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AMENDED IN SENATE AUGUST 7, 2006

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AMENDED IN SENATE JUNE 1, 2006

AMENDED IN SENATE MAY 16, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 1992**

**Introduced by Assembly Member Canciamilla**

February 9, 2006

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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, 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, *and imposes a range of specified fines for a first, 2nd, or 3rd or subsequent conviction for violating those provisions, as specified.*

~~This bill would make a second or subsequent violation of the above provisions a misdemeanor, and would revise the conditions with regard to the dumping of materials upon a road or highway, and would increase some of those fines, as specified. 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 a range of specified fines for a~~

*first, 2nd, or 3rd or subsequent conviction for littering or dumping of waste matter into specified bodies of water or property adjacent to a body of water, as specified.*

~~This bill would increase the mandatory minimum fine to \$250 for a first conviction and would increase the maximum fine for a third conviction some of those fines, as specified.~~

(4) 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 or littering.

(5) 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.

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

1 117555. A person who places, deposits, or dumps, or who  
 2 causes to be placed, deposited, or dumped, or who causes or  
 3 allows to overflow, sewage, sludge, cesspool or septic tank  
 4 effluent, accumulation of human excreta, or solid waste, in or  
 5 upon a street, alley, public highway, or road in common use or  
 6 upon a public park or other public property other than property  
 7 designated or set aside for that purpose by the governing board or  
 8 body having charge of the property, or upon private property  
 9 without the owner’s consent, is guilty of a misdemeanor.

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

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

21 117560. A state fish and game warden, police officer of a  
 22 city, sheriff, deputy of a sheriff, person described in subdivision  
 23 (i) of Section 830.7 of the Penal Code, and any other peace  
 24 officer of the State of California, within his or her respective  
 25 jurisdiction, shall enforce this article.

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

27 374a. A person giving information leading to the arrest and  
 28 conviction of a person for a violation of Section 374c, 374.2,  
 29 374.3, 374.4, or 374.7 is entitled to a reward for providing the  
 30 information.

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

39 SEC. 7. Section 374.3 of the Penal Code is amended to read:

1 374.3. (a) It is unlawful to dump or cause to be dumped  
2 waste matter in or upon a public or private highway or road,  
3 including any portion of the right-of-way thereof, or in or upon  
4 private property into or upon which the public is admitted by  
5 easement or license, or upon private property without the consent  
6 of the owner, or in or upon a public park or other public property  
7 other than property designated or set aside for that purpose by the  
8 governing board or body having charge of that property.

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

17 (c) A person violating this section is guilty of ~~an infraction.~~  
18 ~~However, a person violating this section for a second or~~  
19 ~~subsequent time is guilty of a misdemeanor. Each day an~~  
20 ~~infraction. Each day~~ that waste placed, deposited, or dumped in  
21 violation of subdivision (a) or (b) 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  
25 health 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  
33 hundred dollars (\$500) nor more than one thousand ~~dollars~~  
34 ~~(\$1,000)~~ *five hundred dollars (\$1,500)* upon a second conviction,  
35 and by a mandatory fine of not less than seven hundred fifty  
36 dollars (\$750) nor more than ~~two thousand five hundred dollars~~  
37 ~~(\$2,500)~~ *three thousand dollars (\$3,000)* upon a third or  
38 subsequent conviction. If the court finds that the waste matter  
39 placed, deposited, or dumped was used tires, the fine prescribed  
40 in this subdivision shall be doubled.

1 (f) The court may require, in addition to any fine imposed  
2 upon a conviction, that, as a condition of probation and in  
3 addition to any other condition of probation, a person convicted  
4 under this section remove, or pay the cost of removing, any waste  
5 matter which the convicted person dumped or caused to be  
6 dumped upon public or private property.

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

15 (h) (1) A person who places, deposits, or dumps, or causes to  
16 be placed, deposited, or dumped, waste matter in violation of this  
17 section in commercial quantities shall be guilty of a misdemeanor  
18 punishable by imprisonment in a county jail for not more than six  
19 months and by a fine. The fine is mandatory and shall amount to  
20 not less than one thousand dollars (\$1,000) nor more than three  
21 thousand dollars (\$3,000) upon a first conviction, not less than  
22 three thousand dollars (\$3,000) nor more than six thousand  
23 dollars (\$6,000) upon a second conviction, and not less than six  
24 thousand dollars (\$6,000) nor more than ten thousand dollars  
25 (\$10,000) upon a third or subsequent conviction.

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

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

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

37 SEC. 8. Section 374.4 of the Penal Code is amended to read:

38 374.4. (a) It is unlawful to litter or cause to be littered in or  
39 upon public or private property. A person, firm, or corporation  
40 violating this section is guilty of an infraction. ~~However, a~~

1 ~~person, firm, or corporation violating this section for a second or~~  
2 ~~subsequent time is guilty of a misdemeanor.~~

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

10 (c) As used in this section, "litter" means the discarding,  
11 dropping, or scattering of small quantities of waste matter  
12 ordinarily carried on or about the person, including, but not  
13 limited to, beverage containers and closures, packaging,  
14 wrappers, wastepaper, newspapers, and magazines, in a place  
15 other than a place or container for the proper disposal thereof,  
16 and including waste matter that escapes or is allowed to escape  
17 from a container, receptacle, or package.

18 (d) A person, firm, or corporation convicted of a violation of  
19 this section shall be punished by a mandatory fine of not less  
20 than two hundred fifty dollars (\$250) nor more than one thousand  
21 dollars (\$1,000) upon a first conviction, by a mandatory fine of  
22 not less than five hundred dollars (\$500) nor more than one  
23 ~~thousand dollars (\$1,000)~~ *five hundred dollars (\$1,500)* upon a  
24 second conviction, and by a mandatory fine of not less than  
25 seven hundred fifty dollars (\$750) nor more than ~~two thousand~~  
26 ~~five hundred dollars (\$2,500)~~ *three thousand dollars (\$3,000)*  
27 upon a third or subsequent conviction.

28 (e) 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 this section pick up litter at a time and place within  
32 the jurisdiction of the court for not less than eight hours.

33 SEC. 9. Section 374.7 of the Penal Code is amended to read:

34 374.7. (a) A person who litters or causes to be littered, or  
35 dumps or causes to be dumped, waste matter into a bay, lagoon,  
36 channel, river, creek, slough, canal, lake, or reservoir, or other  
37 stream or body of water, or upon a bank, beach, or shore within  
38 150 feet of the high water mark of a stream or body of water, is  
39 guilty of a misdemeanor.

1 (b) A person convicted of a violation of subdivision (a) shall  
 2 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 ~~dollars~~  
 6 ~~(\$1,000)~~ *five hundred dollars (\$1,500)* upon a second conviction,  
 7 and by a mandatory fine of not less than seven hundred fifty  
 8 dollars (\$750) nor more than ~~two thousand five hundred dollars~~  
 9 ~~(\$2,500)~~ *three thousand dollars (\$3,000)* upon a third or  
 10 subsequent conviction.

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

16 SEC. 10. Section 5 of this bill shall become effective only if  
 17 Assembly Bill No. 1688 of the 2005–06 Regular Session is  
 18 enacted and becomes effective on or before January 1, 2007, and  
 19 adds subdivision (i) to Section 830.7 of the Penal Code.

20 SEC. 11. No reimbursement is required by this act pursuant  
 21 to Section 6 of Article XIII B of the California Constitution  
 22 because the only costs that may be incurred by a local agency or  
 23 school district will be incurred because this act creates a new  
 24 crime or infraction, eliminates a crime or infraction, or changes  
 25 the penalty for a crime or infraction, within the meaning of  
 26 Section 17556 of the Government Code, or changes the  
 27 definition of a crime within the meaning of Section 6 of Article  
 28 XIII B of the California Constitution.

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 31 **CORRECTIONS:**  
 32 **Text — Page 5.**  
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