

AMENDED IN ASSEMBLY APRIL 18, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2612**

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**Introduced by Assembly Member Plescia**

February 24, 2006

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An act to amend Section 19.8 of, and to add Section 490.7 to the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 2612, as amended, Plescia. Crime.

Existing law defines petty theft and provides that if the value of the money, labor, real or personal property taken is \$50 or less, the crime may be punishable by a fine not exceeding \$250, or by a fine not exceeding \$1,000, imprisonment in a county jail for a period not exceeding 6 months, or both.

This bill would provide that it is a crime to take more than ~~5~~ 25 copies of a free or complimentary newspaper if done to recycle, barter, or to deprive others of the opportunity to read the newspaper, or to harm a business competitor, punishable by a fine not to exceed \$250 for a first violation, and for a 2nd or subsequent violation by that fine or by a fine not exceeding \$500, imprisonment of up to 10 days in a county jail, or by both fine and imprisonment. This bill would provide exceptions to these provisions for owners, publishers, printers, deliverers, advertisers and others, as specified.

Because this bill would create a new crime, this 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 19.8 of the Penal Code is amended to  
2 read:

3 19.8. The following offenses are subject to subdivision (d) of  
4 Section 17: Sections 193.8, 330, 415, 485, 490.7, 555, 652, and  
5 853.7 of this code; subdivision (m) of Section 602 of this code;  
6 subdivision (b) of Section 25658 and Sections 21672, 25658.5,  
7 25661, and 25662 of the Business and Professions Code; Section  
8 27204 of the Government Code; subdivision (c) of Section 23109  
9 and Sections 12500, 14601.1, 27150.1, 40508, and 42005 of the  
10 Vehicle Code, and any other offense which the Legislature  
11 makes subject to subdivision (d) of Section 17. Except where a  
12 lesser maximum fine is expressly provided for a violation of any  
13 of those sections, any violation which is an infraction is  
14 punishable by a fine not exceeding two hundred fifty dollars  
15 (\$250).

16 Except for the violations enumerated in subdivision (d) of  
17 Section 13202.5 of the Vehicle Code, and Section 14601.1 of the  
18 Vehicle Code based upon failure to appear, a conviction for any  
19 offense made an infraction under subdivision (d) of Section 17 is  
20 not grounds for the suspension, revocation, or denial of any  
21 license, or for the revocation of probation or parole of the person  
22 convicted.

23 This section shall become operative on January 1, 2005.

24 SEC. 2. Section 490.7 is added to the Penal Code, to read:

25 490.7. (a) The Legislature finds that free newspapers provide  
26 a key source of information to the public, in many cases  
27 providing an important alternative to the news and ideas  
28 expressed in other local media sources. The Legislature further  
29 finds that the unauthorized taking of multiple copies of free  
30 newspapers, whether done to sell them to recycling centers, to  
31 injure a business competitor, to deprive others of the opportunity

1 to read them, or for any other reason, injures the rights of readers,  
2 writers, publishers, and advertisers, and impoverishes the  
3 marketplace of ideas in California.

4 (b) No person shall take more than ~~five (5)~~ *twenty-five (25)*  
5 copies of the current issue of a free or complimentary newspaper  
6 if done with the intent to do one or more of the following:

- 7 (1) Recycle the newspapers for cash or other payment.
- 8 (2) Sell or barter the newspaper.
- 9 (3) Deprive others of the opportunity to read or enjoy the  
10 newspaper.
- 11 (4) Harm a business competitor.

12 (c) This section does not apply to the owner or operator of the  
13 newsrack in which the copies are placed, the owner or operator  
14 of the property on which the newsrack is placed, the publisher,  
15 the printer, the distributor, the deliverer of the newspaper, or to  
16 any advertiser in that issue, or to any other person who has the  
17 express permission to do so from any of these entities.

18 (d) Any newspaper publisher may provide express permission  
19 to take more than ~~five (5)~~ *twenty-five (25)* copies of the current  
20 issue of a free or complimentary newspaper by indicating on the  
21 newsrack or in the newspaper itself, that people may take a  
22 greater number of copies if they wish.

23 (e) A first violation of subdivision (b) shall be an infraction  
24 punishable by a fine not exceeding two hundred fifty dollars  
25 (\$250). A second or subsequent violation shall be punishable as  
26 an infraction or a misdemeanor. A misdemeanor conviction  
27 under this section is punishable by a fine not exceeding five  
28 hundred dollars (\$500), imprisonment of up to 10 days in a  
29 county jail, or by both that fine and imprisonment. The court may  
30 order community service in lieu of the punishment otherwise  
31 provided for an infraction or misdemeanor in the amount of 20  
32 hours for an infraction, and 40 hours for a misdemeanor. A  
33 misdemeanor conviction under this section shall not constitute a  
34 conviction for petty theft.

35 (f) This section shall not be construed to repeal, modify, or  
36 weaken any existing legal prohibitions against the taking of  
37 private property.

38 SEC. 3. No reimbursement is required by this act pursuant to  
39 Section 6 of Article XIII B of the California Constitution because  
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or  
2 infraction, eliminates a crime or infraction, or changes the  
3 penalty for a crime or infraction, within the meaning of Section  
4 17556 of the Government Code, or changes the definition of a  
5 crime within the meaning of Section 6 of Article XIII B of the  
6 California Constitution.

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