

AMENDED IN ASSEMBLY APRIL 7, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1661**

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**Introduced by Assembly Member Nielsen**

January 19, 2010

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An act to amend Section 459 of the Penal Code, relating to burglary.

LEGISLATIVE COUNSEL'S DIGEST

AB 1661, as amended, Nielsen. Burglary.

Existing law establishes the offense of burglary, which consists of entering specified buildings, places, or vehicles with the intent to commit grand or petit larceny, or any felony.

This bill would expand the scope of that offense to include entry ~~to those buildings, places, or vehicles~~ *into an inhabited dwelling of another* with the intent to willfully resist, delay, or obstruct any public officer or peace officer in the discharge or attempted discharge of any duty of his or her office or employment.

By expanding the scope of an existing offense, 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 459 of the Penal Code is amended to  
2 read:

3 459. Every person who enters any house, room, apartment,  
4 tenement, shop, warehouse, store, mill, barn, stable, outhouse or  
5 other building, tent, vessel, as defined in Section 21 of the Harbors  
6 and Navigation Code, floating home, as defined in subdivision (d)  
7 of Section 18075.55 of the Health and Safety Code, railroad car,  
8 locked or sealed cargo container, whether or not mounted on a  
9 vehicle, trailer coach, as defined in Section 635 of the Vehicle  
10 Code, any house car, as defined in Section 362 of the Vehicle  
11 Code, inhabited camper, as defined in Section 243 of the Vehicle  
12 Code, vehicle as defined by the Vehicle Code, when the doors are  
13 locked, aircraft as defined by Section 21012 of the Public Utilities  
14 Code, or mine or any underground portion thereof, with intent to  
15 commit grand or petit larceny or any felony, or *enters an inhabited*  
16 *dwelling of another* to willfully resist, delay, or obstruct any public  
17 officer or peace officer in the discharge or attempted discharge of  
18 any duty of his or her office or employment, is guilty of burglary.  
19 As used in this chapter, “inhabited” means currently being used  
20 for dwelling purposes, whether occupied or not. A house, trailer,  
21 vessel designed for habitation, or portion of a building is currently  
22 being used for dwelling purposes if, at the time of the burglary, it  
23 was not occupied solely because a natural or other disaster caused  
24 the occupants to leave the premises.

25 SEC. 2. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 the only costs that may be incurred by a local agency or school  
28 district will be incurred because this act creates a new crime or  
29 infraction, eliminates a crime or infraction, or changes the penalty  
30 for a crime or infraction, within the meaning of Section 17556 of  
31 the Government Code, or changes the definition of a crime within  
32 the meaning of Section 6 of Article XIII B of the California  
33 Constitution.

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