

AMENDED IN ASSEMBLY JUNE 25, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE APRIL 22, 2015

SENATE BILL

No. 288

Introduced by Senator McGuire
(Coauthor: Assembly Member Wood)

February 23, 2015

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 specifically include in the crime of vandalism maliciously 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.~~ *entity*. 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
 26 be punishable by imprisonment in a county jail for not more than
 27 one year, or by a fine of not more than five thousand dollars
 28 (\$5,000), or by both that fine and imprisonment.
 29 (c) For purposes of this section, “damages” includes damage
 30 caused to public or private property and facilities, public parks

1 property and facilities, and public utilities and water property and
2 facilities, in the course of stealing or attempting to steal, take, or
3 carry away without consent of the owner the burl of a redwood
4 tree from the property of another.

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

6 803.7. With respect to a violation of Section 594.9, a limitation
7 of time prescribed in this chapter does not commence to run until
8 the discovery of the offense.

9 SEC. 3. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.