

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 22, 2015

**SENATE BILL**

**No. 288**

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

February 23, 2015

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An act to add Sections 594.9 and 803.7 to the Penal Code, relating to vandalism.

LEGISLATIVE COUNSEL'S DIGEST

SB 288, as amended, McGuire. 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. *Existing law requires prosecution for an offense punishable by imprisonment in the state prison or county jail to be commenced within three years after commission of the offense.*

This bill would ~~make it vandalism to specifically include in the crime of vandalism maliciously deface, damage, or destroy defacing, damaging, or destroying~~ 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.~~ By expanding the definition of a crime, this bill would impose a state-mandated local program. The bill would begin the running of the time for prosecution for this offense upon discovery of the offense.

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  
7     the 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 punished  
12    by imprisonment pursuant to subdivision (h) of Section 1170 or  
13    in a county jail for a period not to exceed one year, by a fine of  
14    not more than ten thousand dollars (\$10,000) or, if the amount of  
15    the defacement, damage, or destruction is ten thousand dollars  
16    (\$10,000) or more, by a fine not to exceed fifty thousand dollars  
17    (\$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

1 be punishable by imprisonment in a county jail for not more than  
2 one year, or by a fine of not more than five thousand dollars  
3 (\$5,000), or by both that fine and imprisonment.

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

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

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

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

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