

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 924

Introduced by Assembly Member Bigelow

February 22, 2013

An act to amend ~~Section~~ *Sections 487 and 489* of, and to add *Section 12022.65* to, the Penal Code, relating to grand theft.

LEGISLATIVE COUNSEL'S DIGEST

AB 924, as amended, Bigelow. Grand theft.

~~Under~~

(1) Under existing law, grand theft is generally theft committed when the money, labor, or real or personal property taken is of a value exceeding \$950, or when certain kinds of property are taken, including an automobile, a firearm, or certain specified domesticated animals. Under existing law, grand theft is committed when the property taken is a horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow, or pig, or if a person steals the carcass or portion of the carcass of any bovine, caprine, equine, ovine, or suine animal, or of any mule, jack, or jenny. Under existing law, grand theft is punishable either as a felony or a misdemeanor.

~~This bill would make a technical, nonsubstantive change to these provisions:~~

This bill would make grand theft of the above-specified animals punishable as a felony or a misdemeanor, or by a fine not exceeding \$5,000, or by both that fine and imprisonment. The bill would require the proceeds of the fine to be allocated to the Bureau of Livestock Identification to be used upon appropriation for specified purposes.

For a 2nd or subsequent conviction, except in unusual circumstances, as specified, the bill would require 30 day’s incarceration in a county jail as a condition of granting probation.

(2) Existing law requires the court, when any person takes, damages, or destroys any property in the commission or attempted commission of a felony, with the intent to cause that taking, damage, or destruction, to impose an additional term of imprisonment based on the amount of the loss. If the loss exceeds \$65,000, existing law requires the court to impose an additional term of one year of imprisonment, if the loss exceeds \$200,000, an additional term of 2 years, if the loss exceeds \$1,300,000, an additional term of 3 years, and if the loss exceeds \$3,200,000, an additional term of 4 years.

This bill would require the court, when any person takes, damages, or destroys any horse, mare, gelding, any bovine animal, any caprine animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow, or pig, or the carcass or portion of the carcass of any bovine, caprine, equine, ovine, or suine animal, or of any mule, jack, or jenny, to impose an additional term of imprisonment based on the amount of the loss. If the loss exceeds \$15,000, the bill would require the court to impose an additional term of one years’ imprisonment, and if the loss exceeds \$50,000, the bill would require the court to impose an additional term of 2 years’ imprisonment, as provided.

By increasing the punishment for a 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: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 487 of the Penal Code is amended to
- 2 read:
- 3 487. Grand theft is theft committed in any of the following
- 4 cases:

1 (a) When the money, labor, or real or personal property taken
2 is of a value exceeding nine hundred fifty dollars (\$950), except
3 as provided in subdivision (b).

4 (b) Notwithstanding subdivision (a), grand theft is committed
5 in any of the following cases:

6 (1) (A) When domestic fowls, avocados, olives, citrus or
7 deciduous fruits, other fruits, vegetables, nuts, artichokes, or other
8 farm crops are taken of a value exceeding two hundred fifty dollars
9 (\$250).

10 (B) For the purposes of establishing that the value of domestic
11 fowls, avocados, olives, citrus or deciduous fruits, other fruits,
12 vegetables, nuts, artichokes, or other farm crops under this
13 paragraph exceeds two hundred fifty dollars (\$250), that value
14 may be shown by the presentation of credible evidence which
15 establishes that on the day of the theft domestic fowls, avocados,
16 olives, citrus or deciduous fruits, other fruits, vegetables, nuts,
17 artichokes, or other farm crops of the same variety and weight
18 exceeded two hundred fifty dollars (\$250) in wholesale value.

19 (2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or
20 other aquacultural products are taken from a commercial or
21 research operation which is producing that product, of a value
22 exceeding two hundred fifty dollars (\$250).

23 (3) Where the money, labor, or real or personal property is taken
24 by a servant, agent, or employee from his or her principal or
25 employer and aggregates nine hundred fifty dollars (\$950) or more
26 in any 12 consecutive month period.

27 (c) When the property is taken from the person of another.

28 (d) When the property taken is any of the following:

29 (1) A horse, mare, gelding, any bovine animal, any caprine
30 animal, mule, jack, jenny, sheep, lamb, hog, sow, boar, gilt, barrow,
31 or pig.

32 (2) An automobile.

33 (3) A firearm.

34 *SEC. 2. Section 489 of the Penal Code is amended to read:*

35 489. Grand theft is punishable as follows:

36 (a) ~~When~~*If* the grand theft involves the theft of a firearm, by
37 imprisonment in the state prison for 16 months, two, or three years.

38 (b) (1) *If the grand theft involves a violation of paragraph (1)*
39 *of subdivision (d) of Section 487 or Section 487a, by imprisonment*
40 *in a county jail not exceeding one year or pursuant to subdivision*

1 (h) of Section 1170, and by a fine not exceeding five thousand
 2 dollars (\$5,000), or by both that fine and imprisonment. The
 3 proceeds of this fine shall be allocated to the Bureau of Livestock
 4 Identification to be used, upon appropriation by the Legislature,
 5 for purposes relating to the investigation of cases involving grand
 6 theft of any animal or animals specified in paragraph (1) of
 7 subdivision (d) of Section 487, or of the carcass or carcasses of,
 8 or any portion of the carcass or carcasses of, any animal specified
 9 in Section 487a.

10 (2) If the person has a prior conviction of paragraph (1) of
 11 subdivision (d) of Section 487 or Section 487a, and if probation
 12 is granted, or if the imposition or execution of sentence is
 13 suspended, it shall be a condition of probation or the suspension
 14 that the defendant serve at least 30 days in a county jail, except
 15 in unusual circumstances where the interests of justice would best
 16 be served by granting probation or suspending the imposition or
 17 execution of sentence without requiring imprisonment in a county
 18 jail, in which case the court shall specify on the record and shall
 19 enter on the minutes the circumstances indicating that the interests
 20 of justice would best be served by the disposition.

21 ~~(b)~~

22 (c) In all other cases, by imprisonment in a county jail not
 23 exceeding one year or pursuant to subdivision (h) of Section 1170.

24 SEC. 3. Section 12022.65 is added to the Penal Code, to read:

25 12022.65. (a) Notwithstanding Section 12022.6, when any
 26 person takes, damages, or destroys any property specified in
 27 paragraph (1) of subdivision (d) of Section 487, or specified in
 28 Section 487a, in the commission or attempted commission of a
 29 felony, with the intent to cause that taking, damage, or destruction,
 30 the court shall impose an additional term as follows:

31 (1) If the loss exceeds fifteen thousand dollars (\$15,000), the
 32 court, in addition and consecutive to the punishment prescribed
 33 for the felony or attempted felony of which the defendant has been
 34 convicted, shall impose an additional term of one year.

35 (2) If the loss exceeds fifty thousand dollars (\$50,000), the court,
 36 in addition and consecutive to the punishment prescribed for the
 37 felony or attempted felony of which the defendant has been
 38 convicted, shall impose an additional term of two years.

39 (b) In any accusatory pleading involving multiple charges of
 40 taking, damage, or destruction, the additional terms provided in

1 *this section may be imposed if the aggregate losses to the victims*
2 *from all felonies exceed the amounts specified in this section and*
3 *arise from a common scheme or plan. All pleadings under this*
4 *section shall remain subject to the rules of joinder and severance*
5 *stated in Section 954.*

6 *(c) The additional terms provided in this section shall not be*
7 *imposed unless the facts of the taking, damage, or destruction in*
8 *excess of the amounts provided in this section are charged in the*
9 *accusatory pleading and admitted or found to be true by the trier*
10 *of fact.*

11 *SEC. 4. No reimbursement is required by this act pursuant to*
12 *Section 6 of Article XIII B of the California Constitution because*
13 *the only costs that may be incurred by a local agency or school*
14 *district will be incurred because this act creates a new crime or*
15 *infraction, eliminates a crime or infraction, or changes the penalty*
16 *for a crime or infraction, within the meaning of Section 17556 of*
17 *the Government Code, or changes the definition of a crime within*
18 *the meaning of Section 6 of Article XIII B of the California*
19 *Constitution.*