

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN SENATE APRIL 27, 2015

**SENATE BILL**

**No. 303**

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**Introduced by Senator Hueso**

February 23, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

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

Existing law, the California 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 *photographs reasonably demonstrating the total amount of the substance to be destroyed* and 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, or the amount of marijuana a medical marijuana patient or designated caregiver is authorized to possess by ordinance in the city or county where the marijuana was seized, whichever is greater, 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. *The bill would additionally require that the law enforcement agency take videos that reasonably and accurately demonstrate the total amount of the suspected controlled substance to be destroyed.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-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, except in the case of growing or harvested  
6 marijuana, that amount in excess of 10 pounds in gross weight  
7 may be destroyed without a court order by the chief of the law  
8 enforcement agency or a designated subordinate. In the case of  
9 growing or harvested marijuana, that amount in excess of ~~2~~ two  
10 pounds, or the amount of marijuana a medical marijuana patient  
11 or designated caregiver is authorized to possess by ordinance in  
12 the city or county where the marijuana was seized, whichever is  
13 greater, may be destroyed without a court order by the chief of the  
14 law enforcement agency or a designated subordinate. Destruction  
15 shall not take place pursuant to this section until all of the following  
16 requirements are satisfied:

17 (a) At least five random and representative samples have been  
18 taken, for evidentiary purposes, from the total amount of suspected  
19 controlled substances to be destroyed. These samples shall be in  
20 addition to the 10 pounds required above. When the suspected  
21 controlled substance consists of growing or harvested marijuana  
22 plants, at least one 2-pound sample or a sample in the amount of  
23 medical marijuana a medical marijuana patient or designated  
24 caregiver is authorized to possess by ordinance in the city or county  
25 where the marijuana was seized, whichever is greater, shall be  
26 retained. This sample may include stalks, branches, or leaves. In  
27 addition, five representative samples of leaves or buds shall be  
28 retained for evidentiary purposes from the total amount of  
29 suspected controlled substances to be destroyed.

1 (b) Photographs *and videos* have been taken—~~which that~~  
2 reasonably *and accurately* demonstrate the total amount of the  
3 suspected controlled substance to be destroyed.

4 (c) The gross weight of the suspected controlled substance has  
5 been determined, either by actually weighing the suspected  
6 controlled substance or by estimating that weight after dimensional  
7 measurement of the total suspected controlled substance.

8 (d) The chief of the law enforcement agency has determined  
9 that it is not reasonably possible to preserve the suspected  
10 controlled substance in place, or to remove the suspected controlled  
11 substance to another location. In making this determination, the  
12 difficulty of transporting and storing the suspected controlled  
13 substance to another site and the storage facilities may be taken  
14 into consideration.

15 Subsequent to any destruction of a suspected controlled substance  
16 pursuant to this section, an affidavit shall be filed within 30 days  
17 in the court—~~which that~~ has jurisdiction over any pending criminal  
18 proceedings pertaining to that suspected controlled substance,  
19 reciting the applicable information required by subdivisions (a),  
20 (b), (c), and (d) together with information establishing the location  
21 of the suspected controlled substance, and specifying the date and  
22 time of the destruction. In the event that there are no criminal  
23 proceedings pending—~~which that~~ pertain to that suspected controlled  
24 substance, the affidavit may be filed in any court within the county  
25 ~~which that~~ would have jurisdiction over a person against whom  
26 those criminal charges might be filed.