

**RESOLUTION 09-08-06**

**DIGEST**

Illegal Drugs: Transportation for Personal Use

Adds Health and Safety Code section 11379.1 to differentiate between the transportation of certain drugs intended for personal use and the transportation of larger quantities for sale.

**TEXT OF RESOLUTION**

RESOLVED, that the Conference of Delegates of California Bar associations recommend that legislation be sponsored to add Health and Safety Code Section 11379.1 to read as follows:

1    §11379.1  
2    Except as otherwise provided in subdivision (b) and in Article 7 (commencing with Section  
3    4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who  
4    transports, or offers to transport, any controlled substance which is (1) classified in Schedule  
5    III, IV, or V and which is not a narcotic drug, except subdivision (g) of Section 11056, (2)  
6    specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), (20), (21),  
7    (22), and (23) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of  
8    Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or  
9    (5) specified in subdivision (d) or (e), except paragraph (3) of subdivision (e), or specified in  
10   subparagraph (A) of paragraph (1) of subdivision (f), of Section 11055, unless upon the  
11   prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this  
12   state, shall be punished by imprisonment in the state prison or in the county jail for a period  
13   not to exceed one year.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Bar Association of Ventura County

**STATEMENT OF REASONS**

Existing Law: Transportation (defined as any movement) of any quantity of a diverse group of specified controlled substances is punished the same as actual sale. Thus, one could conceivably go to prison for the same four year term for simply driving around with a Valium pill as one could for selling methamphetamine. (Health & Safety Code, § 11379.) The hypothetical person is then subject to a potential three year enhancement on a subsequent conviction based upon this conduct. (Health & Safety Code, § 11370.2.)

This resolution: Recognizes that there is a difference between people who transport small amounts of drugs that they intend to use themselves and people who sell or transport larger quantities of drugs designated ultimately for sale or furnishing to others. This resolution treats those classes of people differently both in the current prosecution and in future, as it removes the offense from the list of those that are “priorable” (Health & Safety Code, § 11370.2).

The Problem: The ever-evolving drug landscape has evolved past the point where laws that made good sense years back no longer fit current situations. To punish someone for driving around with a small quantity of drugs that are intended to be used by the transporter the same as a drug dealer defies conventional wisdom. The time has come to treat the two differently.

The methamphetamine dealer should be treated differently than the person driving away from the dealer's house with their small purchase. This new law recognizes that.

In accordance with CDCBA rules, VCBA timely offers this resolution for consideration. Consistent with traditional CDCBA practice, the Proponent reserves the right to timely withdraw or amend the resolution.

#### IMPACT STATEMENT

This resolution would affect Sections 11379 and 11370.2 by exempting quantities determined to be "for personal use" from the penal dictates of those sections.

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