

Assembly Bill No. 144

Passed the Assembly September 9, 2015

Chief Clerk of the Assembly

Passed the Senate September 8, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 374.3 of the Penal Code, relating to dumping.

LEGISLATIVE COUNSEL'S DIGEST

AB 144, Mathis. Dumping.

Existing law prohibits dumping waste matter in or upon a public or private highway or road, or in or upon private property into or upon which the public is admitted by easement or license, or upon private property without the consent of the owner, or in or upon a public park or other public property. A violation of these provisions is an infraction punishable by a fine between \$250 and \$1,000 for a first conviction, between \$500 and \$1,500 for a 2nd conviction, and between \$750 and \$3,000 for a 3rd or subsequent conviction.

This bill would make dumping waste matter on private property, including on any private road or highways, without the consent of the owner punishable by a fine between \$250 and \$1,000 for a first conviction, between \$500 and \$1,500 for a 2nd conviction, and between \$750 and \$3,000 for a 3rd conviction. The bill would make a 4th or subsequent conviction a misdemeanor punishable by imprisonment in a county jail for not more than 30 days and by a fine of not less than \$750 nor more than \$3,000.

By changing the definition of a crime, 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.

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

SECTION 1. Section 374.3 of the Penal Code is amended to read:

374.3. (a) It is unlawful to dump or cause to be dumped waste matter in or upon a public highway or road, including any portion

of the right-of-way thereof, or in or upon private property into or upon which the public is admitted by easement or license, or in or upon a public park or other public property other than property designated or set aside for that purpose by the governing board or body having charge of that property.

(b) It is unlawful to place, deposit, or dump, or cause to be placed, deposited, or dumped, rocks, concrete, asphalt, or dirt in or upon a private highway or road, including any portion of the right-of-way of the private highway or road, or private property, without the consent of the owner or a contractor under contract with the owner for the materials, or in or upon a public park or other public property, without the consent of the state or local agency having jurisdiction over the highway, road, or property.

(c) A person violating subdivision (a) or (b) is guilty of an infraction. Each day that waste placed, deposited, or dumped in violation of subdivision (a) or (b) remains unabated is a separate violation.

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

(e) A person convicted of a violation of subdivision (a) or (b) shall be punished by a mandatory fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000) upon a first conviction, by a mandatory fine of not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500) upon a second conviction, and by a mandatory fine of not less than seven hundred fifty dollars (\$750) nor more than three thousand dollars (\$3,000) upon a third or subsequent conviction. If the court finds that the waste matter placed, deposited, or dumped was used tires, the fine prescribed in this subdivision shall be doubled.

(f) The court may require, in addition to any fine imposed upon a conviction, that, as a condition of probation and in addition to any other condition of probation, a person convicted under this section remove, or pay the cost of removing, any waste matter

which the convicted person dumped or caused to be dumped upon public or private property.

(g) Except when the court requires the convicted person to remove waste matter which he or she is responsible for dumping as a condition of probation, the court may, in addition to the fine imposed upon a conviction, require as a condition of probation, in addition to any other condition of probation, that a person convicted of a violation of this section pick up waste matter at a time and place within the jurisdiction of the court for not less than 12 hours.

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

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

(i) (1) A person who places, deposits, or dumps, or causes to be placed, deposited, or dumped, waste matter upon private property, including on any private highway or road, without the consent of the owner shall be punished by a fine. The fine is mandatory and shall amount to not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000) upon a first conviction, not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500) upon a second conviction, and not less than seven hundred fifty dollars (\$750) nor more than three thousand dollars (\$3,000) upon a third conviction. Upon a fourth or subsequent conviction, the person is guilty of a misdemeanor punishable by imprisonment in a county jail for not more than 30 days and by a fine of not less than seven hundred fifty dollars (\$750) nor more than three thousand dollars (\$3,000).

(2) If the court finds that the waste matter placed, deposited, or dumped includes used tires, the fine prescribed in this subdivision shall be doubled. A separate fine in the same amount as initially imposed shall accrue for each day that waste placed, deposited, or dumped remains unabated, but no additional conviction for the purposes of punishments in paragraph (1) shall arise for the same act. For the fourth or subsequent violation, each day that waste placed, deposited, or dumped remains shall not result in the accrual of a separate fine or violation for the purposes of punishments in paragraph (1).

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

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

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

Approved _____, 2015

Governor