

**Introduced by Senator Hueso**February 23, 2015

---

---

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

## LEGISLATIVE COUNSEL'S DIGEST

SB 303, as introduced, Hueso. Controlled substances: destruction of seized marijuana.

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. Under existing law, prior to destruction of a suspected controlled substance, the law enforcement agency is required to 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.

This bill would authorize the law enforcement agency to destroy seized substances suspected to be growing or harvested marijuana in excess of 2 pounds, subject to specified requirements. The bill would also require the law enforcement agency to retain at least one 2-pound sample and 5 random and representative samples consisting of leaves or buds, for evidentiary purposes, from the total amount to be destroyed.

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 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, *and in the case of growing or harvesting marijuana, only*  
7 *that amount in excess of 2 pounds*, may be destroyed without a  
8 court order by the chief of the law enforcement agency or a  
9 designated subordinate. Destruction shall not take place pursuant  
10 to this section until all of the following requirements are satisfied:

11 (a) At least five random and representative samples have been  
12 taken, for evidentiary purposes, from the total amount of suspected  
13 controlled substances to be destroyed. These samples shall be in  
14 addition to the 10 pounds required above. When the suspected  
15 controlled substance consists of growing or harvested marijuana  
16 plants, at least one ~~10-pound~~ *2-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  
33 substance to another site and the storage facilities may be taken  
34 into consideration.

35 Subsequent to any destruction of a suspected controlled substance  
36 pursuant to this section, an affidavit shall be filed within 30 days  
37 in the court which has jurisdiction over any pending criminal  
38 proceedings pertaining to that suspected controlled substance,

1 reciting the applicable information required by subdivisions (a),  
2 (b), (c), and (d) together with information establishing the location  
3 of the suspected controlled substance, and specifying the date and  
4 time of the destruction. In the event that there are no criminal  
5 proceedings pending which pertain to that suspected controlled  
6 substance, the affidavit may be filed in any court within the county  
7 which would have jurisdiction over a person against whom those  
8 criminal charges might be filed.

O