

AB 2612 Newspaper Theft

An act to amend Section 19.8 of, and to add Section 490.7 to, the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 2612, Plescia. Crime.

Existing law defines petty theft and provides that if the value of the money, labor, real or personal property taken is \$50 or less, the crime may be punishable by a fine not exceeding \$250, or by a fine not exceeding \$1,000, imprisonment in a county jail for a period not exceeding 6 months, or both that fine and imprisonment.

This bill would provide that it is a crime to take more than 25 copies of the current issue, as defined, of a free or complimentary newspaper if done to recycle, barter, or to deprive others of the opportunity to read the newspaper, or to harm a business competitor, punishable by a fine not to exceed \$250 for a 1st violation, and for a 2nd or subsequent violation by that fine or by a fine not exceeding \$500, imprisonment of up to 10 days in a county jail, or by both fine and imprisonment. This bill would provide exceptions to these provisions for owners, publishers, printers, deliverers, advertisers and others, as specified. Because this bill would create 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.

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

SECTION 1. Section 19.8 of the Penal Code is amended to read: 19.8. The following offenses are subject to subdivision (d) of Section 17: Sections 193.8, 330, 415, 485, 490.7, 555, 652, and 853.7 of this code; subdivision (n) of Section 602 of this code; subdivision (b) of

Section 25658 and Sections 21672, 25658.5, 25661, and 25662 of the Business and Professions Code; Section 27204 of the Government Code; subdivision (c) of Section 23109 and Sections 12500, 14601.1, 27150.1, 40508, and 42005 of the Vehicle Code, and any other offense which the Legislature makes subject to subdivision (d) of Section 17. Except where a lesser maximum fine is expressly provided for a violation of any of those sections, any violation which is an infraction is punishable by a fine not exceeding two hundred fifty dollars (\$250).

Except for the violations enumerated in subdivision (d) of Section 13202.5 of the Vehicle Code, and Section 14601.1 of the Vehicle Code based upon failure to appear, a conviction for any offense made an infraction under subdivision (d) of Section 17 is not grounds for the suspension, revocation, or denial of any license, or for the revocation of probation or parole of the person convicted.

SEC. 2. Section 490.7 is added to the Penal Code, to read: 490.7. (a) The Legislature finds that free newspapers provide a key source of information to the public, in many cases providing an important alternative to the news and ideas expressed in other local media sources. The Legislature further finds that the unauthorized taking of multiple copies of free newspapers, whether done to sell them to recycling centers, to injure a business competitor, to deprive others of the opportunity to read them, or for any other reason, injures the rights of readers, writers, publishers, and advertisers, and impoverishes the marketplace of ideas in California.

(b) No person shall take more than twenty-five (25) copies of the current issue of a free or complimentary newspaper if done with the intent to do one or more of the following:

- (1) Recycle the newspapers for cash or other payment.
- (2) Sell or barter the newspaper.
- (3) Deprive others of the opportunity to read or enjoy the newspaper.
- (4) Harm a business competitor.

(c) This section does not apply to the owner or operator of the newsrack in which the copies are placed, the owner or operator of the property on which the newsrack is placed, the publisher, the

printer, the distributor, the deliverer of the newspaper, or to any advertiser in that issue, or to any other person who has the express permission to do so from any of these entities.

(d) Any newspaper publisher may provide express permission to take more than twenty-five (25) copies of the current issue of a free or complimentary newspaper by indicating on the newsrack or in the newspaper itself, that people may take a greater number of copies if they wish.

(e) A first violation of subdivision (b) shall be an infraction punishable by a fine not exceeding two hundred fifty dollars (\$250). A second or subsequent violation shall be punishable as an infraction or a misdemeanor. A misdemeanor conviction under this section is punishable by a fine not exceeding five hundred dollars (\$500), imprisonment of up to 10 days in a county jail, or by both that fine and imprisonment. The court may order community service in lieu of the punishment otherwise provided for an infraction or misdemeanor in the amount of 20 hours for an infraction, and 40 hours for a misdemeanor. A misdemeanor conviction under this section shall not constitute a conviction for petty theft.

(f) This section shall not be construed to repeal, modify, or weaken any existing legal prohibitions against the taking of private property.

(g) For purposes of this section, an issue is current if no more than half of the period of time until the distribution of the next issue has passed.

SEC. 3. 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.