

ASSEMBLY BILL

No. 1802

Introduced by Assembly Member Bogh
(Principal coauthor: Senator Battin)

January 12, 2004

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1802, as introduced, Bogh. Illegal dumping: penalties.

Existing law makes illegal specified acts relating to dumping waste matter, rocks, or dirt in certain locations without obtaining consent. Existing law allows a judge to order, in addition to the payment of a fine, as a condition of probation, that a convicted person remove, or pay the cost of removing, any waste matter dumped by the person. Existing law requires that a person convicted of dumping waste matter in commercial quantities in violation of these provisions be punished by the imposition of a fine in an amount that varies based upon the person's previous convictions for this offense, as specified.

This bill would require a judge to issue the above order relating to the removal or payment for the removal of waste matter dumped by the convicted person. By increasing the penalty for this offense, the bill would impose a state-mandated local program. The bill would increase the amounts of the fines imposed for dumping waste matter in commercial quantities, as specified.

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 any
4 waste matter in or upon any public or private highway or road,
5 including any portion of the right-of-way thereof, or in or upon any
6 private property into or upon which the public is admitted by
7 easement or license, or upon any private property without the
8 consent of the owner, or in or upon any public park or other public
9 property other than property designated or set aside for that
10 purpose by the governing board or body having charge of that
11 property.

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

19 (c) Any person violating this section is guilty of an infraction.
20 Each day that waste placed, deposited, or dumped in violation of
21 this section remains is a separate violation.

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

29 (e) A person convicted of a violation of this section shall be
30 punished by a mandatory fine of not less than two hundred fifty
31 dollars (\$250) nor more than one thousand dollars (\$1,000) upon
32 a first conviction, by a mandatory fine of not less than five hundred
33 dollars (\$500) nor more than one thousand dollars (\$1,000) upon



1 a second conviction, and by a mandatory fine of not less than seven
2 hundred fifty dollars (\$750) nor more than two thousand five
3 hundred dollars (\$2,500) upon a third or subsequent conviction. If
4 the court finds that the waste matter placed, deposited, or dumped
5 was used tires, the fine prescribed in this subdivision shall be
6 doubled.

7 (f) The court ~~may~~ *shall* require, in addition to any fine imposed
8 upon a conviction, that, as a condition of probation and in addition
9 to any other condition of probation, a person convicted under this
10 section remove, or pay the cost of removing, any waste matter
11 which the convicted person dumped or caused to be dumped upon
12 public or private property.

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

21 (h) (1) Any person who places, deposits, or dumps, or causes
22 to be placed, deposited, or dumped, waste matter in violation of
23 this section in commercial quantities shall be guilty of a
24 misdemeanor punishable by imprisonment in a county jail for not
25 more than six months and by a fine. The fine is mandatory and shall
26 amount to not less than ~~five hundred dollars (\$500)~~ *one thousand*
27 *dollars (\$1,000)* nor more than ~~one thousand five hundred dollars~~
28 ~~(\$1,500)~~ *three thousand dollars (\$3,000)* upon a first conviction,
29 not less than ~~one thousand five hundred dollars (\$1,500)~~ *three*
30 *thousand dollars (\$3,000)* nor more than ~~three thousand dollars~~
31 ~~(\$3,000)~~ *six thousand dollars (\$6,000)* upon a second conviction,
32 and not less than ~~two thousand seven hundred fifty dollars~~
33 ~~(\$2,750)~~ *six thousand dollars (\$6,000)* nor more than ~~four~~
34 ~~thousand dollars (\$4,000)~~ *twenty-five thousand dollars (\$25,000)*
35 upon 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
40 waste at a person’s residence.



1 (i) For purposes of this section, “person” means an individual,
2 trust, firm, partnership, joint stock company, joint venture, or
3 corporation.

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

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

