

ASSEMBLY BILL

No. 223

Introduced by Assembly Member Ammiano

February 2, 2011

An act to amend Section 11350 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 223, as introduced, Ammiano. Controlled substances.

Existing law provides that, except as otherwise provided, every person who possesses any of certain controlled substances, or any of other specified controlled substances which is a narcotic drug, unless upon written prescription, as specified, shall be punished by imprisonment in the state prison.

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11350 of the Health and Safety Code is
2 amended to read:
3 11350. (a) Except as otherwise provided in this division, every
4 person who possesses (1) any controlled substance specified in
5 subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section
6 11054, specified in paragraph (14), (15), or (20) of subdivision (d)
7 of Section 11054, or specified in subdivision (b) or (c) of Section
8 11055, or specified in subdivision (h) of Section 11056, or (2) any

1 controlled substance *that is* classified in Schedule III, IV, or V
2 which is a narcotic drug, unless upon the written prescription of a
3 physician, dentist, podiatrist, or veterinarian licensed to practice
4 in this state, shall be punished by imprisonment in the state prison.

5 (b) Except as otherwise provided in this division, every person
6 who possesses any controlled substance specified in subdivision
7 (e) of Section 11054 shall be punished by imprisonment in the
8 county jail for not more than one year or in the state prison.

9 (c) Except as otherwise provided in this division, whenever a
10 person who possesses any of the controlled substances specified
11 in subdivision (a) or (b), the judge may, in addition to any
12 punishment provided for pursuant to subdivision (a) or (b), assess
13 against that person a fine not to exceed seventy dollars (\$70) with
14 proceeds of this fine to be used in accordance with Section 1463.23
15 of the Penal Code. The court shall, however, take into consideration
16 the defendant’s ability to pay, and no defendant shall be denied
17 probation because of his or her inability to pay the fine permitted
18 under this subdivision.

19 (d) Except in unusual cases in which it would not serve the
20 interest of justice to do so, whenever a court grants probation
21 pursuant to a felony conviction under this section, in addition to
22 any other conditions of probation which may be imposed, the
23 following conditions of probation shall be ordered:

- 24 (1) For a first offense under this section, a fine of at least one
25 thousand dollars (\$1,000) or community service.
- 26 (2) For a second or subsequent offense under this section, a fine
27 of at least two thousand dollars (\$2,000) or community service.
- 28 (3) If a defendant does not have the ability to pay the minimum
29 fines specified in paragraphs (1) and (2), community service shall
30 be ordered in lieu of the fine.