraph (10) of subdivision (d) to a patient.

(3) Any manufacturer, wholesaler, or retailer licensed by the California State Board of Pharmacy to sell or transfer drug paraphernalia described in paragraph (10) of subdivision (d).

(g) Notwithstanding paragraph (12) of subdivision (a), "drug paraphernalia" does not include any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of contaminants, toxic substances, hazardous compounds, or other adulterants, or controlled substances that include, without limitation, fentanyl, ketamine, gamma hydroxybutyric acid, or any analog of fentanyl.

(h) Notwithstanding any other law, including Section 11374, violation of this section shall not constitute a criminal offense, but operation of a business in violation of the provisions of this section shall be grounds for revocation or nonrenewal of any license, permit, or other entitlement previously issued by a city, county, or city and county for the privilege of engaging in such business and shall be grounds for denial of any future license, permit, or other entitlement authorizing the conduct of such business or any other business, if the business includes the sale of drug paraphernalia.

*(Amended by Stats. 2024, Ch. 701, Sec. 4. (AB 2136) Effective January 1, 2025.)*

**11364.7.** (a) (1) Except as authorized by law, a person who delivers, furnishes, or transfers, possesses with intent to deliver, furnish, or transfer, or manufactures with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance, except as provided in subdivision (b), in violation of this division, is guilty of a misdemeanor.

(2) A public entity, its agents, or employees shall not be subject to criminal prosecution for distribution of hypodermic needles or syringes or any materials deemed by a local or state health department to be necessary to prevent the spread of communicable diseases, or to prevent drug overdose, injury, or disability to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to Chapter 18 (commencing with Section 121349) of Part 4 of Division 105.

(b) Except as authorized by law, a person who manufactures with intent to deliver, furnish, or transfer drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body cocaine, cocaine base, heroin, phencyclidine, or methamphetamine in violation of this division shall be punished by imprisonment in a county jail for not more than one year, or in the state prison.

(c) Except as authorized by law, a person, 18 years of age or over, who violates subdivision (a) by delivering, furnishing, or transferring drug paraphernalia to a person under 18 years of age who is at least three years their junior, or who, upon the grounds of a public or private elementary, vocational, junior high, or high school, possesses a hypodermic needle, as defined in Section 11014.5, with the intent to deliver, furnish, or transfer the hypodermic needle, knowing, or under circumstances where one reasonably should know, that it will be used by a person under 18 years of age to inject into the human body a controlled substance, is guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not more than one year, by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.

(d) The violation, or the causing or the permitting of a violation, of subdivision (a), (b), or (c) by a holder of a business or liquor license issued by a city, county, or city and county, or by the State of California, and in the course of the licensee's business shall be grounds for the revocation of that license.

(e) All drug paraphernalia defined in Section 11014.5 is subject to forfeiture and may be seized by any peace officer pursuant to Section 11471 unless its distribution has been authorized pursuant to subdivision (a).

(f) If any provision of this section or the application thereof to any person or circumstance is held invalid, it is the intent of the Legislature that the invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application and to this end the provisions of this section are severable.

*(Amended by Stats. 2024, Ch. 701, Sec. 5. (AB 2136) Effective January 1, 2025.)*

**11365.** (a) It is unlawful to visit or to be in any room or place where any controlled substances which are specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) or paragraph (2) of subdivision (d) of Section 11055, or which are narcotic drugs classified in Schedule III, IV, or V, are being unlawfully smoked or used with knowledge that such activity is occurring.

(b) This section shall apply only where the defendant aids, assists, or abets the perpetration of the unlawful smoking or use of a controlled substance specified in subdivision (a). This subdivision is declaratory of existing law as expressed in *People v. Cressey* (1970) 2 Cal. 3d 836.

*(Amended by Stats. 1991, Ch. 551, Sec. 1.)*

**11366.** Every person who opens or maintains any place for the purpose of unlawfully selling, giving away, or using any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b), (c), paragraph (1) or (2) of subdivision (d), or paragraph (3) of subdivision (e) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison.

*(Amended by Stats. 1991, Ch. 492, Sec. 1.)*

**11366.5.** (a) Any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly rents, leases, or makes available for use, with or without compensation, the building, room, space, or enclosure for the purpose of unlawfully manufacturing, storing, or distributing any controlled substance for sale or distribution shall be punished by imprisonment in the county jail for not more than one year, or pursuant to subdivision (h) of Section 1170 of the Penal Code.

(b) Any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly allows the building, room, space, or enclosure to be fortified to suppress law enforcement entry in order to further the sale of any amount of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, cocaine as specified in paragraph (6) of subdivision (b) of Section 11055, heroin, phencyclidine, amphetamine, methamphetamine, or lysergic acid diethylamide and who obtains excessive profits from the use of the building, room, space, or enclosure shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years.

(c) Any person who violates subdivision (a) after previously being convicted of a violation of subdivision (a) shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years.

(d) For the purposes of this section, "excessive profits" means the receipt of consideration of a value substantially higher than fair market value.

*(Amended by Stats. 2011, Ch. 15, Sec. 164. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)*

**11366.6.** Any person who utilizes a building, room, space, or enclosure specifically designed to suppress law enforcement entry in order to sell, manufacture, or possess for sale any amount of cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, cocaine as specified in paragraph (6) of subdivision (b) of Section 11055, heroin, phencyclidine, amphetamine, methamphetamine, or lysergic acid diethylamide shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, four, or five years.

*(Amended by Stats. 2011, Ch. 15, Sec. 165. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)*

**11366.7.** (a) This section shall apply to the following:

(1) Any chemical or drug.

(2) Any laboratory apparatus or device.

(b) Any retailer or wholesaler who sells any item in paragraph (1) or (2) of subdivision (a) with knowledge or the intent that it will be used to unlawfully manufacture, compound, convert, process, or prepare a controlled substance for unlawful sale or distribution, shall be punished by imprisonment in a county jail for not more than one year, or in the state prison, or by a fine not exceeding twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine. Any fine collected pursuant to this section shall be distributed as specified in Section 1463.10 of the Penal Code.

*(Amended by Stats. 1994, Ch. 979, Sec. 1. Effective January 1, 1995.)*

**11366.8.** (a) Every person who possesses, uses, or controls a false compartment with the intent to store, conceal, smuggle, or transport a controlled substance within the false compartment shall be punished by imprisonment in a county jail for a term of imprisonment not to exceed one year or pursuant to subdivision (h) of Section 1170 of the Penal Code.

(b) Every person who designs, constructs, builds, alters, or fabricates a false compartment for, or installs or attaches a false compartment to, a vehicle with the intent to store, conceal, smuggle, or transport a controlled substance shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years.

(c) The term "vehicle" means any of the following vehicles without regard to whether the vehicles are private or commercial, including, but not limited to, cars, trucks, buses, aircraft, boats, ships, yachts, and vessels.

(d) The term "false compartment" means any box, container, space, or enclosure that is intended for use or designed for use to conceal, hide, or otherwise prevent discovery of any controlled substance within or attached to a vehicle, including, but not limited to, any of the following:

(1) False, altered, or modified fuel tanks.

(2) Original factory equipment of a vehicle that is modified, altered, or changed.

(3) Compartment, space, or box that is added to, or fabricated, made, or created from, existing compartments, spaces, or boxes within a vehicle.

*(Amended by Stats. 2011, Ch. 15, Sec. 166. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)*

**11367.** All duly authorized peace officers, while investigating violations of this division in performance of their official duties, and any person working under their immediate direction, supervision or instruction, are immune from prosecution under this division.

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

**11367.5.** (a) Any sheriff, chief of police, the Chief of the Division of Law Enforcement, or the Commissioner of the California Highway Patrol, or a designee thereof, may, in his or her discretion, provide controlled substances in his or her possession and control to any duly authorized peace officer or civilian drug detection canine trainer working under the direction of a law enforcement agency, provided the controlled substances are no longer needed as criminal evidence and provided the person receiving the controlled substances, if required by the federal Drug Enforcement Administration, possesses a current and valid federal Drug Enforcement Administration registration which specifically authorizes the recipient to possess controlled substances while providing substance abuse training to law enforcement or the community or while providing canine drug detection training.

(b) All duly authorized peace officers, while providing substance abuse training to law enforcement or the community or while providing canine drug detection training, in performance of their official duties, and any person working under their immediate direction, supervision, or instruction, are immune from prosecution under this division.

(c) (1) Any person receiving controlled substances pursuant to subdivision (a) shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.

(2) All controlled substances shall be maintained in a secure location approved by the dispensing agency.

(3) Any loss shall be reported immediately to the dispensing agency.

(4) All controlled substances shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.

*(Amended by Stats. 2012, Ch. 867, Sec. 9. (SB 1144) Effective January 1, 2013.)*

**11368.** Every person who forges or alters a prescription or who issues or utters an altered prescription, or who issues or utters a prescription bearing a forged or fictitious signature for any narcotic drug, or who obtains any narcotic drug by any forged, fictitious, or

altered prescription, or who has in possession any narcotic drug secured by a forged, fictitious, or altered prescription, shall be punished by imprisonment in the county jail for not less than six months nor more than one year, or in the state prison.

*(Amended by Stats. 1990, Ch. 43, Sec. 1.)*

**11369.** (a) This section shall be known, and may be cited, as Alexandra's Law.

(b) The court shall advise a person who is convicted of, or who pleads guilty or no contest to, a violation of Section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, or 11379.6 involving a hard drug, of the following:

"You are hereby advised that it is extremely dangerous and deadly to human life to illicitly manufacture, distribute, sell, furnish, administer, or give away any drugs in any form, including real or counterfeit drugs or pills. You can kill someone by engaging in this conduct. All drugs and counterfeit pills are dangerous to human life. These substances alone, or mixed, kill human beings in very small doses. If you illicitly manufacture, distribute, sell, furnish, administer, or give away any real or counterfeit drugs or pills, and that conduct results in the death of a human being, you could be charged with homicide, up to and including the crime of murder, within the meaning of Section 187 of the Penal Code."

(c) The advisory statement shall be provided to the defendant in writing, either on a plea form, if used, as an addendum to a plea form, or at sentencing, and the fact that the advisory was given shall be specified on the record and recorded in the abstract of the conviction.

(d) (1) Except as provided in paragraph (2), as used in this section, "hard drug" means a substance listed in Section 11054 or 11055, including a substance containing fentanyl, heroin, cocaine, cocaine base, methamphetamine, or phencyclidine, and the analogs of any of these substances as defined in Sections 11400 and 11401.

(2) As used in this section, "hard drug" does not include cannabis, cannabis products, peyote, lysergic acid diethylamide (LSD), other psychedelic drugs, including mescaline and psilocybin (mushrooms), any other substance listed in subdivisions (d) and (e) of Section 11054, or, with the exception of methamphetamine, any other substance listed in subdivision (d) of Section 11055.

*(Added November 5, 2024, by initiative Proposition 36, Sec. 4. Effective December 18, 2024. Approved in Proposition 36 at the November 5, 2024, election.)*

**11370.** (a) A person convicted of violating Section 11353 or 11361, or of committing an offense referred to in those sections, shall not, except as provided in subdivision (e), be granted probation by the trial court or have the execution of the sentence suspended by the court, if the person has been previously convicted of an offense described in subdivision (c).

(b) A person who was 18 years of age or older at the time of the commission of the offense and is convicted for the first time of selling, furnishing, administering, or giving a controlled substance that is (1) specified in subdivision (b), (c), (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) that is a narcotic drug classified in Schedule III, IV, or V, to a minor or inducing a minor to use the controlled substance in violation of law shall not, except as provided in subdivision (e), be granted probation by the trial court or have the execution of the sentence suspended by the court.

(c) A previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States that, if committed in this state, would have been punishable as that offense, shall render a person ineligible for probation or suspension of sentence pursuant to subdivision (a):

(1) A felony offense described in this division involving a controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (13), (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(2) A felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

(d) The existence of a previous conviction or fact that would make a person ineligible for suspension of sentence or probation under this section shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(e) A person who is made ineligible for probation pursuant to this section may be granted probation only in an unusual case where the interests of justice would best be served. When probation is granted pursuant to this subdivision, the court shall specify on the record the circumstances supporting the finding.

*(Amended by Stats. 2021, Ch. 537, Sec. 1. (SB 73) Effective January 1, 2022.)*

**11370.1.** (a) Notwithstanding Section 11350 or 11377 or any other provision of law, every person who unlawfully possesses any amount of a substance containing cocaine base, a substance containing cocaine, a substance containing heroin, a substance containing methamphetamine, a substance containing fentanyl, a crystalline substance containing phencyclidine, a liquid substance containing phencyclidine, plant material containing phencyclidine, or a hand-rolled cigarette treated with phencyclidine while armed with a loaded, operable firearm is guilty of a felony punishable by imprisonment in the state prison for two, three, or four years.

(b) Subdivision (a) does not apply to any person lawfully possessing fentanyl, including with a valid prescription.

(c) As used in subdivision (a), "armed with" means having available for immediate offensive or defensive use.

(d) Any person who is convicted under this section shall be ineligible for diversion or deferred entry of judgment under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code.

*(Amended November 5, 2024, by initiative Proposition 36, Sec. 5. Effective December 18, 2024. Approved in Proposition 36 at the November 5, 2024, election.)*

**11370.2.** (a) Any person convicted of a violation of, or of a conspiracy to violate, Section 11351, 11351.5, or 11352 shall receive, in addition to any other punishment authorized by law, including Section 667.5 of the Penal Code, a full, separate, and consecutive three-year term for each prior felony conviction of, or for each prior felony conviction of conspiracy to violate, Section 11380, whether or not the prior conviction resulted in a term of imprisonment.

(b) Any person convicted of a violation of, or of a conspiracy to violate, Section 11378.5, 11379.5, 11379.6, or 11383 shall receive, in addition to any other punishment authorized by law, including Section 667.5 of the Penal Code, a full, separate, and consecutive three-year term for each prior felony conviction of, or for each prior felony conviction of conspiracy to violate, Section 11380, whether or not the prior conviction resulted in a term of imprisonment.

(c) Any person convicted of a violation of, or of a conspiracy to violate, Section 11378 or 11379 with respect to any substance containing a controlled substance specified in paragraph (1) or (2) of subdivision (d) of Section 11055 shall receive, in addition to any other punishment authorized by law, including Section 667.5 of the Penal Code, a full, separate, and consecutive three-year term for each prior felony conviction of, or for each prior felony conviction of conspiracy to violate, Section 11380, whether or not the prior conviction resulted in a term of imprisonment.

(d) The enhancements provided for in this section shall be pleaded and proven as provided by law.

(e) The conspiracy enhancements provided for in this section shall not be imposed unless the trier of fact finds that the defendant conspirator was substantially involved in the planning, direction, execution, or financing of the underlying offense.

(f) Prior convictions from another jurisdiction qualify for use under this section pursuant to Section 668.

*(Amended by Stats. 2017, Ch. 677, Sec. 1. (SB 180) Effective January 1, 2018.)*

**11370.4.** (a) (1) A person convicted of a violation of, or of a conspiracy to violate, Section 11351, 11351.5, or 11352 with respect to a substance containing heroin, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 shall receive an additional state prison term as follows:

(A) If the substance exceeds one kilogram by weight, the person shall receive an additional term of three years.

(B) If the substance exceeds four kilograms by weight, the person shall receive an additional term of five years.

(C) If the substance exceeds 10 kilograms by weight, the person shall receive an additional term of 10 years.

(D) If the substance exceeds 20 kilograms by weight, the person shall receive an additional term of 15 years.

(E) If the substance exceeds 40 kilograms by weight, the person shall receive an additional term of 20 years.

(F) If the substance exceeds 80 kilograms by weight, the person shall receive an additional term of 25 years.

(2) The conspiracy enhancements provided for in this subdivision shall not be imposed unless the trier of fact finds that the defendant conspirator was substantially involved in the planning, direction, execution, or financing of the underlying offense.

(b) (1) A person convicted of a violation of, or of conspiracy to violate, Section 11378, 11378.5, 11379, or 11379.5 with respect to a substance containing methamphetamine, amphetamine, phencyclidine (PCP) and its analogs shall receive an additional state prison term as follows:

(A) If the substance exceeds one kilogram by weight, or 30 liters by liquid volume, the person shall receive an additional term of three years.



(B) If the substance exceeds four kilograms by weight, or 100 liters by liquid volume, the person shall receive an additional term of five years.

(C) If the substance exceeds 10 kilograms by weight, or 200 liters by liquid volume, the person shall receive an additional term of 10 years.

(D) If the substance exceeds 20 kilograms by weight, or 400 liters by liquid volume, the person shall receive an additional term of 15 years.

(2) In computing the quantities involved in this subdivision, plant or vegetable material seized shall not be included.

(3) The conspiracy enhancements provided for in this subdivision shall not be imposed unless the trier of fact finds that the defendant conspirator was substantially involved in the planning, direction, execution, or financing of the underlying offense.

(c) (1) A person convicted of a violation of, or of a conspiracy to violate, Section 11351 or 11352 with respect to a substance containing fentanyl shall receive an additional state prison term as follows:

(A) If the substance exceeds 28.35 grams (one ounce) by weight, the person shall receive an additional term of three years.

(B) If the substance exceeds 100 grams by weight, the person shall receive an additional term of five years.

(C) If the substance exceeds 500 grams by weight, the person shall receive an additional term of seven years.

(D) If the substance exceeds one kilogram by weight, the person shall receive an additional term of 10 years.

(E) If the substance exceeds four kilograms by weight, the person shall receive an additional term of 13 years.

(F) If the substance exceeds 10 kilograms by weight, the person shall receive an additional term of 16 years.

(G) If the substance exceeds 20 kilograms by weight, the person shall receive an additional term of 19 years.

(H) If the substance exceeds 40 kilograms by weight, the person shall receive an additional term of 22 years.

(I) If the substance exceeds 80 kilograms by weight, the person shall receive an additional term of 25 years.

(2) The conspiracy enhancements provided for in this subdivision shall not be imposed unless the trier of fact finds that the defendant conspirator was substantially involved in the planning, direction, execution, or financing of the underlying offense.

(d) The additional terms provided in this section shall not be imposed unless the allegation that the weight of the substance containing heroin, fentanyl, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, cocaine as specified in paragraph (6) of subdivision (b) of Section 11055, methamphetamine, amphetamine, or phencyclidine (PCP) and its analogs exceeds the amounts provided in this section is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(e) Notwithstanding paragraph (9) of subdivision (h) of Section 1170 of the Penal Code, a defendant convicted of an underlying violation specified in this section who admits an enhancement pursuant to this section or for whom an enhancement pursuant to this section is found true, is punishable by imprisonment in the state prison and not pursuant to subdivision (h) of Section 1170 of the Penal Code.

(f) The additional terms provided in this section shall be in addition to any other punishment provided by law.

(g) Notwithstanding any other law, the court may strike the additional punishment for the enhancements provided in this section if the court determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment.

*(Amended November 5, 2024, by initiative Proposition 36, Sec. 6. Effective December 18, 2024. Approved in Proposition 36 at the November 5, 2024, election.)*

**11370.6.** (a) Every person who possesses any moneys or negotiable instruments in excess of one hundred thousand dollars (\$100,000) which have been obtained as the result of the unlawful sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture any controlled substance listed in Section 11054, 11055, 11056, 11057, or 11058, with knowledge that the moneys or negotiable instruments have been so obtained, and any person who possesses any moneys or negotiable instruments in excess of one hundred thousand dollars (\$100,000) which are intended by that person for the unlawful purchase of any controlled substance listed in Section 11054, 11055, 11056, 11057, or 11058 and who commits an act in substantial furtherance of the unlawful purchase, shall be punished by imprisonment in a county jail for a term not to exceed one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years.



(b) In consideration of the constitutional right to counsel afforded by the Sixth Amendment to the United States Constitution and Section 15 of Article 1 of the California Constitution, when a case charged under subdivision (a) involves an attorney who accepts a fee for representing a client in a criminal investigation or proceeding, the prosecution shall additionally be required to prove that the moneys or negotiable instruments were accepted by the attorney with the intent to participate in the unlawful conduct described in subdivision (a) or to disguise or aid in disguising the source of the funds or the nature of the criminal activity.

(c) In determining the guilt or innocence of a person charged under subdivision (a), the trier of fact may consider the following in addition to any other relevant evidence:

- (1) The lack of gainful employment by the person charged.
- (2) The expert opinion of a qualified controlled substances expert as to the source of the assets.
- (3) The existence of documents or ledgers that indicate sales of controlled substances.

*(Amended by Stats. 2011, Ch. 15, Sec. 167. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)*

**11370.9.** (a) It is unlawful for any person knowingly to receive or acquire proceeds, or engage in a transaction involving proceeds, known to be derived from any violation of this division or Division 10.1 with the intent to conceal or disguise or aid in concealing or disguising the nature, location, ownership, control, or source of the proceeds or to avoid a transaction reporting requirement under state or federal law.

(b) It is unlawful for any person knowingly to give, sell, transfer, trade, invest, conceal, transport, or maintain an interest in, or otherwise make available, anything of value which that person knows is intended to be used for the purpose of committing, or furthering the commission of, any violation of this division or Division 10.1 with the intent to conceal or disguise or aid in concealing or disguising the nature, location, ownership, control, or source of the proceeds or to avoid a transaction reporting requirement under state or federal law.

(c) It is unlawful for any person knowingly to direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from any violation of this division or Division 10.1 with the intent to conceal or disguise or aid in concealing or disguising the nature, location, ownership, control, or source of the proceeds or to avoid a transaction reporting requirement under state or federal law.

(d) It is unlawful for any person knowingly to conduct a transaction involving proceeds derived from a violation of this division or Division 10.1 when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds known to be derived from a violation of this division or Division 10.1 with the intent to conceal or disguise or aid in concealing or disguising the nature, location, ownership, control, or source of the proceeds or to avoid a transaction reporting requirement under state or federal law.

(e) A violation of this section shall be punished by imprisonment in a county jail for not more than one year or in the state prison for a period of two, three, or four years, by a fine of not more than two hundred fifty thousand dollars (\$250,000) or twice the value of the proceeds or property involved in the violation, whichever is greater, or by both that imprisonment and fine. Notwithstanding any other provision of law, each violation of this section shall constitute a separate, punishable offense without limitation.

(f) This section shall apply only to a transaction, or series of related transactions within a 30-day period, involving over twenty-five thousand dollars (\$25,000) or to proceeds of a value exceeding twenty-five thousand dollars (\$25,000).

(g) In consideration of the constitutional right to counsel afforded by the Sixth Amendment to the United States Constitution and Section 15 of Article 1 of the California Constitution, this section is not intended to apply to the receipt of, or a related transaction involving, a fee by an attorney for the purpose of providing advice or representing a person in a criminal investigation or prosecution.

(h) For the purposes of this section, the following terms have the following meanings:

- (1) "Proceeds" means property acquired or derived directly or indirectly from, produced through, or realized through any violation of this division or Division 10.1.
- (2) "Transaction" includes a purchase, sale, trade, loan, pledge, investment, gift, transfer, transmission, delivery, deposit, withdrawal, payment, electronic, magnetic, or manual transfer between accounts, exchange of currency, extension of credit, purchase or sale of any monetary instrument, or any other acquisition or disposition of property by whatever means effected.
- (3) "Represented by a law enforcement officer" means any representation of fact made by a peace officer as defined in Section 7 of the Penal Code, or a federal officer described in subsection (e) of Sections 1956 and 1957 of Title 18 of the United States Code, or by another person at the direction of, or with the approval of, that peace officer or federal officer.

*(Amended by Stats. 1993, Ch. 589, Sec. 89. Effective January 1, 1994.)*

**11371.** Any person who shall knowingly violate any of the provisions of Section 11153, 11154, 11155, or 11156 with respect to (1) a controlled substance specified in subdivision (b), (c), or (d) of Section 11055, or (2) a controlled substance specified in paragraph (1) of subdivision (b) of Section 11056, or (3) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V, or who in any voluntary manner solicits, induces, encourages or intimidates any minor with the intent that such minor shall commit any such offense, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by a fine not exceeding twenty thousand dollars (\$20,000), or by both such fine and imprisonment.

*(Amended by Stats. 2011, Ch. 15, Sec. 168. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)*

**11371.1.** Any person who shall knowingly violate any of the provisions of Section 11173 or 11174 with respect to (1) a controlled substance specified in subdivision (b), (c), or (d) of Section 11055, or (2) a controlled substance specified in paragraph (1) of subdivision (b) of Section 11056, or (3) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V, or who in any voluntary manner solicits, induces, encourages or intimidates any minor with the intent that such minor shall commit any such offense, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year.

*(Amended by Stats. 2011, Ch. 15, Sec. 169. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)*

**11372.** (a) In addition to the term of imprisonment provided by law for persons convicted of violating Section 11350, 11351, 11351.5, 11352, 11353, 11355, 11359, 11360, or 11361, the trial court may impose a fine not exceeding twenty thousand dollars (\$20,000) for each offense. A fine shall not be levied in lieu of or in substitution for the term of imprisonment provided by law for any of these offenses.

(b) A person receiving an additional term pursuant to subparagraph (A) of paragraph (1) of subdivision (a) of Section 11370.4, may, in addition, be fined by an amount not exceeding one million dollars (\$1,000,000) for each offense.

(c) A person receiving an additional term pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 11370.4, may, in addition, be fined by an amount not to exceed four million dollars (\$4,000,000) for each offense.

(d) A person receiving an additional term pursuant to subparagraph (C) of paragraph (1) of subdivision (a) of Section 11370.4, may, in addition, be fined by an amount not to exceed eight million dollars (\$8,000,000) for each offense.

(e) The court shall make a finding, prior to the imposition of the fines authorized by subdivisions (b) through (d), inclusive, that there is a reasonable expectation that the fine, or a substantial portion thereof, could be collected within a reasonable period of time, taking into consideration the defendant's income, earning capacity, and financial resources.

*(Amended by Stats. 2023, Ch. 540, Sec. 2. (AB 701) Effective January 1, 2024.)*

**11372.5.** (a) Every person who is convicted of a violation of Section 11350, 11351, 11351.5, 11352, 11355, 11358, 11359, 11361, 11363, 11364, 11368, 11375, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11382, 11383, 11390, 11391, or 11550 or subdivision (a) or (c) of Section 11357, or subdivision (a) of Section 11360 of this code, or Section 4230 of the Business and Professions Code shall pay a criminal laboratory analysis fee in the amount of fifty dollars (\$50) for each separate offense. The court shall increase the total fine necessary to include this increment.

With respect to those offenses specified in this subdivision for which a fine is not authorized by other provisions of law, the court shall, upon conviction, impose a fine in an amount not to exceed fifty dollars (\$50), which shall constitute the increment prescribed by this section and which shall be in addition to any other penalty prescribed by law.

(b) The county treasurer shall maintain a criminalistics laboratories fund. The sum of fifty dollars (\$50) shall be deposited into the fund for every conviction under Section 11350, 11351, 11351.5, 11352, 11355, 11358, 11359, 11361, 11363, 11364, 11368, 11375, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11382, 11383, 11390, 11391, or 11550, subdivision (a) or (c) of Section 11357, or subdivision (a) of Section 11360 of this code, or Section 4230 of the Business and Professions Code, in addition to fines, forfeitures, and other moneys which are transmitted by the courts to the county treasurer pursuant to Section 11502. The deposits shall be made prior to any transfer pursuant to Section 11502. The county may retain an amount of this money equal to its administrative cost incurred pursuant to this section. Moneys in the criminalistics laboratories fund shall, except as otherwise provided in this section, be used exclusively to fund (1) costs incurred by criminalistics laboratories providing microscopic and chemical analyses for controlled substances, in connection with criminal investigations conducted within both the incorporated or unincorporated portions of the county, (2) the purchase and maintenance of equipment for use by these laboratories in performing the analyses, and (3) for continuing education, training, and scientific development of forensic scientists regularly employed by these laboratories. Moneys in the criminalistics laboratory fund shall be in addition to any allocations pursuant to existing law. As used in this section, "criminalistics laboratory" means a laboratory operated by, or under contract with, a city, county, or other public agency, including a criminalistics laboratory of the Department of Justice, (1) which has not less than one regularly employed forensic scientist engaged in the analysis of solid-dose controlled substances, and (2) which is registered as an analytical laboratory with the

Drug Enforcement Administration of the United States Department of Justice for the possession of all scheduled controlled substances. In counties served by criminalistics laboratories of the Department of Justice, amounts deposited in the criminalistics laboratories fund, after deduction of appropriate and reasonable county overhead charges not to exceed 5 percent attributable to the collection thereof, shall be paid by the county treasurer once a month to the Controller for deposit into the state General Fund, and shall be excepted from the expenditure requirements otherwise prescribed by this subdivision.

(c) The county treasurer shall, at the conclusion of each fiscal year, determine the amount of any funds remaining in the special fund established pursuant to this section after expenditures for that fiscal year have been made for the purposes herein specified. The board of supervisors may, by resolution, assign the treasurer's duty to determine the amount of remaining funds to the auditor or another county officer. The county treasurer shall annually distribute those surplus funds in accordance with the allocation scheme for distribution of fines and forfeitures set forth in Section 11502.

*(Amended by Stats. 2005, Ch. 158, Sec. 23. Effective January 1, 2006.)*

**11372.7.** (a) Except as otherwise provided in subdivision (b) or (e), each person who is convicted of a violation of this chapter shall pay a drug program fee in an amount not to exceed one hundred fifty dollars (\$150) for each separate offense. The court shall increase the total fine, if necessary, to include this increment, which shall be in addition to any other penalty prescribed by law.

(b) The court shall determine whether or not the person who is convicted of a violation of this chapter has the ability to pay a drug program fee. If the court determines that the person has the ability to pay, the court may set the amount to be paid and order the person to pay that sum to the county in a manner that the court believes is reasonable and compatible with the person's financial ability. In its determination of whether a person has the ability to pay, the court shall take into account the amount of any fine imposed upon that person and any amount that person has been ordered to pay in restitution. If the court determines that the person does not have the ability to pay a drug program fee, the person shall not be required to pay a drug program fee.

(c) The county treasurer shall maintain a drug program fund. For every drug program fee assessed and collected pursuant to subdivisions (a) and (b), an amount equal to this assessment shall be deposited into the fund for every conviction pursuant to this chapter, in addition to fines, forfeitures, and other moneys which are transmitted by the courts to the county treasurer pursuant to Sections 11372.5 and 11502. These deposits shall be made prior to any transfer pursuant to Section 11502. Amounts deposited in the drug program fund shall be allocated by the administrator of the county's drug program to drug abuse programs in the schools and the community, subject to the approval of the board of supervisors, as follows:

(1) The moneys in the fund shall be allocated through the planning process established pursuant to Sections 11983, 11983.1, 11983.2, and 11983.3.

(2) A minimum of 33 percent of the fund shall be allocated to primary prevention programs in the schools and the community. Primary prevention programs developed and implemented under this article shall emphasize cooperation in planning and program implementation among schools and community drug abuse agencies, and shall demonstrate coordination through an interagency agreement among county offices of education, school districts, and the county drug program administrator. These primary prevention programs may include:

(A) School- and classroom-oriented programs, including, but not limited to, programs designed to encourage sound decisionmaking, an awareness of values, an awareness of drugs and their effects, enhanced self-esteem, social and practical skills that will assist students toward maturity, enhanced or improved school climate and relationships among all school personnel and students, and furtherance of cooperative efforts of school- and community-based personnel.

(B) School- or community-based nonclassroom alternative programs, or both, including, but not limited to, positive peer group programs, programs involving youth and adults in constructive activities designed as alternatives to drug use, and programs for special target groups, such as women, ethnic minorities, and other high-risk, high-need populations.

(C) Family-oriented programs, including, but not limited to, programs aimed at improving family relationships and involving parents constructively in the education and nurturing of their children, as well as in specific activities aimed at preventing drug abuse.

(d) Moneys deposited into a county drug program fund pursuant to this section shall supplement, and shall not supplant, any local funds made available to support the county's drug abuse prevention and treatment efforts.

(e) This section shall not apply to any person convicted of a violation of subdivision (b) of Section 11357 of the Health and Safety Code.

*(Amended by Stats. 2002, Ch. 545, Sec. 1.5. Effective January 1, 2003.)*

**11373.** (a) (1) When a person who is otherwise eligible for probation is granted probation by the trial court or sentenced pursuant to subdivision (h) of Section 1170 of the Penal Code, after conviction for a violation of any controlled substance offense under this

division, the trial court shall, as a condition of probation, order that person to complete successfully a controlled substance education or treatment program, as appropriate for the individual, approved pursuant to subdivision (c), or if none is available, from a local community agency designated by the court.

(2) For purposes of this section, "complete successfully" means that a defendant who has had controlled substance education or treatment imposed as a condition of probation has completed the prescribed course of controlled substance education or treatment as recommended by the treatment provider and ordered by the court. Completion of education or treatment shall not require cessation of narcotic replacement therapy.

(3) When referring a person pursuant to this subdivision, the court shall determine the person's ability to pay. If the court finds that the person is financially unable to pay, the court may develop a sliding fee schedule for the program based on the person's ability to pay. A person who meets the criteria set forth in Section 68632 of the Government Code shall not be responsible for any costs.

(4) (A) To fulfill the requirements of paragraph (1), when a defendant is granted probation by the trial court after conviction for a violation of Section 11350, 11351, or 11352 involving any amount of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof, the trial court shall order that person to successfully complete a fentanyl and synthetic opiate education program, if one is available.

(B) A fee shall not be imposed for participation or enrollment in a fentanyl and synthetic opiate education program.

(b) The willful failure to complete a court-ordered controlled substance education or treatment program shall be a circumstance in aggravation for purposes of sentencing for any subsequent prosecution for a violation of Section 11353, 11354, or 11380. The failure to complete an education or treatment program because of the person's inability to pay the costs of the program or because of the unavailability to the defendant of appropriate programs is not a willful failure to complete the program for the purposes of this section.

(c) (1) The court or the probation department shall refer defendants only to controlled substance education or treatment programs that follow standards outlined in paragraph (2), which may include, but are not limited to, lectures, classes, group discussions, and counseling. The county drug program administrator, with input from representatives of the court, the county probation department, and substance use treatment providers, shall design and implement an approval and renewal process for controlled substance education or treatment programs.

(2) A controlled substance education and treatment program shall be based on the best available current science and evidence and provide educational resources on the pathology of addiction and existing treatment modalities. The goal of a controlled substance education or treatment program shall be to save lives and reduce the risks associated with drug use, including the manufacture and distribution of controlled substances, and to reduce the recidivism that occurs from the use of controlled substances. As such, a controlled substance education or treatment program shall include education about how the use of controlled substances affects the body and brain, factors that contribute to physical dependence, how to recognize and respond to the signs of drug overdose, and the dangers of using controlled substances, unless under appropriate medical supervision. Such education shall be culturally and linguistically appropriate and may include, but is not limited to, informing program participants about the physical and mental health risks associated with substance use disorders, the grave health risk to those who are exposed to controlled substances and the extreme danger to human life when manufactured or distributed.

(d) Upon conviction of any felony in which the defendant is sentenced to state prison for a violation of any controlled substance offense under this division, a court shall, in addition to any other terms of imprisonment, fine, and conditions, recommend in writing that the defendant participate in a controlled substance education or treatment program while imprisoned that complies with the standards outlined in paragraph (2) of subdivision (c).

(e) Upon conviction of any felony in which the defendant is sentenced pursuant to subdivision (h) of Section 1170 of the Penal Code and the court does not order suspension of the execution of the term of imprisonment pursuant to subparagraph (B) of paragraph (5) of subdivision (h) of Section 1170 of the Penal Code, for a violation of any controlled substance offense under this division, a court shall, in addition to any other terms of imprisonment, fine, and conditions, recommend in writing that the defendant participate in a controlled substance education or treatment program while imprisoned that complies with the standards outlined in paragraph (2) of subdivision (c).

(f) As used in this section, "opiate" includes "opioid" drugs.

*(Amended by Stats. 2023, Ch. 818, Sec. 2.5. (AB 890) Effective January 1, 2024.)*

**11374.** Every person who violates or fails to comply with any provision of this division, except one for which a penalty is otherwise in this division specifically provided, is guilty of a misdemeanor punishable by a fine in a sum not less than thirty dollars (\$30) nor more than five hundred dollars (\$500), or by imprisonment for not less than 15 nor more than 180 days, or by both.

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

**11374.5.** (a) Any manufacturer of a controlled substance who disposes of any hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance in violation of any law regulating the disposal of hazardous substances or hazardous waste is guilty of a public offense punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years or in the county jail not exceeding one year.

(b) (1) In addition to any other penalty or liability imposed by law, a person who is convicted of violating subdivision (a), or any person who is convicted of the manufacture, sale, possession for sale, possession, transportation, or disposal of any hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance in violation of any law, shall pay a penalty equal to the amount of the actual cost incurred by the state or local agency to remove and dispose of the hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance and to take removal action with respect to any release of the hazardous substance or any items or materials contaminated by that release, if the state or local agency requests the prosecuting authority to seek recovery of that cost. The court shall transmit all penalties collected pursuant to this subdivision to the county treasurer of the county in which the court is located for deposit in a special account in the county treasury. The county treasurer shall pay that money at least once a month to the agency that requested recovery of the cost for the removal action. The county may retain up to 5 percent of any assessed penalty for appropriate and reasonable administrative costs attributable to the collection and disbursement of the penalty.

(2) If the Department of Toxic Substances Control has requested recovery of the cost of removing the hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance or taking removal action with respect to any release of the hazardous substance, the county treasurer shall transfer funds in the amount of the penalty collected to the Treasurer, who shall deposit the money in the Illegal Drug Lab Cleanup Account, which is hereby created in the General Fund in the State Treasury. The Department of Toxic Substances Control may expend the money in the Illegal Drug Lab Cleanup Account, upon appropriation by the Legislature, to cover the cost of taking removal actions pursuant to Article 16 (commencing with Section 79350) of Chapter 5 of Part 2 of Division 45.

(3) If a local agency and the Department of Toxic Substances Control have both requested recovery of removal costs with respect to a hazardous substance that is a controlled substance or a chemical used in, or is a byproduct of, the manufacture of a controlled substance, the county treasurer shall apportion any penalty collected among the agencies involved in proportion to the costs incurred.

(c) As used in this section the following terms have the following meaning:

(1) "Dispose" means to abandon, deposit, intern, or otherwise discard as a final action after use has been achieved or a use is no longer intended.

(2) "Hazardous substance" has the same meaning as defined in subdivision (a) of Section 78075.

(3) "Hazardous waste" has the same meaning as defined in Section 25117.

(4) For purposes of this section, "remove" or "removal" has the same meaning as set forth in Section 78135.

*(Amended by Stats. 2022, Ch. 258, Sec. 29. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)*

**11375.** (a) As to the substances specified in subdivision (c), this section, and not Sections 11377, 11378, 11379, and 11380, shall apply.

(b) (1) A person who possesses for sale, or who sells, a substance specified in subdivision (c) shall be punished by imprisonment in the county jail for a period of not more than one year or state prison.

(2) A person who possesses a controlled substance specified in subdivision (c), unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be guilty of an infraction or a misdemeanor.

(c) This section shall apply to a material, compound, mixture, or preparation containing any of the following substances:

(1) Chlordiazepoxide.

(2) Clonazepam.

(3) Clorazepate.

(4) Diazepam.

- (5) Flurazepam.
- (6) Lorazepam.
- (7) Mebutamate.
- (8) Oxazepam.
- (9) Prazepam.
- (10) Temazepam.
- (11) Halazepam.
- (12) Alprazolam.
- (13) Propoxyphene.
- (14) Diethylpropion.
- (15) Phentermine.
- (16) Pemoline.
- (17) Triazolam.

*(Amended (as amended by Stats. 2001, Ch. 838, Sec. 2) by Stats. 2024, Ch. 98, Sec. 2. (AB 2018) Effective January 1, 2025. Superseded on operative date of amendment by Stats. 1996, Ch. 109, as further amended by Sec. 1 of Stats. 2001, Ch. 838.)*

**11375.** (a) As to the substances specified in subdivision (c), this section, and not Sections 11377, 11378, 11379, and 11380, shall apply.

(b) (1) Every person who possesses for sale, or who sells, any substance specified in subdivision (c) shall be punished by imprisonment in the county jail for a period of not more than one year or state prison.

(2) Every person who possesses any controlled substance specified in subdivision (c), unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be guilty of an infraction or a misdemeanor.

(c) This section shall apply to any material, compound, mixture, or preparation containing any of the following substances:

- (1) Chlordiazepoxide.
- (2) Clonazepam.
- (3) Clorazepate.
- (4) Diazepam.
- (5) Flurazepam.
- (6) Lorazepam.
- (7) Mebutamate.
- (8) Oxazepam.
- (9) Prazepam.
- (10) Temazepam.
- (11) Halazepam.
- (12) Alprazolam.
- (13) Propoxyphene.

(14) Diethylpropion.

(15) Phentermine.

(16) Pemoline.

(17) Triazolam.

*(Amended (as amended by Stats. 1996, Ch. 109) by Stats. 2001, Ch. 838, Sec. 1. Effective January 1, 2002. Amendments conditionally operative as provided in Stats. 1996, Ch. 109, Sec. 3.)*

**11375.5.** (a) Every person who sells, dispenses, distributes, furnishes, administers, or gives, or offers to sell, dispense, distribute, furnish, administer, or give, any synthetic stimulant compound specified in subdivision (c), 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 to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) Every person who uses or possesses any synthetic stimulant compound specified in subdivision (c), or any synthetic stimulant derivative, is guilty of a public offense, punishable as follows:

(1) A first offense is an infraction punishable by a fine not exceeding two hundred fifty dollars (\$250).

(2) A second offense is an infraction punishable by a fine not exceeding two hundred fifty dollars (\$250) or a misdemeanor punishable by imprisonment in a county jail not exceeding six months, a fine not exceeding five hundred dollars (\$500), or by both that fine and imprisonment.

(3) A third or subsequent offense is a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(c) Unless specifically excepted, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, or unless listed in another schedule, subdivisions (a) and (b) apply to any material, compound, mixture, or preparation which contains any quantity of a substance or analog of a substance, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers whenever the existence of such salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers is possible, that is structurally derived from 2-amino-1-phenyl-1-propanone by modification in one of the following ways:

(1) By substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents.

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

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

(d) This section shall not prohibit prosecution under any other provision of law.

*(Amended by Stats. 2016, Ch. 624, Sec. 3. (SB 139) Effective September 25, 2016.)*

**11375.7.** (a) Unless otherwise excluded pursuant to this section, a person charged with a misdemeanor pursuant to paragraph (3) of subdivision (b) of Section 11357.5 or paragraph (3) of subdivision (b) of Section 11375.5 shall be eligible to participate in a preguilty plea drug court program, as described in Section 1000.5 of the Penal Code.

(b) Notwithstanding any other law, a positive test for use of a controlled substance, any other drug that may not be possessed without a prescription, or alcohol shall not be grounds for dismissal from the program, unless the person is not making progress in the program. The court shall consider a report or recommendation of the treatment provider in making this determination. It shall be presumed that a person engaged in a program is making progress, unless that presumption is defeated by clear and convincing evidence. The person may offer evidence or an argument that he or she would benefit from and make progress in a different program or mode. If the court so finds, it may place the person in a different treatment program.

(c) Notwithstanding any other law, the following persons are excluded from participation in the program under this section:

(1) A person with a history of violence that indicates that he or she presents a current risk of violent behavior currently or during the treatment program. This ground for exclusion shall be established by clear and convincing evidence.

(2) A person required to register as a sex offender pursuant to Section 290, unless the court finds by clear and convincing evidence that the person does not present a substantial risk of committing sexual offenses currently or through the course of the program and the person would benefit from the program, including that treatment would reduce the risk that the person would sexually reoffend.



(3) A person who the treatment provider concludes is unamenable to any and all forms of drug treatment. The defendant may present evidence that he or she is amenable to treatment and the court may retain the person in the program if the court finds that the person is amenable to treatment through a different provider or a different mode of treatment.

(d) Notwithstanding any other law, a prior conviction for an offense involving a controlled substance or drug that may not be possessed without a prescription, including a substance listed in Section 11357.5 or 11375.5, is not grounds for exclusion from the program, unless the court finds by clear and convincing evidence that the person is likely to engage in drug commerce for financial gain, rather than for purposes of obtaining a drug or drugs for personal use.

*(Amended by Stats. 2017, Ch. 561, Sec. 112. (AB 1516) Effective January 1, 2018.)*

**11376.** Upon the diversion or conviction of a person for any offense involving substance abuse, the court may require, in addition to any or all other terms of diversion or imprisonment, fine, or other reasonable conditions of sentencing or probation imposed by the court, that the defendant participate in and complete counseling or education programs, or both, including, but not limited to, parent education or parenting programs operated by community colleges, school districts, other public agencies, or private agencies.

*(Added by Stats. 1996, Ch. 210, Sec. 1. Effective January 1, 1997.)*

**11376.5.** (a) (1) Notwithstanding any other law, it shall not be a crime for a person to be under the influence of, or to possess for personal use, a controlled substance, controlled substance analog, or drug paraphernalia, if that person, in good faith, seeks medical assistance for another person experiencing a drug-related overdose that is related to the possession of a controlled substance, controlled substance analog, or drug paraphernalia of the person seeking medical assistance, and that person does not obstruct medical or law enforcement personnel. No other immunities or protections from arrest or prosecution for violations of the law are intended or may be inferred.

(2) Notwithstanding any other law, it shall not be a crime for a person who experiences a drug-related overdose and who is in need of medical assistance to be under the influence of, or to possess for personal use, a controlled substance, controlled substance analog, or drug paraphernalia, if the person or one or more other persons at the scene of the overdose, in good faith, seek medical assistance for the person experiencing the overdose. No other immunities or protections from arrest or prosecution for violations of the law are intended or may be inferred.

(b) This section shall not affect laws prohibiting the selling, providing, giving, or exchanging of drugs, or laws prohibiting the forcible administration of drugs against a person's will.

(c) Nothing in this section shall affect liability for any offense that involves activities made dangerous by the consumption of a controlled substance or controlled substance analog, including, but not limited to, violations of Section 23103 of the Vehicle Code as specified in Section 23103.5 of the Vehicle Code, or violations of Section 23152 or 23153 of the Vehicle Code.

(d) For the purposes of this section, the following definitions shall apply:

(1) "Drug-related overdose" means an acute medical condition that is the result of the ingestion or use by an individual of one or more controlled substances or one or more controlled substances in combination with alcohol, in quantities that are excessive for that individual that may result in death, disability, or serious injury. An individual's condition shall be deemed to be a "drug-related overdose" if a reasonable person of ordinary knowledge would believe the condition to be a drug-related overdose that may result in death, disability, or serious injury.

(2) "Seeks medical assistance" or "seek medical assistance" includes any communication made verbally, in writing, or in the form of data from a health-monitoring device, including, but not limited to, smart watches, for the purpose of obtaining medical assistance.

*(Amended by Stats. 2023, Ch. 106, Sec. 1. (SB 250) Effective January 1, 2024.)*

**11376.6.** (a) (1) Notwithstanding any other law, it shall not be a crime for a person to possess for personal use a controlled substance, controlled substance analog, or drug paraphernalia if the person delivers the controlled substance or controlled substance analog to the local public health department or law enforcement and notifies them of the likelihood that other batches of the controlled substance may have been adulterated with other substances, if known.

(2) (A) The identity of the person described in paragraph (1) shall remain confidential.

(B) The person described in paragraph (1) may, but shall not be required to, reveal the identity of the individual from whom the person obtained the controlled substance or controlled substance analog.

(b) No other immunities or protections from arrest or prosecution for violations of the law are intended or may be inferred.

*(Added by Stats. 2023, Ch. 106, Sec. 2. (SB 250) Effective January 1, 2024.)*

