

AMENDED IN SENATE JUNE 26, 2006

AMENDED IN SENATE JUNE 1, 2006

AMENDED IN SENATE MAY 16, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1992

Introduced by Assembly Member Canciamilla

February 9, 2006

An act to amend Sections 117555 and 117560 of, to amend the heading of Article 6 (commencing with Section 117550) of Chapter 4 of Part 13 of Division 104 of, and to repeal and add Section 117550 of, the Health and Safety Code, and to amend Sections 374a, 374d, 374.3, 374.4, and 374.7 of the Penal Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1992, as amended, Canciamilla. Solid waste: dumping.

(1) Existing law provides that a person who places, deposits, or dumps, or who causes to be placed, deposited, or dumped, or who causes or allows to overflow, sewage, sludge, cesspool or septic tank effluent, or accumulation of human excreta, or garbage, in or upon specified public property, or upon private property into or upon which the public is admitted by easement, license, or otherwise, is guilty of a misdemeanor. Existing law provides that this prohibition does not apply to the placing, depositing, or dumping of garbage upon private property by the owner, or a person authorized by the owner, of the private property, except that such action is prohibited from creating a public health and safety hazard or a fire hazard, as determined by specified entities. Existing law defines "garbage" for these purposes. Existing law requires a state fish and game warden, city police officer,

sheriff, sheriff's deputy, and other peace officers of the state, to enforce these provisions.

This bill would repeal the definition of garbage and instead use the term "solid waste," as the bill would define that term. The bill would provide that the placing, depositing, dumping, or overflow of solid waste and the other described substances on private property, without the owner's consent, rather than, into or upon private property which the public is admitted by easement, license, or otherwise, is a misdemeanor. The bill would prohibit placing, depositing, or dumping of solid waste upon private property by the owner or a person authorized by the owner, of the private property, from creating a nuisance, as determined by specified entities. The bill would include in the list of entities that determine whether the placing, depositing, or dumping of solid waste is a public health and safety hazard, nuisance, or fire hazard, a local enforcement agency. If AB 1688 is enacted and becomes effective on or before January 1, 2007, the bill also would include in the list of persons who are required to enforce these provisions, a person regularly employed as an investigator or inspector for illegal dumping enforcement, as specified. Because the bill would change the definition of a crime, the bill would impose a state-mandated local program.

(2) Existing law provides that it is an infraction for a person to dump or cause to be dumped waste matter or other specified matter in or upon specified public or private property, or for a person to litter or cause to be littered in or upon public or private property.

This bill would make the above violations misdemeanors *and would revise the conditions with regard to the dumping of materials upon a road or highway*. Because the bill would change a violation from an infraction to a misdemeanor, the bill would impose a state-mandated local program.

(3) Existing law imposes a mandatory minimum fine of \$100 for a first conviction upon a person convicted of littering in or upon public or private property; or convicted of littering or dumping of waste matter into specified bodies of water or property adjacent to a body of water.

This bill would increase the mandatory minimum fine to \$250 for a first conviction *and would increase the maximum fine for a third conviction*.

(4) Existing law provides that a person who knowingly allows the carcass of a dead animal, as specified, to be put or remain, or puts the

carcass of a dead animal, on specified property is guilty of a misdemeanor.

This bill would specify a mandatory fine to be imposed upon a person convicted of the above violation, *would provide for a maximum fine*, and *would* authorize the court to impose a specified condition of probation.

(5) Existing law provides for a reward for information leading to the arrest and conviction of a person for unlawful dumping of waste on specified public or private property, or for the unlawful shooting of a firearm from or upon a public road or highway.

This bill would, in addition, reward a person for giving information leading to the arrest and conviction of a person for the malicious release of a substance capable of causing substantial harm to the operation of a public sewer sanitary facility, littering, or knowingly allowing the carcass of a dead animal to be put or remain, or putting the carcass, on specified property.

(6) 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. The heading of Article 6 (commencing with
2 Section 117550) of Chapter 4 of Part 13 of Division 104 of the
3 Health and Safety Code is amended to read:

4

5 Article 6. Prohibited Waste Disposal

6

7 SEC. 2. Section 117550 of the Health and Safety Code is
8 repealed.

9 SEC. 3. Section 117550 is added to the Health and Safety
10 Code, to read:

11 117550. For purposes of this article, “solid waste” has the
12 same meaning as that term is defined in Section 40191 of the
13 Public Resources Code.

1 SEC. 4. Section 117555 of the Health and Safety Code is
2 amended to read:

3 117555. A person who places, deposits, or dumps, or who
4 causes to be placed, deposited, or dumped, or who causes or
5 allows to overflow, sewage, sludge, cesspool or septic tank
6 effluent, accumulation of human excreta, or solid waste, in or
7 upon a street, alley, public highway, or road in common use or
8 upon a public park or other public property other than property
9 designated or set aside for that purpose by the governing board or
10 body having charge of the property, or upon private property
11 without the owner’s consent, is guilty of a misdemeanor.

12 This section does not apply to the placing, depositing, or
13 dumping of solid waste upon private property by the owner, or a
14 person authorized by the owner, of the private property, except
15 that the placing, depositing, or dumping of the solid waste shall
16 not create a public health and safety hazard, nuisance, or a fire
17 hazard, as determined by a local enforcement agency, as defined
18 in Section 40130 of the Public Resources Code, local health
19 department, local fire department or fire district, or the
20 Department of Forestry and Fire Protection.

21 SEC. 5. Section 117560 of the Health and Safety Code is
22 amended to read:

23 117560. A state fish and game warden, police officer of a
24 city, sheriff, deputy of a sheriff, person described in subdivision
25 (i) of Section 830.7 of the Penal Code, and any other peace
26 officer of the State of California, within his or her respective
27 jurisdiction, shall enforce this article.

28 SEC. 6. Section 374a of the Penal Code is amended to read:

29 374a. A person giving information leading to the arrest and
30 conviction of a person for a violation of Section 374c, 374d,
31 374.2, 374.3, 374.4, or 374.7 is entitled to a reward for providing
32 the information.

33 The amount of the reward for each arrest and conviction shall
34 be 50 percent of the fine levied against and collected from the
35 person who violated Section 374c, 374d, 374.2, 374.3, 374.4, or
36 374.7 and shall be paid by the court. If the reward is payable to
37 two or more persons, it shall be divided equally. The amount of
38 collected fine to be paid under this section shall be paid prior to
39 any distribution of the fine that may be prescribed by any other
40 section, including Section 1463.9, with respect to the same fine.

1 SEC. 7. Section 374d of the Penal Code is amended to read:

2 374d. (a) A person who knowingly allows the carcass of a
3 dead animal that belonged to him or her at the time of its death to
4 be put, or to remain, within 100 feet of a street, alley, public
5 highway, or road in common use, and a person who puts the
6 carcass of a dead animal within 100 feet of a street, alley,
7 highway, or road in common use is guilty of a misdemeanor.

8 (b) A person convicted of a violation of subdivision (a) shall
9 be punished by a mandatory fine of not less than two hundred
10 fifty dollars (\$250) nor more than one thousand dollars (\$1,000)
11 upon a first conviction, by a mandatory fine of not less than five
12 hundred dollars (\$500) nor more than one thousand dollars
13 (\$1,000) upon a second conviction, and by a mandatory fine of
14 not less than seven hundred fifty dollars (\$750) nor more than
15 ~~one thousand dollars (\$1,000)~~ *two thousand five hundred dollars*
16 *(\$2,500)* upon a third or subsequent conviction.

17 (c) The court may, in addition to the fine imposed pursuant to
18 subdivision (b), require as a condition of probation, in addition to
19 any other condition of probation, that a person convicted of a
20 violation of subdivision (a), pick up litter at a time and place
21 within the jurisdiction of the court for not less than eight hours.

22 SEC. 8. Section 374.3 of the Penal Code is amended to read:

23 374.3. (a) It is unlawful to dump or cause to be dumped
24 waste matter in or upon a public or private highway or road,
25 including any portion of the right-of-way thereof, or in or upon
26 private property into or upon which the public is admitted by
27 easement or license, or upon private property without the consent
28 of the owner, or in or upon a public park or other public property
29 other than property designated or set aside for that purpose by the
30 governing board or body having charge of that property.

31 (b) It is unlawful to place, deposit, or dump, or cause to be
32 placed, deposited, or dumped, ~~as refuse,~~ rocks, concrete, asphalt,
33 or dirt in or upon a private highway or road, including any
34 portion of the right-of-way of the private highway or road, or
35 private property, without the consent of the owner *or a*
36 *contractor under contract with the owner for the materials*, or in
37 or upon a public park or other public property, without the
38 consent of the state or local agency having jurisdiction over the
39 highway, road, or property.

1 (c) A person violating this section is guilty of a misdemeanor.
2 Each day that waste placed, deposited, or dumped in violation of
3 subdivision (a) or (b) remains is a separate violation.

4 (d) This section does not restrict a private owner in the use of
5 his or her own private property, unless the placing, depositing, or
6 dumping of the waste matter on the property creates a public
7 health and safety hazard, a public nuisance, or a fire hazard, as
8 determined by a local health department, local fire department or
9 district providing fire protection services, or the Department of
10 Forestry and Fire Protection, in which case this section applies.

11 (e) A person convicted of a violation of this section shall be
12 punished by a mandatory fine of not less than two hundred fifty
13 dollars (\$250) nor more than one thousand dollars (\$1,000) upon
14 a first conviction, by a mandatory fine of not less than five
15 hundred dollars (\$500) nor more than one thousand dollars
16 (\$1,000) upon a second conviction, and by a mandatory fine of
17 not less than seven hundred fifty dollars (\$750) nor more than
18 two thousand five hundred dollars (\$2,500) upon a third or
19 subsequent conviction. If the court finds that the waste matter
20 placed, deposited, or dumped was used tires, the fine prescribed
21 in this subdivision shall be doubled.

22 (f) The court may require, in addition to any fine imposed
23 upon a conviction, that, as a condition of probation and in
24 addition to any other condition of probation, a person convicted
25 under this section remove, or pay the cost of removing, any waste
26 matter which the convicted person dumped or caused to be
27 dumped upon public or private property.

28 (g) Except when the court requires the convicted person to
29 remove waste matter which he or she is responsible for dumping
30 as a condition of probation, the court may, in addition to the fine
31 imposed upon a conviction, require as a condition of probation,
32 in addition to any other condition of probation, that a person
33 convicted of a violation of this section pick up waste matter at a
34 time and place within the jurisdiction of the court for not less
35 than 12 hours.

36 (h) (1) A person who places, deposits, or dumps, or causes to
37 be placed, deposited, or dumped, waste matter in violation of this
38 section in commercial quantities shall be guilty of a misdemeanor
39 punishable by imprisonment in a county jail for not more than six
40 months and by a fine. The fine is mandatory and shall amount to

1 not less than one thousand dollars (\$1,000) nor more than three
2 thousand dollars (\$3,000) upon a first conviction, not less than
3 three thousand dollars (\$3,000) nor more than six thousand
4 dollars (\$6,000) upon a second conviction, and not less than six
5 thousand dollars (\$6,000) nor more than ten thousand dollars
6 (\$10,000) upon a third or subsequent conviction.

7 (2) “Commercial quantities” means an amount of waste matter
8 generated in the course of a trade, business, profession, or
9 occupation, or an amount equal to or in excess of one cubic yard.
10 This subdivision does not apply to the dumping of household
11 waste at a person’s residence.

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

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

18 SEC. 9. Section 374.4 of the Penal Code is amended to read:

19 374.4. (a) It is unlawful to litter or cause to be littered in or
20 upon public or private property. A person, firm, or corporation
21 violating this section is guilty of a misdemeanor.

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

29 (c) As used in this section, “litter” means the discarding,
30 dropping, or scattering of small quantities of waste matter
31 ordinarily carried on or about the person, including, but not
32 limited to, beverage containers and closures, packaging,
33 wrappers, wastepaper, newspapers, and magazines, in a place
34 other than a place or container for the proper disposal thereof,
35 and including waste matter that escapes or is allowed to escape
36 from a container, receptacle, or package.

37 (d) A person, firm, or corporation convicted of a violation of
38 this section shall be punished by a mandatory fine of not less
39 than two hundred fifty dollars (\$250) nor more than one thousand
40 dollars (\$1,000) upon a first conviction, by a mandatory fine of

1 not less than five hundred dollars (\$500) nor more than one
2 thousand dollars (\$1,000) upon a second conviction, and by a
3 mandatory fine of not less than seven hundred fifty dollars
4 (\$750) nor more than ~~one thousand dollars (\$1,000)~~ *two*
5 *thousand five hundred dollars (\$2,500)* upon a third or
6 subsequent conviction.

7 (e) The court may, in addition to the fine imposed upon a
8 conviction, require as a condition of probation, in addition to any
9 other condition of probation, that any person convicted of a
10 violation of this section pick up litter at a time and place within
11 the jurisdiction of the court for not less than eight hours.

12 SEC. 10. Section 374.7 of the Penal Code is amended to read:

13 374.7. (a) A person who litters or causes to be littered, or
14 dumps or causes to be dumped, waste matter into a bay, lagoon,
15 channel, river, creek, slough, canal, lake, or reservoir, or other
16 stream or body of water, or upon a bank, beach, or shore within
17 150 feet of the high water mark of a stream or body of water, is
18 guilty of a misdemeanor.

19 (b) A person convicted of a violation of subdivision (a) shall
20 be punished by a mandatory fine of not less than two hundred
21 fifty dollars (\$250) nor more than one thousand dollars (\$1,000)
22 upon a first conviction, by a mandatory fine of not less than five
23 hundred dollars (\$500) nor more than one thousand dollars
24 (\$1,000) upon a second conviction, and by a mandatory fine of
25 not less than seven hundred fifty dollars (\$750) nor more than
26 ~~one thousand dollars (\$1,000)~~ *two thousand five hundred dollars*
27 *(\$2,500)* upon a third or subsequent conviction.

28 (c) The court may, in addition to the fine imposed upon a
29 conviction, require as a condition of probation, in addition to any
30 other condition of probation, that any person convicted of a
31 violation of subdivision (a), pick up litter at a time and place
32 within the jurisdiction of the court for not less than eight hours.

33 SEC. 11. Section 5 of this bill shall become effective only if
34 Assembly Bill No. 1688 of the 2005–06 Regular Session is
35 enacted and becomes effective on or before January 1, 2007, and
36 adds subdivision (i) to Section 830.7 of the Penal Code.

37 SEC. 12. No reimbursement is required by this act pursuant
38 to Section 6 of Article XIII B of the California Constitution
39 because the only costs that may be incurred by a local agency or
40 school district will be incurred because this act creates a new

1 crime or infraction, eliminates a crime or infraction, or changes
2 the penalty for a crime or infraction, within the meaning of
3 Section 17556 of the Government Code, or changes the
4 definition of a crime within the meaning of Section 6 of Article
5 XIII B of the California Constitution.

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8 **CORRECTIONS:** _____

9 **Text – Page 5.**

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