

Assembly Bill No. 849

Passed the Assembly September 2, 2015

Chief Clerk of the Assembly

Passed the Senate September 1, 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 add Section 452.5 to the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL’S DIGEST

AB 849, Bonilla. 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 by incarceration for 2, 4, or 6 years, as specified, 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.

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

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

452.5. (a) A person who recklessly causes an explosion is guilty of a public offense.

(b) If the explosion described in subdivision (a) causes great bodily injury to another person, the offense is a felony punishable pursuant to subdivision (h) of Section 1170 for two, four, or six years, or a misdemeanor punishable by imprisonment in a county jail for up to one year.

(c) If the explosion described in subdivision (a) causes damages in the amount of twenty thousand dollars (\$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 pursuant to subdivision (h) of Section 1170, or a misdemeanor punishable by imprisonment in a county jail for up to one year.

(d) If the explosion described in subdivision (a) causes damages in the amount of two thousand dollars (\$2,000) or more, but less than twenty thousand dollars (\$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.

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

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

(g) As used in this section:

(1) "Explosion" means the sudden conversion of potential energy, either chemical or mechanical, into kinetic energy with the production and release of gases under pressure, or the release of gas under pressure, which results in these high pressure gases doing mechanical work such as moving, changing, or shattering nearby materials.

(2) "Inhabited" means currently being used for dwelling purposes, whether occupied or not occupied.

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

(i) This section does not prohibit prosecution under any other law, provided, however, that a person shall not be punished for a violation of both this section and Section 452 if the offenses arise from the same conduct.

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