

AMENDED IN ASSEMBLY JUNE 19, 2006
AMENDED IN ASSEMBLY MAY 16, 2006
AMENDED IN ASSEMBLY MARCH 27, 2006
AMENDED IN ASSEMBLY MARCH 2, 2006
AMENDED IN SENATE MAY 27, 2005
AMENDED IN SENATE MAY 3, 2005
AMENDED IN SENATE APRIL 20, 2005
AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 151

Introduced by Senator Soto

February 7, 2005

~~An act to amend Sections 374.2, 374.3, 374.4, 374.7, 374a, and 374d of the Penal Code, relating to public health and safety. An act to amend Section 45452 of the Education Code, to amend Section 1463.21 of the Penal Code, and to amend Section 42011 of the Vehicle Code, relating to vehicles.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 151, as amended, Soto. ~~Public health: illegal dumping. Vehicles:~~ *school pedestrian-bicyclist safety program.*

Existing law, until January 1, 2007, creates a school pedestrian-bicyclist safety program and doubles or increases the fines for a designated violation occurring in a specially posted school pedestrian-bicyclist safety zone, as specified, in Alameda County, Santa Barbara County, Ventura County, or in a city in those counties,

where the program is adopted by a vote of the city council, or the county board of supervisors, as appropriate, and is established in collaboration with local school districts within those jurisdictions. Existing law, until January 1, 2007, requires the county treasurer to deposit the enhanced portion of the fine in a special account in the county treasury which is used exclusively to pay for the cost of the school pedestrian-bicyclist safety program.

This bill would extend the school pedestrian-bicyclist safety program until January 1, 2008 and, in addition, would apply the above provisions to San Bernardino County. This bill would also delete certain obsolete language. The bill would also extend until January 1, 2008, the provision requiring the county treasurer to deposit the enhanced portion of the fine in the special account, thereby imposing 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law makes it illegal to maliciously dump harmful substances in places not intended to be used as a deposit for harmful substances.~~

~~This bill would provide that any vehicle used to illegally dump harmful substances may be impounded, as specified.~~

~~Existing law makes the illegal dumping of waste on public or private property an infraction.~~

~~This bill would make the illegal dumping of waste on public or private property a misdemeanor and would provide that any vehicle used to illegally dump waste on public or private property may be impounded, as specified.~~

~~Existing law makes it an infraction to litter on public or private property.~~

~~This bill would make it a misdemeanor to litter on public or private property and would provide that any vehicle used to unlawfully litter on public or private property may be impounded, as specified.~~

~~Existing law imposes a minimum \$100 fine when a person is convicted of littering on a waterway.~~

~~This bill would increase the minimum fine for the unlawful littering on a waterway to \$250 and would provide that any vehicle used to unlawfully litter on a waterway may be impounded, as specified.~~

~~Existing law makes it a misdemeanor to dispose of the carcass of a dead animal in a public area.~~

~~This bill would provide that the punishment for the unlawful disposal of the carcass of a dead animal in a public area shall be increasing mandatory fines, as specified, and would provide that any vehicle used to unlawfully dispose of the carcass of a dead animal in a public area may be impounded, as specified.~~

~~By revising the penalties for existing crimes, 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 45452 of the Education Code is
2 amended to read:
3 45452. (a) The County of Alameda, *the County of San*
4 *Bernardino*, the County of Santa Barbara, the County of Ventura,
5 ~~or any~~ a city within ~~any~~ of these counties, in collaboration with
6 local school districts within those jurisdictions, may establish a
7 school pedestrian-bicyclist safety program and receive funds
8 from a special account in the county treasury established
9 pursuant to Section 1463.21 of the Penal Code if those funds are
10 used to fund programs that enhance the safety of ~~students~~ *pupils*
11 traveling to and from school on foot or by bicycle. ~~Any funds~~
12 *Funds* obtained by a city or county from this source are to
13 supplement ~~any other~~ funds already expended by that agency for
14 pedestrian or bicycle safety programs and may not be used to
15 supplant ~~any~~ existing expenditures for those purposes.
16 (b) If a program is established pursuant to subdivision (a) and
17 the services of a law enforcement agency are requested by the

1 program administrator, those services shall be provided by the
2 law enforcement agency having primary traffic investigative
3 authority.

4 (c) This section shall remain in effect only until January 1,
5 ~~2007~~ 2008, and as of that date is repealed, unless a later enacted
6 statute, that is enacted before January 1, ~~2007~~ 2008, deletes or
7 extends that date.

8 *SEC. 2. Section 1463.21 of the Penal Code is amended to*
9 *read:*

10 1463.21. (a) Notwithstanding Section 1463.001, out of
11 moneys deposited with the county treasurer pursuant to Section
12 1463.001, the enhanced portion of the fine imposed pursuant to
13 Section 42011 of the Vehicle Code shall be deposited in a special
14 account in the county treasury which shall be used exclusively to
15 pay for the cost of school pedestrian-bicyclist safety programs
16 administered in accordance with Section 45452 of the Education
17 Code by a city or county that has adopted Section 42011 of the
18 Vehicle Code.

19 (b) This section shall remain in effect only until January 1,
20 ~~2007~~ 2008, and as of that date is repealed, unless a later enacted
21 statute, that is enacted before January 1, ~~2007~~ 2008, deletes or
22 extends that date.

23 *SEC. 3. Section 42011 of the Vehicle Code is amended to*
24 *read:*

25 42011. (a) For ~~any~~ *an* offense specified in subdivision (b)
26 that is committed by the driver of a vehicle under either of the
27 following conditions, the fine in a misdemeanor case shall be
28 double the base amount otherwise prescribed, not including ~~any~~
29 penalty assessments or other fees or additions, and in an
30 infraction case, the fine shall be one category higher than the
31 penalty otherwise prescribed by the uniform traffic penalty
32 schedule established pursuant to Section 40310, not including
33 ~~any~~ penalty assessments or other fees or additions:

34 (1) When passing a school building or the grounds thereof, if
35 the building or grounds are contiguous to a highway and posted
36 with a standard "SCHOOL" warning sign and an accompanying
37 sign notifying motorists that increased penalties apply for traffic
38 violations that are committed within that school zone, and
39 children are going to or leaving the school either during school
40 hours or during the noon recess period.

- 1 (2) When passing any school grounds that are not separated
2 from the highway by a fence, gate, or other physical barrier while
3 the grounds are in use by children, and the highway is posted
4 with a standard “SCHOOL” warning sign and an accompanying
5 sign notifying motorists that increased penalties apply for traffic
6 violations that are committed within that school zone.
- 7 (b) A violation of any of the following provisions is an offense
8 that is subject to subdivision (a):
- 9 (1) Article 3 (commencing with Section 21450) of Chapter 2
10 of Division 11, relating to obedience to traffic devices.
- 11 (2) Chapter 3 (commencing with Section 21650) of Division
12 11, relating to driving, overtaking, and passing.
- 13 (3) Chapter 4 (commencing with Section 21800) of Division
14 11, relating to yielding the right-of-way.
- 15 (4) Chapter 6 (commencing with Section 22100) of Division
16 11, relating to turning and stopping and turn signals.
- 17 (5) Chapter 7 (commencing with Section 22348) of Division
18 11, relating to speed limits.
- 19 (6) Chapter 8 (commencing with Section 22450) of Division
20 11, relating to special traffic stops.
- 21 (7) Section 23103, relating to reckless driving.
- 22 (8) Section 23104, relating to reckless driving which results in
23 bodily injury to another.
- 24 (9) Section 23109, relating to speed contests.
- 25 (10) Section 23152, relating to driving under the influence of
26 alcohol or a controlled substance, or a violation of Section
27 23103, as specified in Section 23103.5, relating to alcohol-related
28 reckless driving.
- 29 (11) Section 23153, relating to driving under the influence of
30 alcohol or a controlled substance, which results in bodily injury
31 to another.
- 32 (12) Section 23220, relating to drinking while driving.
- 33 (13) Section 23221, relating to drinking in a motor vehicle
34 while on the highway.
- 35 (14) Section 23222, relating to driving while possessing
36 marijuana or an open alcoholic beverage container.
- 37 (15) Section 23223, relating to being in a vehicle on the
38 highway while possessing an open alcoholic beverage container.

1 (16) Section 23224, relating to being a driver or passenger
 2 under the age of 21 years possessing an open alcoholic beverage
 3 container.

4 (17) Section 23225, relating to being the owner or driver of a
 5 vehicle in which there is an open alcoholic beverage container.

6 (18) Section 23226, relating to being a passenger in a vehicle
 7 in which there is an open alcoholic beverage container.

8 (c) (1) This section applies only in Alameda County, *San*
 9 *Bernardino County*, Santa Barbara County, Ventura County, or
 10 in a city in ~~any~~ of these counties, and only if that jurisdiction has
 11 adopted this section by a vote of the city council or county board
 12 of supervisors, as appropriate.

13 (2) The increased fines authorized by subdivision (a) may only
 14 be imposed and collected once per offense notwithstanding the
 15 fact that the offense occurred within more than one jurisdiction
 16 all of which have adopted this section. Furthermore, ~~no~~ *an*
 17 increased fine shall *not* be imposed if an increased fine is
 18 imposed under Section 42009 ~~or 42010~~ because the offense
 19 occurred within a highway construction or maintenance area ~~or~~
 20 safety enhancement area.

21 (d) ~~Any~~ A city or county that adopts this section shall
 22 promptly notify the *Department of the California Highway Patrol*
 23 and the law enforcement agency having the primary traffic
 24 investigative authority of that fact.

25 (e) This section shall remain in effect only until January 1,
 26 ~~2007~~ 2008, and as of that date is repealed, unless a later enacted
 27 statute, that is enacted before January 1, ~~2007~~ 2008, deletes or
 28 extends that date.

29 *SEC. 4. If the Commission on State Mandates determines that*
 30 *this act contains costs mandated by the state, reimbursement to*
 31 *local agencies and school districts for those costs shall be made*
 32 *pursuant to Part 7 (commencing with Section 17500) of Division*
 33 *4 of Title 2 of the Government Code.*

34 ~~SECTION 1. Section 374.2 of the Penal Code is amended to~~
 35 ~~read:~~

36 ~~374.2. (a) It is unlawful for any person to maliciously~~
 37 ~~discharge, dump, release, place, drop, pour, or otherwise deposit,~~
 38 ~~or to maliciously cause to be discharged, dumped, released,~~
 39 ~~placed, dropped, poured, or otherwise deposited, any substance~~
 40 ~~capable of causing substantial damage or harm to the operation~~

1 of a public sewer sanitary facility, or to deposit in commercial
2 quantities any other substance, into a manhole, cleanout, or other
3 sanitary sewer facility, not intended for use as a point of deposit
4 for sewage, which is connected to a public sanitary sewer system,
5 without possessing a written authorization therefor granted by the
6 public entity which is charged with the administration of the use
7 of the affected public sanitary sewer system or the affected
8 portion of the public sanitary sewer system.

9 As used in this section, “maliciously” means an intent to do a
10 wrongful act.

11 (b) For the purposes of this section, “person” means an
12 individual, trust, firm, partnership, joint stock company, limited
13 liability company, or corporation, and “deposited in commercial
14 quantities” refers to any substance deposited or otherwise
15 discharged in any amount greater than for normal domestic sewer
16 use.

17 (c) Lack of specific knowledge that the facility into which the
18 prohibited discharge or release occurred is connected to a public
19 sanitary sewer system shall not constitute a defense to a violation
20 charged under this section.

21 (d) Any person who violates this section shall be punished by
22 imprisonment in the county jail for not more than one year, or by
23 a fine of up to twenty-five thousand dollars (\$25,000), or by both
24 a fine and imprisonment. If the conviction is for a second or
25 subsequent violation, the person shall be punished by
26 imprisonment in the county jail for not more than one year, or
27 imprisonment in the state prison for 16, 20, or 24 months, and by
28 a fine of not less than five thousand dollars (\$5,000) or more than
29 twenty-five thousand dollars (\$25,000).

30 (e) Any vehicle used to illegally dump refuse in violation of
31 this section may be impounded pursuant to subdivision (a) of
32 Section 22655.5 or Section 14602.6 of the Vehicle Code. All
33 expenses and fees shall be incurred by the violator.

34 SEC. 2. Section 374.3 of the Penal Code is amended to read:

35 374.3. (a) It is unlawful to dump or cause to be dumped any
36 waste matter in or upon any public or private highway or road,
37 including any portion of the right-of-way thereof, or in or upon
38 any private property into or upon which the public is admitted by
39 easement or license, or upon any private property without the
40 consent of the owner, or in or upon any public park or other

1 public property other than property designated or set aside for
2 that purpose by the governing board or body having charge of
3 that property.

4 (b) It is unlawful to place, deposit, or dump, or cause to be
5 placed, deposited, or dumped, as refuse, any rocks, concrete,
6 asphalt, or dirt in or upon any private highway or road, including
7 any portion of the right-of-way thereof, or any private property,
8 without the consent of the owner, or in or upon any public park
9 or other public property, without the consent of the state or local
10 agency having jurisdiction over the highway, road, or property.

11 (c) Any person violating this section is guilty of a
12 misdemeanor. Each day that waste placed, deposited, or dumped
13 in violation of subdivision (a) or (b) of this section remains is a
14 separate violation.

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

22 (e) A person convicted of a violation of this section shall be
23 punished by a mandatory fine of not less than two hundred fifty
24 dollars (\$250) nor more than one thousand dollars (\$1,000) upon
25 a first conviction, by a mandatory fine of not less than five
26 hundred dollars (\$500) nor more than one thousand dollars
27 (\$1,000) upon a second conviction, and by a mandatory fine of
28 not less than seven hundred fifty dollars (\$750) nor more than
29 two thousand five hundred dollars (\$2,500) upon a third or
30 subsequent conviction. If the court finds that the waste matter
31 placed, deposited, or dumped was used tires, the fine prescribed
32 in this subdivision shall be doubled.

33 (f) The court may require, in addition to any fine imposed
34 upon a conviction, that, as a condition of probation and in
35 addition to any other condition of probation, a person convicted
36 under this section remove, or pay the cost of removing, any waste
37 matter which the convicted person dumped or caused to be
38 dumped upon public or private property.

39 (g) Except when the court requires the convicted person to
40 remove waste matter which he or she is responsible for dumping

1 as a condition of probation, the court may, in addition to the fine
2 imposed upon a conviction, require as a condition of probation,
3 in addition to any other condition of probation, that any person
4 convicted of a violation of this section pick up waste matter at a
5 time and place within the jurisdiction of the court for not less
6 than 12 hours.

7 (h) ~~(1) Any person who places, deposits, or dumps, or causes~~
8 ~~to be placed, deposited, or dumped, waste matter in violation of~~
9 ~~this section in commercial quantities shall be guilty of a~~
10 ~~misdemeanor punishable by imprisonment in a county jail for not~~
11 ~~more than six months and by a fine. The fine is mandatory and~~
12 ~~shall amount to not less than one thousand dollars (\$1,000) nor~~
13 ~~more than three thousand dollars (\$3,000) upon a first conviction,~~
14 ~~not less than three thousand dollars (\$3,000) nor more than six~~
15 ~~thousand dollars (\$6,000) upon a second conviction, and not less~~
16 ~~than six thousand dollars (\$6,000) nor more than ten thousand~~
17 ~~dollars (\$10,000) upon a third or subsequent conviction.~~

18 (2) ~~“Commercial quantities” means an amount of waste matter~~
19 ~~generated in the course of a trade, business, profession, or~~
20 ~~occupation, or an amount equal to or in excess of one cubic yard.~~
21 ~~This subdivision does not apply to the dumping of household~~
22 ~~waste at a person’s residence.~~

23 (i) ~~For purposes of this section, “person” means an individual,~~
24 ~~trust, firm, partnership, joint stock company, joint venture, or~~
25 ~~corporation.~~

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

29 (k) ~~Any vehicle used to illegally dump waste in violation of~~
30 ~~this section may be impounded pursuant to subdivision (a) of~~
31 ~~Section 22655.5 or Section 14602.6 of the Vehicle Code. All~~
32 ~~expenses and fees shall be incurred by the violator.~~

33 ~~SEC. 3. Section 374.4 of the Penal Code is amended to read:~~

34 ~~374.4. (a) It is unlawful to litter or cause to be littered in or~~
35 ~~upon any public or private property. Any person, firm, or~~
36 ~~corporation violating this section is guilty of a misdemeanor.~~

37 ~~(b) This section does not restrict a private owner in the use of~~
38 ~~his or her own property, unless the littering of waste matter on~~
39 ~~the property creates a public health and safety hazard, a public~~
40 ~~nuisance, or a fire hazard, as determined by a local health~~

1 department, local fire department or district providing fire
2 protection services, or the Department of Forestry and Fire
3 Protection, in which case this section applies:

4 (e) As used in this section, “litter” means the discarding,
5 dropping, or scattering of small quantities of waste matter
6 ordinarily carried on or about the person, including, but not
7 limited to, beverage containers and closures, packaging,
8 wrappers, wastepaper, newspapers, and magazines, in a place
9 other than a place or container for the proper disposal thereof,
10 and including waste matter which escapes or is allowed to escape
11 from a container, receptacle, or package.

12 (d) A person, firm, or corporation convicted of a violation of
13 this section shall be punished by a mandatory fine of not less
14 than two hundred fifty dollars (\$250) nor more than one thousand
15 dollars (\$1,000) upon a first conviction, by a mandatory fine of
16 not less than five hundred dollars (\$500) nor more than one
17 thousand dollars (\$1,000) upon a second conviction, and by a
18 mandatory fine of not less than seven hundred fifty dollars
19 (\$750) nor more than one thousand dollars (\$1,000) upon a third
20 or subsequent conviction.

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

26 (f) Any vehicle used to litter in violation of this section may be
27 impounded pursuant to subdivision (a) of Section 22655.5 or
28 Section 14602.6 of the Vehicle Code. All expenses and fees shall
29 be incurred by the violator.

30 SEC. 4. Section 374.7 of the Penal Code is amended to read:

31 374.7. (a) Every person who litters or causes to be littered, or
32 dumps or causes to be dumped, any waste matter into any bay,
33 lagoon, channel, river, creek, slough, canal, lake, or reservoir, or
34 other stream or body of water, or upon a bank, beach, or shore
35 within 150 feet of the high water mark of any stream or body of
36 water, is guilty of a misdemeanor.

37 (b) Every person convicted of a violation of subdivision (a)
38 shall be punished by a mandatory fine of not less than two
39 hundred fifty dollars (\$250) nor more than one thousand dollars
40 (\$1,000) upon a first conviction, by a mandatory fine of not less

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

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

11 ~~(d) Any vehicle used to litter in violation of this section may~~
12 ~~be impounded pursuant to subdivision (a) of Section 22655.5 or~~
13 ~~Section 14602.6 of the Vehicle Code. All expenses and fees shall~~
14 ~~be incurred by the violator.~~

15 ~~SEC. 5. Section 374a of the Penal Code is amended to read:~~

16 ~~374a. Every person giving information leading to the arrest~~
17 ~~and conviction of any person for a violation of Section 374.2,~~
18 ~~374.3, 374.4, 374.7, 374e, or 374d is entitled to a reward~~
19 ~~therefor.~~

20 ~~The amount of the reward for each arrest and conviction shall~~
21 ~~be 50 percent of the fine levied against and collected from the~~
22 ~~person who violated Section 374.2, 374.3, 374.3, 374.7, 374e, or~~
23 ~~374d and shall be paid by the court. If the reward is payable to~~
24 ~~two or more persons, it shall be divided equally. The amount of~~
25 ~~collected fine to be paid under this section shall be paid prior to~~
26 ~~any distribution of the fine that may be prescribed by any other~~
27 ~~section, including Section 1463.9, with respect to the same fine.~~

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

29 ~~374d. (a) Every person who knowingly allows the carcass of~~
30 ~~any dead animal which belonged to him or her at the time of its~~
31 ~~death to be put, or to remain, within 100 feet of any street, alley,~~
32 ~~public highway, or road in common use, and every person who~~
33 ~~puts the carcass of any dead animal within 100 feet of any street,~~
34 ~~alley, highway, or road in common use is guilty of a~~
35 ~~misdemeanor.~~

36 ~~(b) Every person convicted of a violation of subdivision (a)~~
37 ~~shall be punished by a mandatory fine of not less than two~~
38 ~~hundred fifty dollars (\$250) nor more than one thousand dollars~~
39 ~~(\$1,000) upon a first conviction, by a mandatory fine of not less~~
40 ~~than five hundred dollars (\$500) nor more than one thousand~~

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

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

11 (d) Any vehicle used to illegally dump carcasses in violation
12 of this section may be impounded pursuant to subdivision (a) of
13 Section 22655.5 or Section 14602.6 of the Vehicle Code. All
14 expenses and fees shall be incurred by the violator.

15 SEC. 7. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the
20 penalty for a crime or infraction, within the meaning of Section
21 17556 of the Government Code, or changes the definition of a
22 crime within the meaning of Section 6 of Article XIII B of the
23 California Constitution.