

AMENDED IN SENATE JUNE 1, 2016

**SENATE BILL**

**No. 966**

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**Introduced by Senator Mitchell**  
*(Coauthors: Senators Leno and Wieckowski)*

February 8, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

SB 966, as amended, 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~~ *of, or for each prior conviction of conspiracy to violate*, 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~~. *instead limit the above sentence enhancement to only be based on each prior conviction of, or on each prior conviction of conspiracy to violate, the crime of manufacturing specified controlled substances through chemical extraction or synthesis or the crime of using a minor in the commission of offenses involving specified controlled substances.*

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2     ~~is repealed.~~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     ~~SECTION 1. Section 11370.2 of the Health and Safety Code~~  
4     ~~is amended to read:~~

5     11370.2. (a) Any person convicted of a violation of, or of a  
6     conspiracy to violate, Section 11351, 11351.5, or 11352 shall  
7     receive, in addition to any other punishment authorized by law,  
8     including Section 667.5 of the Penal Code, a full, separate, and  
9     consecutive three-year term for each prior felony conviction of,  
10    or for each prior felony conviction of conspiracy to violate, Section  
11    ~~11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5, 11379.6,~~  
12    ~~11380, 11380.5, or 11383, 11379.6 or 11380,~~ whether or not the  
13    prior conviction resulted in a term of imprisonment.

14    (b) Any person convicted of a violation of, or of a conspiracy  
15    to violate, Section 11378.5, 11379.5, 11379.6, ~~11380.5, or 11383,~~  
16    ~~or former Section 11380.5~~ shall receive, in addition to any other  
17    punishment authorized by law, including Section 667.5 of the  
18    Penal Code, a full, separate, and consecutive three-year term for  
19    each prior felony conviction of, or for each prior felony conviction  
20    of conspiracy to violate, Section ~~11351, 11351.5, 11352, 11378,~~  
21    ~~11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, or 11383,~~  
22    ~~11379.6 or 11380,~~ whether or not the prior conviction resulted in  
23    a term of imprisonment.

24    (c) Any person convicted of a violation of, or of a conspiracy  
25    to violate, Section 11378 or 11379 with respect to any substance  
26    containing a controlled substance specified in paragraph (1) or (2)  
27    of subdivision (d) of Section 11055 shall receive, in addition to  
28    any other punishment authorized by law, including Section 667.5  
29    of the Penal Code, a full, separate, and consecutive three-year term  
30    for each prior felony conviction of, or for each prior felony  
31    conviction of conspiracy to violate, Section ~~11351, 11351.5, 11352,~~  
32    ~~11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, or~~  
33    ~~11383, 11379.6 or 11380,~~ whether or not the prior conviction  
34    resulted in a term of imprisonment.

35    (d) The enhancements provided for in this section shall be  
36    pleaded and proven as provided by law.

37    (e) The conspiracy enhancements provided for in this section  
38    shall not be imposed unless the trier of fact finds that the defendant

- 1 conspirator was substantially involved in the planning, direction,
- 2 execution, or financing of the underlying offense.
- 3 (f) Prior convictions from another jurisdiction qualify for use
- 4 under this section pursuant to Section 668.

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