

**ASSEMBLY BILL**

**No. 849**

---

---

**Introduced by Assembly Member Bonilla**

February 26, 2015

---

---

An act to amend Sections 452 and 452.1 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 849, as introduced, Bonilla. Unlawfully causing a fire: explosion.

Existing law provides that a person is guilty of the crime of unlawfully causing a fire when he or she recklessly sets fire to or burns, or causes to be burned, a structure, forest land, or property. Unlawfully causing a fire that causes great bodily injury or causes an inhabited structure or inhabited property to burn, or unlawfully causing a fire of a structure or forest land is a felony punishable by imprisonment in the state prison or a county jail, as specified, and a fine, or both the fine and imprisonment. Unlawfully causing a fire of property is a misdemeanor, except as specified. Existing law also imposes sentence enhancements for those crimes, if specified circumstances apply, such as if emergency personnel suffer great bodily injury as a result of the offense.

This bill would revise those provisions to specify that they also apply to unlawfully causing an explosion. The bill would also provide that unlawfully causing a fire or an explosion that causes the contents of an inhabited structure or an inhabited property to burn or be damaged by an explosion is a felony punishable by imprisonment in the state prison for 2, 3, or 4 years, or by imprisonment in the county jail for not more than one year, or by a fine, or by both that imprisonment and fine. By expanding the scope of existing crimes and creating new 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 452 of the Penal Code is amended to  
2 read:

3 452. A person is guilty of unlawfully causing a fire *or an*  
4 *explosion* when he *or she* recklessly sets fire ~~to or burns or to,~~  
5 *burns*, causes to be burned, *or causes an explosion within or on*  
6 any structure, forest land or property.

7 (a) Unlawfully causing a fire *or an explosion* that causes great  
8 bodily injury is a felony punishable by imprisonment in the state  
9 prison for two, four or six years, or by imprisonment in the county  
10 jail for not more than one year, or by a fine, or by both ~~such that~~  
11 imprisonment and fine.

12 (b) Unlawfully causing a fire *or an explosion* that causes an  
13 inhabited structure or inhabited property, *or its contents*, to burn  
14 *or to be damaged by an explosion* is a felony punishable by  
15 imprisonment in the state prison for two, three or four years, or by  
16 imprisonment in the county jail for not more than one year, or by  
17 a fine, or by both ~~such that~~ imprisonment and fine.

18 (c) Unlawfully causing a fire ~~of to, or an explosion on or of a~~  
19 structure *or on* forest land is a felony punishable by imprisonment  
20 in the state prison for 16 months, two or three years, or by  
21 imprisonment in the county jail for not more than six months, or  
22 by a fine, or by both ~~such that~~ imprisonment and fine.

23 (d) Unlawfully causing a fire ~~of to, or an explosion on,~~ property  
24 is a misdemeanor. For purposes of this paragraph, unlawfully  
25 causing a fire ~~of to, or an explosion on,~~ property does not include  
26 ~~one-burning or burning,~~ causing to be burned, *or causing an*  
27 *explosion on his or her own personal property* unless there is injury  
28 to another person or to another person's structure, forest land or  
29 property.

1 (e) ~~In the case of any~~ *If a person is* convicted of violating this  
2 section while *he or she is* confined in a state prison, prison road  
3 camp, prison forestry camp, or other prison camp or prison farm,  
4 or while *he or she is* confined in a county jail while serving a term  
5 of imprisonment for a felony or misdemeanor conviction, ~~any the~~  
6 sentence imposed *for a violation of this section* shall be consecutive  
7 to the sentence for which the person was ~~then~~ confined.

8 SEC. 2. Section 452.1 of the Penal Code is amended to read:

9 452.1. (a) Notwithstanding any other law, any person who is  
10 convicted of a felony violation of Section 452 shall be punished  
11 by a one-, two-, or three-year enhancement for each of the  
12 following circumstances that is found to be true:

13 (1) The defendant has been previously convicted of a felony  
14 violation of Section 451 or 452.

15 (2) A firefighter, peace officer, or other emergency personnel  
16 suffered great bodily injury as a result of the offense. The additional  
17 term provided by this subdivision shall be imposed whenever  
18 applicable, including any instance in which there is a violation of  
19 subdivision (a) of Section 452.

20 (3) The defendant proximately caused great bodily injury to  
21 more than one victim in any single violation of Section 452. The  
22 additional term provided by this subdivision shall be imposed  
23 whenever applicable, including any instance in which there is a  
24 violation of subdivision (a) of Section 452.

25 (4) The defendant proximately caused multiple structures to  
26 burn *or be damaged by an explosion in* ~~any~~ a single violation of  
27 Section 452.

28 (b) The additional term specified in subdivision (a) ~~of Section~~  
29 ~~452.1~~ shall not be imposed unless the existence of ~~any~~ a fact  
30 required under this section ~~shall be~~ *is* alleged in the accusatory  
31 pleading and either admitted by the defendant in open court or  
32 found to be true by the trier of fact.

33 SEC. 3. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 the only costs that may be incurred by a local agency or school  
36 district will be incurred because this act creates a new crime or  
37 infraction, eliminates a crime or infraction, or changes the penalty  
38 for a crime or infraction, within the meaning of Section 17556 of  
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

O