

**ASSEMBLY BILL**

**No. 2158**

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**Introduced by Assembly Member Wagner**

February 23, 2012

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An act to amend Section 12022.6 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2158, as introduced, Wagner. Sentencing: enhancements.

Existing law requires that when any person takes, damages, or destroys any property in the commission or attempted commission of a felony, with the intent to cause that taking, damage, or destruction, the court shall impose an additional term of imprisonment based on the amount of the loss.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

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

- 1 SECTION 1. Section 12022.6 of the Penal Code is amended  
2 to read:  
3 12022.6. (a) When ~~any~~ a person takes, damages, or destroys  
4 any property in the commission or attempted commission of a  
5 felony, with the intent to cause that taking, damage, or destruction,  
6 the court shall impose an additional term as follows:  
7 (1) If the loss exceeds sixty-five thousand dollars (\$65,000),  
8 the court, in addition and consecutive to the punishment prescribed

1 for the felony or attempted felony of which the defendant has been  
2 convicted, shall impose an additional term of one year.

3 (2) If the loss exceeds two hundred thousand dollars (\$200,000),  
4 the court, in addition and consecutive to the punishment prescribed  
5 for the felony or attempted felony of which the defendant has been  
6 convicted, shall impose an additional term of two years.

7 (3) If the loss exceeds one million three hundred thousand  
8 dollars (\$1,300,000), the court, in addition and consecutive to the  
9 punishment prescribed for the felony or attempted felony of which  
10 the defendant has been convicted, shall impose an additional term  
11 of three years.

12 (4) If the loss exceeds three million two hundred thousand  
13 dollars (\$3,200,000), the court, in addition and consecutive to the  
14 punishment prescribed for the felony or attempted felony of which  
15 the defendant has been convicted, shall impose an additional term  
16 of four years.

17 (b) In any accusatory pleading involving multiple charges of  
18 taking, damage, or destruction, the additional terms provided in  
19 this section may be imposed if the aggregate losses to the victims  
20 from all felonies exceed the amounts specified in this section and  
21 arise from a common scheme or plan. All pleadings under this  
22 section shall remain subject to the rules of joinder and severance  
23 stated in Section 954.

24 (c) The additional terms provided in this section shall not be  
25 imposed unless the facts of the taking, damage, or destruction in  
26 excess of the amounts provided in this section are charged in the  
27 accusatory pleading and admitted or found to be true by the trier  
28 of fact.

29 (d) This section applies to, but is not limited to, property taken,  
30 damaged, or destroyed in violation of Section 502 or subdivision  
31 (b) of Section 502.7. This section shall also apply to applicable  
32 prosecutions for a violation of Section 350, 653h, 653s, or 653w.

33 (e) For the purposes of this section, the term “loss” has *both of*  
34 the following meanings:

35 (1) When counterfeit items of computer software are  
36 manufactured or possessed for sale, the “loss” from the  
37 counterfeiting of those items shall be equivalent to the retail price  
38 or fair market value of the true items that are counterfeited.

39 (2) When counterfeited but unassembled components of  
40 computer software packages are recovered, including, but not

1 limited to, counterfeited computer diskettes, instruction manuals,  
2 or licensing envelopes, the “loss” from the counterfeiting of those  
3 components of computer software packages shall be equivalent to  
4 the retail price or fair market value of the number of completed  
5 computer software packages that could have been made from those  
6 components.

7 (f) It is the intent of the Legislature that the provisions of this  
8 section be reviewed within 10 years to consider the effects of  
9 inflation on the additional terms imposed. For that reason this  
10 section shall remain in effect only until January 1, 2018, and as of  
11 that date is repealed unless a later enacted statute, which is enacted  
12 before January 1, 2018, deletes or extends that date.