

ASSEMBLY BILL

No. 2369

**Introduced by Assembly Member Patterson
(Coauthors: Assembly Members Baker, Brough, Lackey, Waldron,
and Wilk)**

February 18, 2016

An act to amend Section 490.2 of, and to add Section 666.1 to, the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 2369, as introduced, Patterson. Proposition 47: repeat offenses within 12 months.

Existing law, the Safe Neighborhoods and Schools Act, enacted by Proposition 47, as approved by the voters at the November 4, 2014, statewide general election, reduced certain felonies to misdemeanors, including possession of specified controlled substances and theft of a firearm with a value under \$950.

This bill would authorize the prosecution to charge a person with a felony if the person has been convicted 2 or more times in the 12-month period of the crimes reduced to a misdemeanor by Proposition 47 or, if the crime being prosecuted is petty theft, when the person had been convicted of specified other crimes, including grand theft and carjacking, at least twice in the past 12 months. The bill would specify that, for purposes of determining the 12-month period, the date the crimes were committed is used, not the date of conviction. The bill would also make it a felony when the items taken include a firearm.

The California Constitution authorizes the Legislature to amend or repeal an initiative statute by another statute that becomes effective when approved by the electors.

This bill would provide that it would become effective only upon approval of the voters, and would provide for the submission of this measure to the voters for approval at statewide general election.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 490.2 of the Penal Code is amended to
2 read:

3 490.2. (a) Notwithstanding Section 487 or any other provision
4 of law defining grand theft, obtaining any property by theft where
5 the value of the money, labor, real or personal property taken does
6 not exceed nine hundred fifty dollars (\$950) shall be considered
7 petty theft and shall be punished as a misdemeanor, ~~except that~~
8 ~~such~~ *with the following exceptions:*

9 (1) A person may instead be punished pursuant to subdivision
10 (h) of Section 1170 if that person has one or more prior convictions
11 for an offense specified in clause (iv) of subparagraph (C) of
12 paragraph (2) of subdivision (e) of Section 667 or for an offense
13 requiring registration pursuant to subdivision (c) of Section 290.

14 (2) *When the items taken include a firearm, the person shall be*
15 *punished pursuant to subdivision (h) of Section 1170.*

16 (b) This section shall not be applicable to any theft that may be
17 charged as an infraction pursuant to any other provision of law.

18 SEC. 2. Section 666.1 is added to the Penal Code, to read:

19 666.1. (a) Notwithstanding any other law, a person who has
20 been convicted of a misdemeanor violation of any of the crimes
21 listed in subdivision (b) two or more times in 12 months may be
22 punished, upon a third conviction for one of the enumerated crimes
23 that he or she commits within the same 12-month period, either
24 by imprisonment for not more than a year in a county jail or by
25 imprisonment pursuant to subdivision (h) of Section 1170.

26 (b) (1) Shoplifting of an item with a value of more than nine
27 hundred fifty dollars (\$950).

28 (2) Forgery relating to a check, bond, bank bill, note, cashier's
29 check, traveler's check, or money order, where the value of the
30 check, bond, bank bill, note, cashier's check, traveler's check, or
31 money order does not exceed nine hundred fifty dollars (\$950).

1 (3) A violation of Section 476a where the amount of all checks,
2 drafts, or orders is more than four hundred fifty dollars (\$450) but
3 less than nine hundred fifty dollars (\$950).

4 (4) Petty theft of any of the following:

5 (A) Domestic fowls, avocados, olives, citrus or deciduous fruits,
6 other fruits, vegetables, nuts, artichokes, or other farm crops with
7 a value exceeding two hundred fifty dollars (\$250) but less than
8 nine hundred fifty dollars (\$950).

9 (B) Fish, shellfish, mollusks, crustaceans, kelp, algae, or other
10 aquacultural products are taken from a commercial or research
11 operation with a value exceeding two hundred fifty dollars (\$250)
12 but less than nine hundred fifty dollars (\$950).

13 (C) Property taken from the person of another with a value of
14 less than nine hundred fifty dollars (\$950).

15 (D) An automobile with a value of less than nine hundred fifty
16 dollars (\$950).

17 (5) A violation of Section 496 where the property has a value
18 of less than nine hundred fifty dollars (\$950).

19 (6) Unless upon the written prescription of a physician, dentist,
20 podiatrist, or veterinarian licensed to practice in this state,
21 possession of a controlled substance that is any of the following:

22 (A) Specified in subdivision (b) or (c) or paragraph (1) of
23 subdivision (f) of Section 11054 of the Health and Safety Code.

24 (B) Specified in paragraph (14), (15), or (20) of subdivision (d)
25 of Section 11054 of the Health and Safety Code.

26 (C) Specified in subdivision (b) or (c) of Section 11055 of the
27 Health and Safety Code.

28 (D) Specified in subdivision (h) of Section 11056 of the Health
29 and Safety Code.

30 (E) A controlled substance classified in Schedule III, IV, or V
31 that is a narcotic drug.

32 (7) Violation of Section 11357 or 11377 of the Health and Safety
33 Code.

34 (c) In addition to the provisions of subdivision (a), a person who
35 has been convicted of a crime of petty theft, grand theft, auto theft
36 pursuant to subdivision (d) or (e) of Section 10851 of the Vehicle
37 Code, burglary, carjacking, robbery, or a felony violation of Section
38 496 two or more times in 12 months, may be punished upon a
39 conviction for petty theft that he or she commits in the same
40 12-month period, either by imprisonment for not more than a year

1 in a county jail or by imprisonment pursuant to subdivision (h) of
2 Section 1170.

3 (d) For purposes of determining the 12-month period required
4 by subdivisions (a) and (c), the date the crimes were committed
5 shall be used, not the date of the conviction.

6 SEC. 3. Section 1 of this act amends the Safe Neighborhoods
7 and Schools Act, Proposition 47, an initiative statute, and shall
8 become effective only when submitted to and approved by the
9 voters. The Secretary of State shall submit Section 1 of this act for
10 approval by the voters at a statewide election in accordance with
11 Section 9040 of the Elections Code.

O