

AMENDED IN SENATE APRIL 22, 2015

**SENATE BILL**

**No. 288**

**Introduced by Senator McGuire**  
(Coauthor: Assembly Member Wood)

February 23, 2015

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An act to add ~~Section 490.8~~ *Sections 594.9 and 803.7* to the Penal Code, relating to ~~larceny~~ *vandalism*.

LEGISLATIVE COUNSEL'S DIGEST

SB 288, as amended, McGuire. ~~Theft of Vandalism:~~ redwood burls.

*Existing law makes every person who maliciously defaces with graffiti or other inscribed material, damages, or destroys any real or personal property not his or her own guilty of vandalism, which is punishable by imprisonment, or fine, or both imprisonment and fine, as specified.*

*This bill would make it vandalism to maliciously deface, damage, or destroy a redwood tree on the property of another without the permission of the owner. The bill would create a permissive inference of a violation when a person violates these provisions with respect to property belonging to a public entity or the federal government. The bill would make a violation of these provisions punishable by fines or imprisonment or both, as specified. The bill would also authorize a court, in addition to any other penalty or fine imposed, to order the defendant to pay an additional fine, not to exceed \$5,000, to be deposited in the State Park Contingent Fund for the purpose of forest restoration.*

~~Existing law provides that grand theft is theft when the money, labor, or real or personal property taken is of a value exceeding \$950 and is punishable as either a misdemeanor or a felony.~~

~~This bill would make it a felony, punishable by imprisonment in county jail, a fine of up to \$10,000, or both the fine and imprisonment~~

~~to steal, take or carry away without the consent of the owner the burl of a redwood tree from the property of another. By creating a new crime, 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 594.9 is added to the Penal Code, to read:  
2     594.9. (a) A person who maliciously defaces, damages, or  
3     destroys a redwood tree on the property of another without the  
4     permission of the owner is guilty of vandalism. Whenever a person  
5     violates this section with respect to property belonging to a public  
6     entity, as defined by Section 811.2 of the Government Code, or the  
7     federal government, it shall be a permissive inference that the  
8     person neither owned the property nor had the permission of the  
9     owner to deface, damage, or destroy the property.  
10    (b) (1) If the amount of the defacement, damage, or destruction  
11    is four hundred dollars (\$400) or more, the person shall be  
12    punished by imprisonment pursuant to subdivision (h) of Section  
13    1170 or in a county jail for a period not to exceed one year, by a  
14    fine of not more than ten thousand dollars (\$10,000) or, if the  
15    amount of the defacement, damage, or destruction is ten thousand  
16    dollars (\$10,000) or more, by a fine not to exceed fifty thousand  
17    dollars (\$50,000), or by both that fine and imprisonment.  
18    (2) (A) If the amount of defacement, damage, or destruction is  
19    less than four hundred dollars (\$400), vandalism is punishable by  
20    imprisonment in a county jail not exceeding one year, or by a fine  
21    of not more than one thousand dollars (\$1,000), or by both that  
22    fine and imprisonment.  
23    (B) If the amount of defacement, damage, or destruction is less  
24    than four hundred dollars (\$400), and the defendant has previously  
25    been convicted of violating this section, the current violation shall  
26    be punishable by imprisonment in a county jail for not more than

1 *one year, or by a fine of not more than five thousand dollars*  
2 *(\$5,000), or by both that fine and imprisonment.*

3 *(c) For purposes of this section, “damages” includes damage*  
4 *caused to public or private property and facilities, public parks*  
5 *property and facilities, and public utilities and water property and*  
6 *facilities, in the course of stealing or attempting to steal, take, or*  
7 *carry away without consent of the owner the burl of a redwood*  
8 *tree from the property of another.*

9 *(d) Upon the conviction of a person for violating this section,*  
10 *the court, in addition to any other penalty or fine imposed, may*  
11 *order the defendant to pay an additional fine, not to exceed five*  
12 *thousand dollars (\$5,000), to be deposited in the State Park*  
13 *Contingent Fund, as established by Section 5009 of the Public*  
14 *Resources Code for the purpose of forest restoration.*

15 *SEC. 2. Section 803.7 is added to the Penal Code, to read:*

16 *803.7. With respect to a violation of Section 594.9, a limitation*  
17 *of time prescribed in this chapter does not commence to run until*  
18 *the discovery of the offense.*

19 *SEC. 3. No reimbursement is required by this act pursuant to*  
20 *Section 6 of Article XIII B of the California Constitution because*  
21 *the only costs that may be incurred by a local agency or school*  
22 *district will be incurred because this act creates a new crime or*  
23 *infraction, eliminates a crime or infraction, or changes the penalty*  
24 *for a crime or infraction, within the meaning of Section 17556 of*  
25 *the Government Code, or changes the definition of a crime within*  
26 *the meaning of Section 6 of Article XIII B of the California*  
27 *Constitution.*

28 ~~SECTION 1. Section 490.8 is added to the Penal Code, to read:~~

29 ~~490.8. A person who steals, takes or carries away without~~  
30 ~~consent of the owner the burl of a redwood tree from the property~~  
31 ~~of another is guilty of a felony, punishable by imprisonment~~  
32 ~~pursuant to subdivision (h) of Section 1170, or a fine of up to ten~~  
33 ~~thousand dollars (\$10,000), or both that fine and imprisonment.~~

34 ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
35 ~~Section 6 of Article XIII B of the California Constitution because~~  
36 ~~the only costs that may be incurred by a local agency or school~~  
37 ~~district will be incurred because this act creates a new crime or~~  
38 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
39 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
40 ~~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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