

AMENDED IN ASSEMBLY MAY 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2603

Introduced by Assembly Member V. Manuel Pérez
(Coauthor: Assembly Member Chesbro)

February 21, 2014

An act to amend Sections 11350 and 11377 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 2603, as amended, V. Manuel Pérez. Controlled substances: permissive lawful possession.

Existing law, subject to certain exceptions, provides that it is a crime for any person to possess specified controlled substances, punishable by a fine or imprisonment in a county jail, as specified, unless it is upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state.

This bill would create an exception from these prohibitions for possession of those controlled substances ~~for a lawful purpose by anyone with the express authorization or direction of the prescription holder.~~ *by a person other than the prescription holder if the possession of the controlled substance is at the direction or with the express authorization of the prescription holder and the possessor of the controlled substance intends to deliver the prescription to the prescription holder within a reasonable period of time for the prescribed use by the prescription holder, or intends to discard the controlled substance in a lawful manner.*

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
9 controlled substance classified in Schedule III, IV, or V which is
10 a narcotic drug, unless upon the written prescription of a physician,
11 dentist, podiatrist, or veterinarian licensed to practice in this state,
12 shall be punished by imprisonment pursuant to subdivision (h) of
13 Section 1170 of the Penal Code.

14 (b) Except as otherwise provided in this division, every person
15 who possesses any controlled substance specified in subdivision
16 (e) of Section 11054 shall be punished by imprisonment in a county
17 jail for not more than one year or pursuant to subdivision (h) of
18 Section 1170 of the Penal Code.

19 (c) Except as otherwise provided in this division, whenever a
20 person who possesses any of the controlled substances specified
21 in subdivision (a) or (b), the judge may, in addition to any
22 punishment provided for pursuant to subdivision (a) or (b), assess
23 against that person a fine not to exceed seventy dollars (\$70) with
24 proceeds of this fine to be used in accordance with Section 1463.23
25 of the Penal Code. The court shall, however, take into consideration
26 the defendant’s ability to pay, and no defendant shall be denied
27 probation because of his or her inability to pay the fine permitted
28 under this subdivision.

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

34 (1) For a first offense under this section, a fine of at least one
35 thousand dollars (\$1,000) or community service.

36 (2) For a second or subsequent offense under this section, a fine
37 of at least two thousand dollars (\$2,000) or community service.

1 (3) If a defendant does not have the ability to pay the minimum
2 fines specified in paragraphs (1) and (2), community service shall
3 be ordered in lieu of the fine.

4 ~~(e) This section does not apply to possession of a controlled
5 substance described in subdivision (a) for a lawful purpose by
6 anyone with the express authorization or direction of the
7 prescription holder.~~

8 *(e) It is not unlawful for a person other than the prescription
9 holder to possess a controlled substance described in subdivision
10 (a) if both of the following apply:*

11 *(1) The possession of the controlled substance is at the direction
12 or with the express authorization of the prescription holder.*

13 *(2) The possessor of the controlled substance intends to deliver
14 the prescription to the prescription holder within a reasonable
15 period of time for the prescribed use by the prescription holder,
16 or intends to discard the controlled substance in a lawful manner.*

17 *(f) This section does not permit the use of a controlled substance
18 by a person other than the prescription holder or permit the
19 distribution or sale of a controlled substance that is otherwise
20 inconsistent with the prescription.*

21 SEC. 2. Section 11377 of the Health and Safety Code is
22 amended to read:

23 11377. (a) Except as authorized by law and as otherwise
24 provided in subdivision (b) or Section 11375, or in Article 7
25 (commencing with Section 4211) of Chapter 9 of Division 2 of
26 the Business and Professions Code, every person who possesses
27 any controlled substance which is (1) classified in Schedule III,
28 IV, or V, and which is not a narcotic drug, (2) specified in
29 subdivision (d) of Section 11054, except paragraphs (13), (14),
30 (15), and (20) of subdivision (d), (3) specified in paragraph (11)
31 of subdivision (c) of Section 11056, (4) specified in paragraph (2)
32 or (3) of subdivision (f) of Section 11054, or (5) specified in
33 subdivision (d), (e), or (f) of Section 11055, unless upon the
34 prescription of a physician, dentist, podiatrist, or veterinarian,
35 licensed to practice in this state, shall be punished by imprisonment
36 in a county jail for a period of not more than one year or pursuant
37 to subdivision (h) of Section 1170 of the Penal Code.

38 (b) (1) Any person who violates subdivision (a) by unlawfully
39 possessing a controlled substance specified in subdivision (f) of
40 Section 11056, and who has not previously been convicted of a

1 violation involving a controlled substance specified in subdivision
2 (f) of Section 11056, is guilty of a misdemeanor.

3 (2) Any person who violates subdivision (a) by unlawfully
4 possessing a controlled substance specified in subdivision (g) of
5 Section 11056 is guilty of a misdemeanor.

6 (3) Any person who violates subdivision (a) by unlawfully
7 possessing a controlled substance specified in paragraph (7) or (8)
8 of subdivision (d) of Section 11055 is guilty of a misdemeanor.

9 (4) Any person who violates subdivision (a) by unlawfully
10 possessing a controlled substance specified in paragraph (8) of
11 subdivision (f) of Section 11057 is guilty of a misdemeanor.

12 (c) In addition to any fine assessed under subdivision (b), the
13 judge may assess a fine not to exceed seventy dollars (\$70) against
14 any person who violates subdivision (a), with the proceeds of this
15 fine to be used in accordance with Section 1463.23 of the Penal
16 Code. The court shall, however, take into consideration the
17 defendant’s ability to pay, and no defendant shall be denied
18 probation because of his or her inability to pay the fine permitted
19 under this subdivision.

20 ~~(d) This section does not apply to possession of a controlled
21 substance described in subdivision (a) for a lawful purpose by
22 anyone with the express authorization or direction of the
23 prescription holder.~~

24 *(d) It is not unlawful for a person other than the prescription
25 holder to possess a controlled substance described in subdivision
26 (a) if both of the following apply:*

27 *(1) The possession of the controlled substance is at the direction
28 or with the express authorization of the prescription holder.*

29 *(2) The possessor of the controlled substance intends to deliver
30 the prescription to the prescription holder within a reasonable
31 period of time for the prescribed use by the prescription holder,
32 or intends to discard the controlled substance in a lawful manner.*

33 *(e) This section does not permit the use of a controlled substance
34 by a person other than the prescription holder or permit the
35 distribution or sale of a controlled substance that is otherwise
36 inconsistent with the prescription.*

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