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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 UNIFORM CONTROLLED SUBSTANCES ACT [11000 - 11651] (*Division 10 repealed and added by Stats. 1972, Ch. 1407.*)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 9.5. Loitering for Drug Activities [11530 - 11538] (*Chapter 9.5 added by Stats. 1995, Ch. 981, Sec. 2.*)

11530. As used in this subdivision, the following terms have the following meanings:

- (a) "Loiter" means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.
- (b) "Public place" means an area open to the public or exposed to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

(*Added by Stats. 1995, Ch. 981, Sec. 2. Effective January 1, 1996.*)

11532. (a) It is unlawful for any person to loiter in any public place in a manner and under circumstances manifesting the purpose and with the intent to commit an offense specified in Chapter 6 (commencing with Section 11350) and Chapter 6.5 (commencing with Section 11400).

(b) Among circumstances that may be considered in determining whether a person has the requisite intent to engage in drug-related activity are that the person:

- (1) Acts as a "look-out."
- (2) Transfers small objects or packages for currency in a furtive fashion.
- (3) Tries to conceal himself or herself or any object that reasonably could be involved in an unlawful drug-related activity.
- (4) Uses signals or language indicative of summoning purchasers of illegal drugs.
- (5) Repeatedly beckons to, stops, attempts to stop, or engages in conversations with passersby, whether on foot or in a motor vehicle, indicative of summoning purchasers of illegal drugs.
- (6) Repeatedly passes to or receives from passersby, whether on foot or in a motor vehicle, money or small objects.
- (7) Is under the influence of a controlled substance or possesses narcotic or drug paraphernalia. For the purposes of this paragraph, "narcotic or drug paraphernalia" means any device, contrivance, instrument, or apparatus designed or marketed for the use of smoking, injecting, ingesting, or consuming cannabis, hashish, PCP, or any controlled substance, including, but not limited to, roach clips, cigarette papers, and rollers designed or marketed for use in smoking a controlled substance.
- (8) Has been convicted in any court within this state, within five years prior to the arrest under this chapter, of any violation involving the use, possession, or sale of any of the substances referred to in Chapter 6 (commencing with Section 11350) or Chapter 6.5 (commencing with Section 11400), or has been convicted of any violation of those provisions or substantially similar laws of any political subdivision of this state or of any other state.
- (9) Is currently subject to any order prohibiting his or her presence in any high drug activity geographic area.

(10) Has engaged, within six months prior to the date of arrest under this section, in any behavior described in this subdivision, with the exception of paragraph (8), or in any other behavior indicative of illegal drug-related activity.

(c) The list of circumstances set forth in subdivision (b) is not exclusive. The circumstances set forth in subdivision (b) should be considered particularly salient if they occur in an area that is known for unlawful drug use and trafficking, or if they occur on or in premises that have been reported to law enforcement as a place suspected of unlawful drug activity. Any other relevant circumstances may be considered in determining whether a person has the requisite intent. Moreover, no one circumstance or combination of circumstances is in itself determinative of intent. Intent must be determined based on an evaluation of the particular circumstances of each case.

(Amended by Stats. 2017, Ch. 27, Sec. 158. (SB 94) Effective June 27, 2017.)

11534. If any section, subdivision, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portion thereof.

(Added by Stats. 1995, Ch. 981, Sec. 2. Effective January 1, 1996.)

11536. A violation of any provision of this chapter is a misdemeanor.

(Added by Stats. 1995, Ch. 981, Sec. 2. Effective January 1, 1996.)

11538. Nothing in this chapter shall prevent a local governing body from adopting and enforcing laws consistent with this chapter. Where local laws duplicate or supplement this chapter, this chapter shall be construed as providing alternative remedies and not to preempt the field.

(Added by Stats. 1995, Ch. 981, Sec. 2. Effective January 1, 1996.)