

Assembly Bill No. 2970

Passed the Assembly August 22, 1996

Chief Clerk of the Assembly

Passed the Senate August 8, 1996

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1996, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Section 3479 of the Civil Code, and to amend Section 1161 of the Code of Civil Procedure, relating to nuisance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2970, Olberg. Nuisance: controlled substances.

(1) Existing law defines any thing which is injurious to health as a nuisance.

This bill would specifically provide that this definition includes, but is not limited to, the illegal sale of controlled substances.

(2) Existing law defines unlawful detainer by a tenant or subtenant to include the commission of a nuisance upon the premises or using the premises for an unlawful purpose.

This bill would specifically provide that a person who illegally sells a controlled substance upon the premises or uses the premises to further that purpose shall be deemed to have committed a nuisance upon the premises.

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

SECTION 1. Section 3479 of the Civil Code is amended to read:

3479. Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.

SEC. 2. Section 1161 of the Code of Civil Procedure is amended to read:

1161. A tenant of real property, for a term less than life, or the executor or administrator of his or her estate



heretofore qualified and now acting or hereafter to be qualified and act, is guilty of unlawful detainer:

1. When he or she continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to him or her; provided such expiration is of a nondefault nature however brought about without the permission of his or her landlord, or the successor in estate of his or her landlord, if any there be; including the case where the person to be removed became the occupant of the premises as a servant, employee, agent, or licensee and the relation of master and servant or employer and employee or principal and agent or licensor and licensee has been lawfully terminated or the time fixed for such occupancy by the agreement between the parties has expired; but nothing in this subdivision contained shall be construed as preventing the removal of such occupant in any other lawful manner; but in case of a tenancy at will, it must first be terminated by notice, as prescribed in the Civil Code.

2. When he or she continues in possession, in person or by subtenant, without the permission of his or her landlord, or the successor in estate of his or her landlord, if any there be, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, in writing, requiring its payment, stating the amount which is due, or possession of the property, shall have been served upon him or her and if there is a subtenant in actual occupation of the premises, also upon such subtenant.

Such notice may be served at any time within one year after the rent becomes due. In all cases of tenancy upon agricultural lands, where the tenant has held over and retained possession for more than 60 days after the expiration of the term without any demand of possession or notice to quit by the landlord or the successor in estate of his or her landlord, if any there be, he or she shall be deemed to be holding by permission of the landlord or successor in estate of his or her landlord, if any there be, and shall be entitled to hold under the terms of the lease



for another full year, and shall not be guilty of an unlawful detainer during that year, and the holding over for that period shall be taken and construed as a consent on the part of a tenant to hold for another year.

3. When he or she continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, in writing, requiring the performance of such conditions or covenants, or the possession of the property, shall have been served upon him or her, and if there is a subtenant in actual occupation of the premises, also, upon the subtenant. Within three days after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture; provided, if the conditions and covenants of the lease, violated by the lessee, cannot afterward be performed, then no notice, as last prescribed herein, need be given to said lessee or his or her subtenant, demanding the performance of the violated conditions or covenants of the lease.

A tenant may take proceedings, similar to those prescribed in this chapter, to obtain possession of the premises let to a subtenant or held by a servant, employee, agent, or licensee, in case of his or her unlawful detention of the premises underlet to him or her or held by him or her.

4. Any tenant, subtenant, or executor or administrator of his or her estate heretofore qualified and now acting, or hereafter to be qualified and act, assigning or subletting or committing waste upon the demised premises, contrary to the conditions or covenants of his or her lease, or maintaining, committing, or permitting the maintenance or commission of a nuisance upon the demised premises or using such premises for an unlawful purpose, thereby terminates the lease, and the landlord,



or his or her successor in estate, shall upon service of three days' notice to quit upon the person or persons in possession, be entitled to restitution of possession of the demised premises under this chapter. For purposes of this subdivision, a person who illegally sells a controlled substance upon the premises or uses the premises to further that purpose, shall be deemed to have committed a nuisance upon the premises.

5. When he or she gives written notice as provided in Section 1946 of the Civil Code of his or her intention to terminate the hiring of the real property, or makes a written offer to surrender which is accepted in writing by the landlord, but fails to deliver up possession at the time specified in that written notice, without the permission of his or her landlord, or the successor in estate of the landlord, if any there be.

As used in this section, tenant includes any person who hires real property except those persons whose occupancy is described in subdivision (b) of Section 1940 of the Civil Code.



Approved _____, 1996

Governor

