

AMENDED IN SENATE MAY 3, 2005
AMENDED IN SENATE APRIL 13, 2005

SENATE BILL

No. 434

Introduced by Senator Simitian
(Principal coauthor: Senator Alquist)

February 17, 2005

An act to ~~amend Section 141 of~~ *add Section 141.5* to the Penal Code, relating to false reporting.

LEGISLATIVE COUNSEL'S DIGEST

SB 434, as amended, Simitian. False reporting.

Existing law establishes the offense of falsely reporting the occurrence of a misdemeanor or felony. Existing law provides this offense is punishable as a misdemeanor.

This bill would provide that any person who knowingly, willfully, and intentionally alters, modifies, plants, places, ~~manufacturers~~ *manufactures*, conceals, or moves any physical matter, or makes a false statement, with the specific intent that the action will result, *and* the action does result, in an innocent person being arrested and incarcerated for a serious or violent felony, *as defined*, would be guilty of a felony punishable by imprisonment in the state prison for a term of 3, 5, or 9 years, and a fine not exceeding \$10,000. The bill would further provide that prosecution for this offense shall be commenced within 3 years of discovery of the offense.

By creating 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 141 of the Penal Code is amended to~~
2 ~~read:~~

3 ~~141. (a) (1) Except as provided in subdivision (b), any~~
4 ~~person who knowingly, willfully, and intentionally alters,~~
5 ~~modifies, plants, places, manufactures, conceals, or moves any~~
6 ~~physical matter, with specific intent that the action will result in a~~
7 ~~person being charged with a crime or with the specific intent that~~
8 ~~the physical matter will be wrongfully produced as genuine or~~
9 ~~true upon any trial, proceeding, or inquiry whatever, is guilty of a~~
10 ~~misdemeanor.~~

11 ~~(2) Any person who knowingly, willfully, and intentionally~~
12 ~~alters, modifies, plants, places, manufactures, conceals, or~~
13 ~~moves any physical matter, or makes a false statement, with the~~
14 ~~specific intent that the action will result, the action does result, in~~
15 ~~an innocent person being arrested and incarcerated for a serious~~
16 ~~or violent felony, is guilty of a felony punishable by~~
17 ~~imprisonment in the state prison for a term of three, five, or nine~~
18 ~~years, and a fine not exceeding ten thousand dollars (\$10,000).~~
19 ~~Notwithstanding any other provision of law, prosecution for this~~
20 ~~offense shall be commenced within three years of the discovery~~
21 ~~of the offense.~~

22 ~~(b) Any peace officer who knowingly, willfully, and~~
23 ~~intentionally alters, modifies, plants, places, manufactures,~~
24 ~~conceals, or moves any physical matter, with specific intent that~~
25 ~~the action will result in a person being charged with a crime or~~
26 ~~with the specific intent that the physical matter will be~~
27 ~~wrongfully produced as genuine or true upon any trial,~~
28 ~~proceeding, or inquiry whatever, is guilty of a felony punishable~~
29 ~~by two, three, or five years in the state prison.~~

30 ~~(c) Nothing in this section shall preclude prosecution under~~
31 ~~both this section and any other provision of law.~~

32 ~~SECTION 1. Section 141.5 is added to the Penal Code, to~~
33 ~~read:~~

1 141.5. (a) (1) Any person who knowingly, willfully, and
2 intentionally alters, modifies, plants, places, manufactures,
3 conceals, or moves any physical matter, or makes a false
4 statement, with the specific intent that the action will result, and
5 the action does result, in an innocent person being arrested and
6 incarcerated for a serious or violent felony, is guilty of a felony
7 punishable by imprisonment in the state prison for a term of
8 three, five, or nine years, and a fine not exceeding ten thousand
9 dollars (\$10,000).

10 (2) Notwithstanding any other provision of law, prosecution
11 for this offense shall be commenced within three years of the
12 discovery of the offense.

13 (b) For the purposes of this section, “serious or violent
14 felony” means any felony specified in subdivision (c) of Section
15 667.5 or subdivision (c) of Section 1192.7.

16 (c) Nothing in this section shall preclude prosecution under
17 both this section and any other provision of law.

18 SEC. 2. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the
23 penalty for a crime or infraction, within the meaning of Section
24 17556 of the Government Code, or changes the definition of a
25 crime within the meaning of Section 6 of Article XIII B of the
26 California Constitution.