

AMENDED IN ASSEMBLY APRIL 23, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 144

Introduced by Assembly Member Mathis

January 13, 2015

An act to amend Section 374.3 of the Penal Code, relating to dumping.

LEGISLATIVE COUNSEL'S DIGEST

AB 144, as amended, Mathis. Dumping.

Existing law prohibits dumping waste matter in or upon a public or private highway or road, or in or upon private property into or upon which the public is admitted by easement or license, or upon private property without the consent of the owner, or in or upon a public park or other public property. A violation of these provisions is an infraction punishable by a fine between \$250 and \$1,000 for a first conviction, between \$500 and \$1,500 for a 2nd conviction, and between \$750 and \$3,000 for a 3rd or subsequent conviction.

This bill would make dumping waste matter on private property, including on any private road or highways, without the consent of the owner a misdemeanor punishable by imprisonment in a county jail for not more than 30 days and by *punishable by* a fine between \$250 and \$1,000 for a first conviction, between \$500 and \$1,500 for a 2nd conviction, and between \$750 and \$3,000 for a 3rd or ~~subsequent~~ conviction. *The bill would make a fourth or subsequent conviction a misdemeanor punishable by imprisonment in a county jail for not more than 30 days and by a fine of not less than \$750 nor more than \$3,000.*

By changing the definition of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 374.3 of the Penal Code is amended to
2 read:

3 374.3. (a) It is unlawful to dump or cause to be dumped waste
4 matter in or upon a public highway or road, including any portion
5 of the right-of-way thereof, or in or upon private property into or
6 upon which the public is admitted by easement or license, or in or
7 upon a public park or other public property other than property
8 designated or set aside for that purpose by the governing board or
9 body having charge of that property.

10 (b) It is unlawful to place, deposit, or dump, or cause to be
11 placed, deposited, or dumped, rocks, concrete, asphalt, or dirt in
12 or upon a private highway or road, including any portion of the
13 right-of-way of the private highway or road, or private property,
14 without the consent of the owner or a contractor under contract
15 with the owner for the materials, or in or upon a public park or
16 other public property, without the consent of the state or local
17 agency having jurisdiction over the highway, road, or property.

18 (c) A person violating subdivision (a) or (b) is guilty of an
19 infraction. Each day that waste placed, deposited, or dumped in
20 violation of subdivision (a) or (b) remains is a separate violation.

21 (d) This section does not restrict a private owner in the use of
22 his or her own private property, unless the placing, depositing, or
23 dumping of the waste matter on the property creates a public health
24 and safety hazard, a public nuisance, or a fire hazard, as determined
25 by a local health department, local fire department or district
26 providing fire protection services, or the Department of Forestry
27 and Fire Protection, in which case this section applies.

1 (e) A person convicted of a violation of subdivision (a) or (b)
2 shall be punished by a mandatory fine of not less than two hundred
3 fifty dollars (\$250) nor more than one thousand dollars (\$1,000)
4 upon a first conviction, by a mandatory fine of not less than five
5 hundred dollars (\$500) nor more than one thousand five hundred
6 dollars (\$1,500) upon a second conviction, and by a mandatory
7 fine of not less than seven hundred fifty dollars (\$750) nor more
8 than three thousand dollars (\$3,000) upon a third or subsequent
9 conviction. If the court finds that the waste matter placed,
10 deposited, or dumped was used tires, the fine prescribed in this
11 subdivision shall be doubled.

12 (f) The court may require, in addition to any fine imposed upon
13 a conviction, that, as a condition of probation and in addition to
14 any other condition of probation, a person convicted under this
15 section remove, or pay the cost of removing, any waste matter
16 which the convicted person dumped or caused to be dumped upon
17 public or private property.

18 (g) Except when the court requires the convicted person to
19 remove waste matter which he or she is responsible for dumping
20 as a condition of probation, the court may, in addition to the fine
21 imposed upon a conviction, require as a condition of probation, in
22 addition to any other condition of probation, that a person convicted
23 of a violation of this section pick up waste matter at a time and
24 place within the jurisdiction of the court for not less than 12 hours.

25 (h) (1) A person who places, deposits, or dumps, or causes to
26 be placed, deposited, or dumped, waste matter in violation of this
27 section in commercial quantities shall be guilty of a misdemeanor
28 punishable by imprisonment in a county jail for not more than six
29 months and by a fine. The fine is mandatory and shall amount to
30 not less than one thousand dollars (\$1,000) nor more than three
31 thousand dollars (\$3,000) upon a first conviction, not less than
32 three thousand dollars (\$3,000) nor more than six thousand dollars
33 (\$6,000) upon a second conviction, and not less than six thousand
34 dollars (\$6,000) nor more than ten thousand dollars (\$10,000) upon
35 a third or subsequent conviction.

36 (2) "Commercial quantities" means an amount of waste matter
37 generated in the course of a trade, business, profession, or
38 occupation, or an amount equal to or in excess of one cubic yard.
39 This subdivision does not apply to the dumping of household waste
40 at a person's residence.

1 (i) (1) A person who places, deposits, or dumps, or causes to
 2 be placed, deposited, or dumped, waste matter upon private
 3 property, including on any private highway or road, without the
 4 consent of the owner ~~is guilty of a misdemeanor punishable by~~
 5 ~~imprisonment in a county jail for not more than 30 days and shall~~
 6 ~~be punished~~ by a fine. The fine is mandatory and shall amount to
 7 not less than two hundred fifty dollars (\$250) nor more than one
 8 thousand dollars (\$1,000) upon a first conviction, not less than
 9 five hundred dollars (\$500) nor more than one thousand five
 10 hundred dollars (\$1,500) upon a second conviction, and not less
 11 than seven hundred fifty dollars (\$750) nor more than three
 12 thousand dollars (\$3,000) upon a third ~~or subsequent~~ conviction.
 13 *Upon a fourth or subsequent conviction, the person is guilty of a*
 14 *misdemeanor punishable by imprisonment in a county jail for not*
 15 *more than 30 days and by a fine of not less than seven hundred*
 16 *fifty dollars (\$750) nor more than three thousand dollars (\$3,000).*
 17 ~~¶~~

18 (2) *If the court finds that the waste matter placed, deposited,*
 19 *or dumped includes used tires, the fine prescribed in this*
 20 *subdivision shall be doubled. ~~Each~~ A separate fine in the same*
 21 *amount as initially imposed shall accrue for each day that waste*
 22 *placed, deposited, or dumped ~~remains is a separate violation.~~*
 23 *remaining unabated, but no additional conviction for the purposes*
 24 *of punishments in paragraph (1) shall arise for the same act. For*
 25 *the fourth or subsequent violation, each day that waste placed,*
 26 *deposited, or dumped remains shall not result in the accrual of a*
 27 *separate fine or violation for the purposes of punishments in*
 28 *paragraph (1).*

29 (j) For purposes of this section, “person” means an individual,
 30 trust, firm, partnership, joint stock company, joint venture, or
 31 corporation.

32 (k) Except in unusual cases where the interests of justice would
 33 be best served by waiving or reducing a fine, the minimum fines
 34 provided by this section shall not be waived or reduced.

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

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

O