

AMENDED IN SENATE JULY 16, 2015

AMENDED IN ASSEMBLY MAY 4, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 849

Introduced by Assembly Member Bonilla

February 26, 2015

An act to add Section 452.5 to the Penal Code, relating to ~~crime~~
crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 849, as amended, Bonilla. ~~Unlawful cannabinoid extraction:
explosion. Crimes: causing an explosion.~~

Existing law proscribes the crime of arson and provides that a person is guilty of arson when he or she willfully and maliciously sets fire to or burns or causes to be burned, or aids, counsels, or procures the burning of, a structure, forest land, or property. The crime of arson is a felony punishable by imprisonment in the state prison, as specified.

This bill would provide that a person who recklessly causes an explosion is guilty of a public offense. The bill would provide that if the explosion causes great bodily injury, the offense is a felony punishable, as specified, for 2, 4, or 6 years, or a misdemeanor punishable by imprisonment in a county jail for up to one year. The bill would provide that if the explosion causes damages in the amount of \$20,000 or more to any structure in which a person was present at the time of the offense or to an inhabited dwelling, the offense is a felony punishable, as specified, or a misdemeanor punishable by imprisonment in a county jail for up to one year. The bill would also provide that if the explosion causes damages in the amount of \$2,000 or more, but less than \$20,000,

to any structure in which a person was present at the time of the offense or to an inhabited dwelling, the offense is a misdemeanor punishable by imprisonment in a county jail for up to one year. By 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.

Existing law provides that the possession for sale, the cultivation of, and the processing of, marijuana are felonies.

~~This bill would provide that a person who extracts, or attempts to extract, Tetrahydrocannabinol or other cannabinoids by means of solvent extraction from marijuana leaves, flowers, or stalks, and causes an explosion that damages property would be guilty of a misdemeanor, as specified. The bill would provide that if the explosion damages a structure or forest land the offense would be punishable by a misdemeanor or felony with specified penalties. The bill would provide for increased misdemeanor and felony penalties if the explosion damages an inhabited structure or causes great bodily injury. By creating new crimes, 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 452.5 is added to the Penal Code, to read:
- 2 452.5. (a) A person who recklessly causes an explosion is
- 3 guilty of a public offense.
- 4 (b) If the explosion described in subdivision (a) causes great
- 5 bodily injury to another person, the offense is a felony punishable
- 6 pursuant to subdivision (h) of Section 1170 for two, four, or six
- 7 years, or a misdemeanor punishable by imprisonment in a county
- 8 jail for up to one year.

1 (c) If the explosion described in subdivision (a) causes damages
2 in the amount of twenty thousand dollars (\$20,000) or more to
3 any structure in which a person was present at the time of the
4 offense or to an inhabited dwelling, the offense is a felony
5 punishable pursuant to subdivision (h) of Section 1170, or a
6 misdemeanor punishable by imprisonment in a county jail for up
7 to one year.

8 (d) If the explosion described in subdivision (a) causes damages
9 in the amount of two thousand dollars (\$2,000) or more, but less
10 than twenty thousand dollars (\$20,000), to any structure in which
11 a person was present at the time of the offense or to an inhabited
12 dwelling, the offense is a misdemeanor punishable by imprisonment
13 in a county jail for up to one year.

14 (e) The court may not impose sentence pursuant to subdivision
15 (b) and an enhancement for infliction of great bodily injury if the
16 same injury is an element of the crime and the basis for the
17 enhancement.

18 (f) For purposes of this section, the amount of damages caused
19 by the defendant's conduct is determined by the market cost of
20 repair or replacement in the place where the offense occurred.

21 (g) For purposes of this section, "inhabited" means currently
22 being used for dwelling purposes, whether occupied or not
23 occupied.

24 (h) A misdemeanor charged under this section is subject to a
25 civil compromise pursuant to Chapter 7 (commencing with Section
26 1377) of Title 10 of Part 2.

27 (i) This section does not prohibit prosecution under any other
28 law.

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

38 SECTION 1. ~~Section 452.5 is added to the Penal Code, to read:~~

39 ~~452.5. (a) A person who extracts, or attempts to extract,~~
40 ~~Tetrahydrocannabinol or other cannabinoids by means of solvent~~

1 extraction from marijuana leaves, flowers, or stalks, and causes
2 an explosion that causes great bodily injury shall be punished by
3 imprisonment in a county jail for not more than one year, by
4 imprisonment for two, four, or six years, pursuant to subdivision
5 (h) of Section 1170 of the Penal Code, by a fine not exceeding ten
6 thousand dollars (\$10,000), or by both imprisonment and that fine.

7 (b) A person who extracts, or attempts to extract,
8 Tetrahydrocannabinol or other cannabinoids by means of solvent
9 extraction from marijuana leaves, flowers, or stalks, and causes
10 an explosion that damages an inhabited structure or inhabited
11 property shall be punished by imprisonment in a county jail for
12 not more than one year, by imprisonment for two, three, or four
13 years, pursuant to subdivision (h) of Section 1170 of the Penal
14 Code, by a fine not exceeding ten thousand dollars (\$10,000), or
15 by both imprisonment and that fine.

16 (c) A person who extracts, or attempts to extract,
17 Tetrahydrocannabinol or other cannabinoids by means of solvent
18 extraction from marijuana leaves, flowers, or stalks, and causes
19 an explosion that damages a structure or forest land shall be
20 punished by imprisonment in a county jail for not more than six
21 months, by imprisonment for 16 months, or two or three years,
22 pursuant to subdivision (h) of Section 1170 of the Penal Code, by
23 a fine not exceeding ten thousand dollars (\$10,000), or by both
24 imprisonment and that fine.

25 (d) A person who extracts, or attempts to extract,
26 Tetrahydrocannabinol or other cannabinoids by means of solvent
27 extraction from marijuana leaves, flowers, or stalks, and causes
28 an explosion that results in damage to property is guilty of a
29 misdemeanor, provided however, that this subdivision shall not
30 apply in the instance when the explosion damages only the person's
31 own personal property, unless there is injury to another person, or
32 another person's structure, forest land, or property.

33 SEC. 2. 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.~~

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