

CAN ONE LEGALLY BE PROSECUTED IN CALIFORNIA FOR BEING UNDER THE INFLUENCE OF MDMA (ECSTASY)

By Ronald Richards

California's under the influence statute only prohibits the ingestion and use of certain enumerated controlled substances. Specifically, substances that are stimulants, opiates, and other analgesics. California does not punish the use of many hallucinogens that affect the Central Nervous System "CNS". The reason for this goes back many years. Some types of drugs are hard to prove a present effect to the CNS while others are natural products and they are not controlled substances. Marijuana, the most widely used controlled substance in the state, does not contain an under the influence corollary under the statute. The statute with respect to schedule one substances states, (a) No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, Specifically, the hallucinogen section of 11054(d)(14)-(15), (21)-(23), only prohibit (14) Mescaline. (15) Peyote?? Meaning all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (interprets > 21 U.S.C. Sec. 812(c), Schedule 1(c)(12)). (21) Ethylamine analog of phencyclidine?? Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE. (22) Pyrrolidine analog of phencyclidine?? Some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine, PCPy, PHP. (23) Thiophene analog of phencyclidine?? Some trade or other names: 1-[1-(2-thienyl)cyclohexyl]piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP. Another fact most people not aware of is that MDMA is not schedule in California. Therefore, it is impossible for it to be illegal to be under the influence of. However, there is a close relative of MDMA which is MDA. (11054(4) H & S) (4) 5-methoxy-3,4-methylenedioxyamphetamine. Since MDA is not listed as one substance that is not illegal to use, it is axiomatic that MDMA is not illegal either. LSD, PSILOCYBIN (mushrooms), and Marijuana are all not illegal to use, just to possess.

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