

Senate Bill No. 649

Passed the Senate September 10, 2013

Secretary of the Senate

Passed the Assembly September 4, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 649, Leno. Possession of controlled substances: penalties.

Existing law provides that the unlawful possession of certain controlled substances, including, among others, opiates, opium, opium derivatives, mescaline, peyote, tetrahydrocannabinols, and cocaine base, is a felony punishable by imprisonment in a county jail for 16 months, or 2 or 3 years.

This bill would make the unlawful possession of any of those substances punishable as either a felony punishable in county jail or as a misdemeanor punishable in a county jail for not more than one year.

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

SECTION 1. Section 11350 of the Health and Safety Code is amended to read:

11350. (a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c) of, 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 specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in a county jail for not more than one year or pursuant to subdivision (h) of Section 1170 of the Penal Code.

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

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

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

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

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

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

Approved _____, 2013

Governor