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**Introduced by Senator Mitchell**

February 8, 2016

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An act to repeal Section 11370.2 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 966, as introduced, Mitchell. Controlled substances: sentence enhancements: prior convictions.

Existing law imposes on a person convicted of a violation of, or of conspiracy to violate, specified crimes relating to controlled substances a full, separate, and consecutive 3-year term for each prior conviction of specified controlled substances crimes, including possession for sale and purchase for sale of opiates, opium derivatives, and hallucinogenic substances.

This bill would repeal those provisions.

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 11370.2 of the Health and Safety Code  
2 is repealed.  
3 ~~11370.2. (a) Any person convicted of a violation of, or of a~~  
4 ~~conspiracy to violate, Section 11351, 11351.5, or 11352 shall~~  
5 ~~receive, in addition to any other punishment authorized by law,~~  
6 ~~including Section 667.5 of the Penal Code, a full, separate, and~~  
7 ~~consecutive three-year term for each prior felony conviction of,~~  
8 ~~or for each prior felony conviction of conspiracy to violate, Section~~  
9 ~~11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, 11379.6,~~

1 11380, 11380.5, or 11383, whether or not the prior conviction  
 2 resulted in a term of imprisonment.

3 (b) ~~Any person convicted of a violation of, or of a conspiracy~~  
 4 ~~to violate, Section 11378.5, 11379.5, 11379.6, 11380.5, or 11383~~  
 5 ~~shall receive, in addition to any other punishment authorized by~~  
 6 ~~law, including Section 667.5 of the Penal Code, a full, separate,~~  
 7 ~~and consecutive three-year term for each prior felony conviction~~  
 8 ~~of, or for each prior felony conviction of conspiracy to violate,~~  
 9 ~~Section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5,~~  
 10 ~~11379.6, 11380, 11380.5, or 11383, whether or not the prior~~  
 11 ~~conviction resulted in a term of imprisonment.~~

12 (c) ~~Any person convicted of a violation of, or of a conspiracy~~  
 13 ~~to violate, Section 11378 or 11379 with respect to any substance~~  
 14 ~~containing a controlled substance specified in paragraph (1) or (2)~~  
 15 ~~of subdivision (d) of Section 11055 shall receive, in addition to~~  
 16 ~~any other punishment authorized by law, including Section 667.5~~  
 17 ~~of the Penal Code, a full, separate, and consecutive three-year term~~  
 18 ~~for each prior felony conviction of, or for each prior felony~~  
 19 ~~conviction of conspiracy to violate, Section 11351, 11351.5, 11352,~~  
 20 ~~11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, or~~  
 21 ~~11383, whether or not the prior conviction resulted in a term of~~  
 22 ~~imprisonment.~~

23 (d) ~~The enhancements provided for in this section shall be~~  
 24 ~~pleaded and proven as provided by law.~~

25 (e) ~~The conspiracy enhancements provided for in this section~~  
 26 ~~shall not be imposed unless the trier of fact finds that the defendant~~  
 27 ~~conspirator was substantially involved in the planning, direction,~~  
 28 ~~execution, or financing of the underlying offense.~~

29 (f) ~~Prior convictions from another jurisdiction qualify for use~~  
 30 ~~under this section pursuant to Section 668.~~