

Amended Mock-up for 2023-2024 AB-2336 (Villapudua (A))

**Mock-up based on Version Number 98 - Amended Assembly 3/12/24
Submitted by: Staff Name, Office Name**

CORRECTED

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11370.1 of the Health and Safety Code is amended to read:

11370.1. (a) (1) Notwithstanding Section 11350 or 11377 or any other provision of law, **and except as provided in subdivision (2)**, every person who unlawfully possesses any amount of a substance containing cocaine base, a substance containing cocaine, a substance containing heroin, a substance containing methamphetamine, a substance containing fentanyl, a crystalline substance containing phencyclidine, a liquid substance containing phencyclidine, plant material containing phencyclidine, or a hand-rolled cigarette treated with phencyclidine while armed with a loaded, operable firearm is guilty of a felony punishable by imprisonment in the state prison for two, three, or four years.

(2) Where the substance possessed pursuant to paragraph (1) is one containing fentanyl, the person must have knowledge that the specific controlled substance possessed is fentanyl.

(b) Subdivision (a) does not apply to a person lawfully possessing fentanyl, including with a valid prescription.

(c) As used in subdivision (a), “armed with” means having available for immediate offensive or defensive use.

(d) A person who is convicted under this section shall be ineligible for diversion or deferred entry of judgment under Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.