

Introduced by Senator EvansFebruary 20, 2014

An act to amend Section 11479 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 1193, as introduced, Evans. Controlled substances: destruction of seized substances.

Existing law, the Uniform Controlled Substances Act, includes provisions authorizing the forfeiture and seizure of property involved in, or purchased with the proceeds from, a controlled substance offense. Existing law authorizes the destruction of seized substances suspected to be controlled substances in excess of 10 pounds in gross weight, subject to specified requirements.

Existing law requires that, prior to destruction of a suspected controlled substance, the law enforcement agency take at least 5 random and representative samples, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed in addition to the 10 pounds the law enforcement agency is required to retain.

Existing law requires, when the suspected controlled substance consists of growing or harvested marijuana plants, at least one 10-pound sample (which may include stalks, branches, or leaves) and 5 representative samples consisting of leaves or buds to be retained for evidentiary purposes from the total amount of suspected controlled substances to be destroyed by the law enforcement agency.

This bill would instead require that, prior to the destruction of a suspected controlled substance, including growing or harvested marijuana plants, the law enforcement agency take at least 10 random

and representative samples, and would authorize the agency to destroy the remainder of the substance in excess of those 10 samples.

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

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

1 SECTION 1. Section 11479 of the Health and Safety Code is
2 amended to read:

3 11479. Notwithstanding Sections 11473 and 11473.5, at any
4 time after seizure by a law enforcement agency of a suspected
5 controlled substance, that amount in excess of ~~10 pounds in gross~~
6 ~~weight~~ *the 10 random and representative samples described in*
7 *subdivision (a)* may be destroyed without a court order by the chief
8 of the law enforcement agency or a designated subordinate.
9 Destruction shall not take place pursuant to this section until all
10 of the following requirements are satisfied:

11 (a) ~~At least five 10 random and representative samples have~~
12 ~~been taken, for evidentiary purposes, from the total amount of~~
13 ~~suspected controlled substances to be destroyed. These samples~~
14 ~~shall be in addition to the 10 pounds required above. When the~~
15 ~~suspected controlled substance consists of growing or harvested~~
16 ~~marijuana plants, at least one 10 pound sample (which may include~~
17 ~~stalks, branches, or leaves) and five representative samples~~
18 ~~consisting of leaves or buds shall be retained for evidentiary~~
19 ~~purposes from the total amount of suspected controlled substances~~
20 ~~to be destroyed.~~

21 (b) Photographs have been taken which reasonably demonstrate
22 the total amount of the suspected controlled substance to be
23 destroyed.

24 (c) The gross weight of the suspected controlled substance has
25 been determined, either by actually weighing the suspected
26 controlled substance or by estimating that weight after dimensional
27 measurement of the total suspected controlled substance.

28 (d) The chief of the law enforcement agency has determined
29 that it is not reasonably possible to preserve the suspected
30 controlled substance in place, or to remove the suspected controlled
31 substance to another location. In making this determination, the
32 difficulty of transporting and storing the suspected controlled

1 substance to another site and the storage facilities may be taken
2 into consideration.

3 Subsequent to any destruction of a suspected controlled substance
4 pursuant to this section, an affidavit shall be filed within 30 days
5 in the court which has jurisdiction over any pending criminal
6 proceedings pertaining to that suspected controlled substance,
7 reciting the applicable information required by subdivisions (a),
8 (b), (c), and (d) together with information establishing the location
9 of the suspected controlled substance, and specifying the date and
10 time of the destruction. In the event that there are no criminal
11 proceedings pending which pertain to that suspected controlled
12 substance, the affidavit may be filed in any court within the county
13 which would have jurisdiction over a person against whom those
14 criminal charges might be filed.

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