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Crimes Review of Selected 1970 California Legislation

University of the Pacific; McGeorge School of Law

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Crimes

Commencement of Actions

Penal Code §§799, 800 (amended).

AB 1642; STATS 1970, Ch 704

Kidnapping for ransom, extortion or robbery (*Section 209*) no longer has a statute of limitations. The statute of limitations for forgery now begins to run from the discovery of the crime, rather than from the commission of the crime.

Section 800 provides the time limitations for bringing an indictment or filing an information for any felony except certain more serious offenses as enumerated in the section. As a general rule, an indictment must be brought, an information filed, or a case certified to the superior court within three years after the commission of any felony. The exceptions to this rule are:

- 1) There is no time limit on murder, the embezzlement of public money or falsification of public records. This amendment adds a Section 209 violation (*kidnapping for ransom, extortion, or robbery*) to this provision repealing the statute of limitations on prosecution of this type of kidnapping.
- 2) The time limit for the acceptance of a bribe by a public official or a public employee is six years from commission of the crime. There is no change here.
- 3) The time limit for grand theft or forgery is three years after *discovery* of the crime. This provision originally applied only to grand theft. This amendment now allows a person to be prosecuted for forgery up to three years after *discovery* of the crime, rather than three years from *commission* of the crime.

References:

- 1) 1 WITKIN, CALIFORNIA CRIMES, *Defenses* §235 (1963).
- 2) CONTINUING EDUCATION OF THE BAR, REVIEW OF SELECTED 1969 CODE LEGISLATION 165.

Murder of Fetus

Penal Code §187 (amended).

AB 816; STATS 1970, Ch 1311

Chapter 1311 amends California Penal Code Section 187, relating to murder.

This amendment marks the first change in California's basic murder statute since its enactment in 1872. The amended Section now provides that a fetus may be the subject of murder, though the statute does not define fetus as a human being.

This amendment was enacted in response to a June 1970 decision of the California Supreme Court (*Keeler v. Superior Court*, 2 Cal. 3d 619) which held that when the California Legislature enacted the original statute it did not intend to include a fetus within the purview of the statute. This holding was on the basis of the common law rule at the time the statute was enacted, and the early legislature's declarations to the effect that the common law was the rule of decision in California. The court held that to change the interpretation of the statute at this late date would deprive a defendant of due process of law.

The new statute does not extend to manslaughter cases. In addition, the Section itself contains three exceptions. The first excepts abortions performed pursuant to the Therapeutic Abortion Act (*Chapter II, Division 20, commencing with Section 25950, of the Health and Safety Code*).

The second exception was inserted by the author of the legislation in response to the California Supreme Court decision in *People v. Belous*, [80 Cal. Rptr. 354 (1969)]. That case held California's criminal abortion statute unconstitutional, saying that permitting an abortion only "where necessary to preserve the life of the mother" did not offer sufficient guidance to the doctor performing the abortion as to whether or not he was acting within the law. It thus violated his rights to due process to be convicted under the law so worded. The *Belous* court did suggest language they thought might be appropriate and constitutional, and this language was paraphrased in the second exception to the legislation. The exception allows for an abortion to be performed without being classified as murder when the abortion is performed under circumstances where there is medical certainty the result of childbirth would be death of the mother or the fetus or where her death from childbirth, although not medically certain, would be substantially certain or more likely than not. [*Section 187 (b) (2)*].

The third exception is where the act was solicited, aided, abetted, or consented to by the mother of the fetus. [*Section 187 (b) (3)*].

The effect of this amendment is that whenever acts otherwise sufficient to constitute murder result in the death of a fetus, at any point after conception, the one committing the acts may be tried and convicted for murder. Previously, a murder conviction could not have been ob-

tained unless the child had been born alive and then died from the injuries inflicted. [See Atkinson, *Life, Birth and Live-Birth*, LAW QUARTERLY REV. 134 (1904)]

Assault With Deadly Weapon; penalties, definition of peace officer

Penal Code §245 (amended).

SB 84; STATS 1970, Ch 796

As amended subdivision (a) of Section 245 prescribes the punishment for "every person who commits an assault with a deadly weapon or instrument or by any means of force likely to produce great bodily injury" as imprisonment in the state prison for six months to life, or in county jail not to exceed one year or a fine of \$5,000 or both. Formerly the period of imprisonment was not to exceed 10 years.

The amendment to subdivision (b) of Section 256 changes the punishment for this type of assault when committed upon a peace officer or fireman by any person who knows or reasonably should know that the victim is a peace officer or fireman engaged in the performance of his duties. The punishment is now prescribed as a sentence in the state prison for six months to life rather than the former maximum of 15 years.

By amendment in 1961 subdivision (b) was added to Section 245 prescribing the punishment as a maximum of 10 years. In 1965 this was amended to not exceed a period of imprisonment of 15 years. For a subsequent offense the sentence prescribed was from 5 years to life rather than the previous period of not less than five years nor more than 15 years.

By amendment in 1966 firemen were added to subdivision (b) resulting in equal punishment for assault on a peace officer or fireman.

This amendment also expands the definition of peace officer to include each member of a state college police department and each member of a security patrol of a school district, both appointed respectively pursuant to Education Code Sections 24651 and 15832.

Reference:

- 1) 3A MCKINNEY'S CAL. DIG. *Assault and Battery* §§16-42 (1963).

Solicitation

Penal Code §653f (amended).

AB 953; STATS 1970, Ch 682

Section 653f is expanded to include within the statutory crime of solicitation any solicitation to commit assault with a deadly weapon, or any assault perpetrated by means of force or violence likely to produce great bodily harm.

Formerly the statute made no provision for a solicitation to commit assault with a deadly weapon. Since all crimes in California are statutory, a person who solicited another to commit an assault committed no crime if the solicitation was refused (if it was accepted he might be prosecuted for conspiracy; if the assault was completed, he might be liable as a principal).

This Section is also amended to provide a more stringent penalty for anyone convicted of the crime of solicitation, whether for solicitation of assault with a deadly weapon or for solicitation of the crimes previously codified. Any solicitation now enumerated under this provision is punishable by imprisonment in the county jail for up to a year, in state prison for up to 5 years, or by a fine up to \$5,000, or both fine and imprisonment. Previously, the punishment was *either* fine or imprisonment.

This legislation was sponsored by the California District Attorneys Association and the California Peace Officers Association.

References:

- 1) 1 WITKINS, CALIFORNIA CRIMES, *Elements of Crime* §76 (1963).
- 2) Annot., 51 A.L.R.2d 953 (1957).

Obscene Matter; live conduct

Penal Code §§311, 311.6, 312.1 (amended).

SB 806; STATS 1970, Ch 1072

This amendment to Penal Code Section 311 adds live conduct which is adjudged to be obscene to that conduct outlined as punishable in the Penal Code.

Prior to the amendment, which was sponsored by the Attorney General's Office and the Peace Officers Association, the only code section dealing specifically with live conduct was Penal Code Section 311.6 prohibiting vocalization of obscene songs.

The amendment to Section 311 adds paragraph (g) to specifically define obscene live conduct as any physical human body activity whether performed or engaged in alone or with other persons, including but not limited to singing, speaking, dancing, acting, simulating, or pantomiming, where taken as a whole, the predominant appeal of which to the average person, applying contemporary standards, is to the prurient interest; goes beyond customary limits of candor; and is utterly without redeeming social importance.

Section 311.6 is amended to provide that anyone who knowingly engages or participates in, manages, produces, sponsors, presents or exhibits obscene live conduct to or before an assembly or audience consisting of at least one person or spectator in any public place or in any place exposed to public view, or in any place opened to the public whether or not an admission fee is charged, or whether a membership card is required is guilty of a misdemeanor.

Section 312.1 was amended to provide that in any obscenity prosecution neither the prosecution nor the defense shall be required to introduce expert witness testimony concerning the obscene or harmful character of the matter or live conduct which is the subject of any such prosecution. The reference to live conduct was included pursuant to this amendment.

References:

- 1) *Dixon v. Municipal Court of City and County of San Francisco*, 276 CAL. APP. 2d 789 (1968).
- 2) 1 WITKIN, CALIFORNIA CRIMES, *Crimes Against Decency and Morals* §§550, 551 (1963).

Distribution of Harmful Matter to Minors

Penal Code §§313.1, 313.2 (amended).

AB 905; STATS 1970, Ch 257

Section 313.1 of the Penal Code deals with distribution or exhibition of harmful matter to minors. Harmful (obscene) matter is defined under Section 313 and embodies the definition expressed by the U.S. Supreme Court in *Roth v. U.S.*, [354 U.S. 476 (1957)] modified by *A Book, etc. v. Attorney General (Fanny Hill)*, [383 U.S. 413 (1966)] and applied to minors in *Mishkin v. New York*, [383 U.S. 502 (1966)].

This Section is amended to provide that any person who misrepresents himself as the parent or guardian of a minor thereby causing the minor to be admitted to an exhibition of harmful (obscene) matter is

guilty of a misdemeanor. Section 313.2 was redrafted and creates an exception to Section 313.1 by providing that a parent or guardian will not be liable for permitting his child or ward to attend any exhibition of harmful matter so long as the parent or guardian accompanies the minor; that one who exhibits harmful matter to a minor shall not be guilty of a misdemeanor if the minor is accompanied by his parent or guardian; or if an adult accompanies a minor and represents himself to be the parent or guardian of the minor, the exhibitor will not be liable so long as the exhibitor has no reason to know that such representations are false.

Reference:

- 1) Comment, *Selected 1960-1961 California Legislation*, 36 CAL. S.B.J. 795 (1961).

Disruption of Judicial Proceedings; picketing and parading

Penal Code §169 (new).

AB 2174; STATS 1970, Ch 1411

SB 1416; STATS 1970, Ch 1444

This Act adds a new section to the Penal Code which is intended to prevent the disruption of court proceedings.

Section 169 makes it a misdemeanor for a person to picket or parade in or near a building which houses a court of this state with the intent to interfere with, obstruct, or impede the proceedings, or to influence a judge, juror, witness, or officer of the court in the discharge of his official duties.

Presently, California statutes prohibit various types of conduct which might be defined as "speech and assembly"; i.e., being on posted property without written permission of the owner (*Penal Code Section 555*), disturbance of the peace on colleges and universities (*Penal Code Section 415.5*) or disturbance of the peace in general (*Penal Code Section 416*).

A long tradition of U.S. Supreme Court cases have reasoned that peaceful picketing or parading is the kind of conduct within the parameters of the first amendment protection [*Thornhill v. Alabama*, 310 U.S. 88 (1940)].

However, the Court has held that a state has a legitimate interest in protecting its judicial system from the pressures which picketing near a court house might create. This reasoning was part of the Court's decision in *Cox v. Louisiana* [379 U.S. 559 (1965)] which *inter alia* re-

versed a conviction of demonstrators charged with court house picketing. To understand the applicability of the *Cox* case to new Section 169 of the Penal Code the Louisiana law should be compared. Modeled after a 1950 Congressional Act (18 U.S.C. §1507) it provided:

“Whoever, with intent of interfering with, obstructing, or impeding the administration of justice, or with the intent of influencing any judge, juror, witness or court officer, in the discharge of his duty pickets or parades in or near a building housing a court of the State of Louisiana . . . shall be fined not more than five thousand dollars or imprisoned not more than one year or both.” [La. Rev. Stats. §14.40 (Cum. Supp. 1970)].

There is remarkable similarity between the California and Louisiana laws particularly the phrase “pickets or parades in or near a building housing a court”.

The court referred to the Louisiana statute as “. . . a precise, narrowly drawn regulatory statute which proscribes certain specific behavior” and valid on its face. However, the Court reversed the conviction under this statute because the defendant was convicted of picketing near the courthouse after being given permission by enforcement officers to hold a demonstration in the location. The Court reasoned that the term “near” did not render the statute void for vagueness in contravention of the due process clause of the 14th amendment but gave limited discretion to the officers, which once acted on by permitting a demonstration, justified the conclusion on the part of the demonstrators that their conduct was valid. Hence, the subsequent dispensal order and consequential arrests served as “an indefensible sort of entrapment.” Therefore, taking the *Cox* decision on its face, it would appear that Section 169 is a valid exercise of state authority absent a factual situation like the *Cox* case.

This Act was adopted as an emergency statute declaring that the administration of justice is being threatened because of the extent to which such picketing and parading is disrupting the proceedings and influencing the court.

Reference:

- 1) 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Constitutional Law* §60A (Supp. 1969);
2 WITKIN, SUMMARY OF CALIFORNIA LAW, *Torts* §183 (7th ed. 1960).

Influencing Witnesses

Penal Code §137 (amended).

AB 1428; STATS 1970, Ch 353

This amendment specifies that force or the threat of force to influence testimony constitutes a felony.

Under current law anyone who gives, offers or promises a bribe to a witness in any trial with any understanding that the testimony will be influenced by the bribe is guilty of a felony. In addition, anyone who "by any other means fraudulently" attempts to induce a person to give false or withhold true testimony is guilty of a felony.

The use of the word "fraudulently" could mean the use of any means to perpetrate a fraud upon courts through false testimony, in which case "force or the threat of force" would be proscribed by the statute. But the word "fraudulently" could also mean the use of fraud upon the witness to obtain the wrong testimony, in which case "force or the threat of force" may not be included. This amendment clarifies the ambiguity by specifically stating that the use of force or threat of force to influence testimony is a felony.

"Threat of force" is defined to mean a credible threat of unlawful injury to any person or his property which is communicated to a person to induce him to give false or withhold true testimony.

References:

- 1) CAL. GOV'T. CODE §§9400 *et seq.*; CAL. PEN. CODE §§127, 128, 653f.
- 2) 2 WITKIN, CALIFORNIA CRIMES, *Crimes Against Governmental Authority* §§800, 808, 809, 815 *et seq.* (1963).

Disclosure of Residence or Telephone Number of Peace Officers

Penal Code §146e (new).

AB 1951; STATS 1970, Ch 1143

Section 146e is added to the Penal Code to provide that every person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence of any peace officer without the authorization of the agency which employs such peace officer, is guilty of a misdemeanor.

Littering

Health and Safety Code §13002 (amended); Penal Code §§374, 1463.9 (new); 374b, 374e, 853.6 (amended); Public Resources Code §5008.7 (new); Vehicle Code §§42001.7 (new); 1803, 23111, 40512, 40512.5 (amended).

SB 902; STATS 1970, Ch 1548

This Chapter amended Sections of and added Sections to the Health and Safety Code, the Penal Code, the Public Resources Code, and the Vehicle Code relating to littering.

Section 13002 of the Health and Safety Code prevented throwing or discharging of flaming or glowing substances in certain instances. The Section is amended to make it a misdemeanor to throw a lit or unlit cigarette, cigar, match, or any substance which might cause a fire upon any public or private property. Private property owners may use their property as they wish so long as they do not create a public nuisance, or a health, safety, or fire hazard, as determined by a local health or fire department, or the Division of Forestry.

Penal Code Sections 374 and 374b make it a misdemeanor to dump litter, trash or garbage in public or private places. Public and private dumps are exempted, as are private property owners who litter their own property. The Chapter amended Section 374b by restricting private property owners from dumping refuse on their property if they create a public health, safety, or fire hazard determined as above.

Vehicle Code Section 23111 makes it a misdemeanor to throw any flaming or glowing substance from a vehicle onto a private or public road, or adjacent areas, when the vehicle is outside of a business or residential area. The amendment adds "a nonlighted cigarette" and "match" to the statute. The Chapter makes the act a misdemeanor even if committed within a business or residential area.

The Chapter extensively amends and conforms the penal consequences for violation of the various codes affected. Punishment for a violation can be up to 6 months in the county jail and/or up to \$500. The Chapter strikes the possibility of a jail sentence and sets a minimum mandatory fine for first, second, and third offenses at \$10, \$25, and \$50. There is still a maximum fine of \$500. In addition to the fine, the court may require second or subsequent offenders to pick up litter for four hours, and third or subsequent offenders for eight hours. Further, second and third offenders may not forfeit bail in lieu of appearing in court and, absent undue hardship, they must appear in court.

The Chapter requires conviction of these littering offenses to be filed with the Department of Motor Vehicles. Further, half of the fines collected will be returned to the offended city or county to be used for litter cleanup activities.

Penal Code Section 374 defines "littering" as the willful or negligent throwing, dropping, placing, depositing, or sweeping, or causing any such acts, of any waste matter on land or water in other than appropriate storage containers or areas designated for such purposes. "Waste matter" is defined as any discarded, used, or left over substance, including cigarettes, matches, garbage, trash, any nauseous or offensive matter, and anything likely to injure someone or create a traffic hazard.

Vagrancy

Penal Code §653g (amended).

SB 1385; STATS 1970, Ch 977

Section 653g is amended by this Chapter to add a definition of the term loiters.

Section 653g provides that every person who loiters about any school or public place at or near which children attend or normally congregate is a vagrant, and if convicted is guilty of a misdemeanor.

Loiter means to delay, linger, or to idle about any such school or public place without a lawful purpose for being present.

References:

- 1) 39 OPS. ATTY. GEN. 304 (1962).
- 2) CONTINUING EDUCATION OF THE BAR, REVIEW OF SELECTED 1967 CODE LEGISLATION 185.
- 3) Mask, *Eighth Amendment Rediscovered*, 1 LOYOLA L. REV. 4 (1968); Cuomo, *Mens Rea and Status Criminality*, 40 S. CAL. L. REV. 463 (1967).

Trespass

Penal Code §602 (amended).

SB 551; STATS 1970, Ch 1607

The acts which constitute criminal trespass are enumerated in Section 602 of the Penal Code. Subdivision (1) prohibits the "entering *and* occupying real property or structures of any kind without the consent of the owner, his agent, or the person in lawful possession thereof." A recent California case (*People v. Wilkinson*, 248 Cal. App. 2d Supp. 906) held that "occupying" meant a non-transient, continuous type of

possession, and therefore, camping for a few days without the consent of the owner could not constitute a criminal trespass under Section 602. The original version of the bill used the word "camping" (as well as hiking, loitering and sleeping). However, the final version left "occupy" in Subdivision (1) of the code section.

Another California case, *People v. Brown*, (236 Cal. App. 2d Supp. 915) has held that nothing in Section 602 made the refusal to leave upon request of the owner or possessor *after lawful entry* a criminal act. This amendment adds subdivision (n) to Section 602 which specifically declares that a person "refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by a peace officer and the owner, his agent, or the person in lawful possession thereof" is guilty of a misdemeanor. It appears from the language used in this amendment that a person could enter property for purposes of camping, hiking, etc., without the intent to "occupy" under the *Wilkinson* case and not commit an act proscribed by this Section. However refusing to leave upon the request of a officer *and* the owner, his agent, or a person in lawful possession whether entry is for camping, hiking, (lawful under *Wilkinson*) or after other "lawful" entry now constitutes a violation of this Section and reverses *People v. Brown*.

In addition to the above change, subdivision (m) of Section 602 makes the driving of a vehicle (*any device capable of propelling or moving a person or property upon a highway with power derived from other than a person; Vehicle Code Section 670*) on the land belong-to or lawfully occupied by another "known not to be open to the general public" without his consent a criminal trespass.

Reference:

- 1) 43 CAL. JUR. 2d *Trespass* §19 (1959).

Traffic Devices; punishment for defacing

Vehicle Code §21464 (amended).

SB 307; STATS 1970, Ch 810.

Section 21464 is amended to provide that the willful defacing of any official traffic control sign is punishable by imprisonment in a state prison for not more than five years or a county jail for not more than six months if the violation results in injury to or the death of a person.

The Section, as it existed before the amendment, made no specific provision for punishment for violation and was punishable as a misdemeanor under Section 40000 of the Vehicle Code.

Abuse of Animals

Penal Code §597t (new).

SB 500; STATS 1970, Ch 1112

Section 597t provides that every person who keeps an animal confined in an enclosed area without providing the animal with an adequate exercise area and restricts the animal by a leash, rope, or chain affixed in such manner that it will prevent the animal from becoming entangled or injured and permit its access to adequate shelter, food, and water is guilty of a misdemeanor. Expressly excepted from this provision are animals in transit in a vehicle or in the immediate control of a person.

Possession of Weapons

Penal Code §12021 (amended).

SB 1415; STATS 1970, Ch 1345

(Effective September 17, 1970)

The amendment to Section 12021 establishes a limitation on the scope of the Section. Prior to this amendment Section 12021 provided that persons convicted of a felony under the law of any state or the United States, or who are addicted to the use of narcotics are guilty of a public offense if they owned or were in possession, custody or control of any firearm capable of being concealed on their person.

By amendment this Section shall not apply to a person convicted of a felony under the laws of any state or the United States unless the conviction of a like offense in California could only result in imposition of felony punishment, or the defendant had been sentenced to a federal correctional facility for more than 30 days or received a fine of more than \$1,000 or both such punishments. This Act was an urgency statute.

Prisoners; escape, punishment

Penal Code §4530 (amended).

AB 1644; STATS 1970, Ch 570

Penal Code Section 4530 is amended to provide that any willful fail-

ure by a prisoner to return to the place of confinement will result in imprisonment from six months to five years if the prisoner is subsequently convicted of escaping. Any such conviction under this new provision which does not involve force or violence cannot be charged as a prior felony in any subsequent prosecution for another public offense.

Generally, Penal Code Section 4530 concerns state prison inmates who escape from a state prison or any type of prison camp or farm while in custody of prison officials.

If a prisoner is convicted of an escape by force or violence, the offense is punishable by imprisonment in a state prison for not less than one year. If the escape is without force or violence, then the sentence is imprisonment for a term of not less than six months nor more than five years. These terms commence from the time he would have otherwise been released from prison.

The above provisions are current law and have not been amended by this chapter.

Previously the law made no provision for any willful failure of a prisoner to return to the place of confinement after he had been temporarily released. (Temporary releases are pursuant to *Sections 2690, 2910, or 6254 of the Penal Code* or *Section 3306 of the Welfare and Institutions Code*.) Generally, these Sections allow release for such reasons as employment, education, work in and around the prison, and medical research which cannot be performed at the prison.

Reference:

- 1) 2 WITKIN, CALIFORNIA CRIMES, *Crimes Against Governmental Authority* §865 (1963), (Supp. 1969).

Public Assistance; fraud in obtaining aid

Welfare and Institutions Code §11483 (amended).

AB 48; STATS 1970, Ch 693

This amendment imposes imprisonment in the county jail for a period of not more than six months, a fine of five hundred dollars (\$500), or both, if one is convicted of fraudulently obtaining any government aid for a child not in fact entitled thereto if the amount so obtained is two hundred dollars (\$200) or less. If the amount obtained is more than two hundred dollars (\$200), the defendant shall be imprisoned in the state prison for not less than one year nor more than 10 years or be imprisoned in the county jail for not more than one year. In addition, actions to obtain restitution shall be brought against the defendant.

Prior to this amendment a welfare agency's only recourse in cases where aid to children was given as a result of fraud was to seek recovery of the money by an action for restitution.

(See also *Section 11482* which pertains to one who willfully and knowingly makes false representations to obtain aid.)

References:

- 1) 12 OPS. ATTY. GEN. 83 (1948).
- 2) 18B MCKINNEY'S CAL. DIG. *Paupers* (1954); West Key Number 194 *Social Security and Public Welfare*.

Motor Vehicles; operation under influence of dangerous drugs

Vehicle Code §23108 (amended).

AB 1963; STATS 1970, Ch 1370

Section 23108 of the Vehicle Code provides that injury accidents resulting from driving a vehicle under the influence of drugs, other than a narcotic (*Health and Safety Code Section 11001*) is a felony. Upon conviction of such felony, the driver's license of the convicted person must be suspended pursuant to Section 13350 subsection (e) of the Vehicle Code. Punishment for such conviction shall be not less than one year nor more than five years in the state prison or in the county jail for not less than 90 days nor more than one year, or by fine of not less than two hundred dollars (\$200) nor more than five thousand dollars (\$5000) or by both such fine and imprisonment.

Prior to the amendment, drug meant any dangerous drug as listed in Section 4211 of the Business and Professions Code. The amendment added any drug listed in the provisions of Section 11901 of the Health and Safety Code.

Vessels and Water Sport Devices; operation restriction

Harbors and Navigation Code §655 (amended).

SB 183; STATS 1970, Ch 402

Section 655 of the Harbors and Navigation Code provides standards of conduct for those operating any motorboat or vessel and for those manipulating any water skis, aqua plane, or other similar device.

Previously, this section prohibited one from operating or manipulating any of the above while under the influence of intoxicating liquor or under the influence of any narcotic drug, barbituate, or marijuana.

Crimes

This Section is amended to include any narcotic as defined in Section 11001 of the Health and Safety Code and also inserts a provision against operating any of the above while under the influence of any restricted dangerous drug as defined in Section 11901 of the Health and Safety Code. Sections 11001 and 11901 specifically enumerate all illegal drugs.