

Introduced by Senator Valladares**(Coauthors: Senators Alvarado-Gil, Choi, Dahle, Grove, Hurtado, Jones, Niello, Ochoa Bogh, and Seyarto)****(Coauthors: Assembly Members Alanis, Chen, Davies, Gallagher, Sanchez, and Wallis)**February 3, 2025

An act to amend Section 463 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 265, as introduced, Valladares. Crimes: looting.

Existing law defines the crime of burglary, which consists of entering specified buildings, places, or vehicles with the intent to commit grand or petty theft or a felony. Existing law defines burglary of the first degree as any burglary of an inhabited building and makes burglary of the first degree punishable by imprisonment in the state prison for 2, 4, or 6 years. Existing law defines all other burglary as burglary of the 2nd degree and makes it punishable by imprisonment in the county jail for one year or as a felony.

Existing law defines any 2nd degree burglary during and within an affected county in a state of emergency or local emergency, as specified, as looting, punishable by either imprisonment in a county jail for one year or as a felony.

This bill would make that crime punishable instead as a felony. By increasing the punishment of a 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 463 of the Penal Code is amended to
2 read:

3 463. (a) (1) Every person who violates Section 459,
4 punishable as a second-degree burglary pursuant to subdivision
5 (b) of Section 461, during and within an affected county in a “state
6 of emergency” or a “local emergency,” or under an “evacuation
7 order,” resulting from an earthquake, fire, flood, riot, or other
8 natural or manmade disaster shall be guilty of the crime of looting,
9 punishable ~~by imprisonment in a county jail for one year or~~
10 pursuant to subdivision (h) of Section 1170. Any person convicted
11 under this subdivision who is eligible for probation and who is
12 granted probation shall, as a condition thereof, be confined in a
13 county jail for at least 180 days, except that the court may, in the
14 case where the interest of justice would best be served, reduce or
15 eliminate that mandatory jail sentence, if the court specifies on the
16 record and enters into the minutes the circumstances indicating
17 that the interest of justice would best be served by that disposition.
18 In addition to whatever custody is ordered, the court, in its
19 discretion, may require any person granted probation following
20 conviction under this subdivision to serve up to 240 hours of
21 community service in any program deemed appropriate by the
22 court, including any program created to rebuild the community.

23 ~~For~~

24 (2) *For* purposes of this subdivision, the fact that the structure
25 entered has been damaged by the earthquake, fire, flood, or other
26 natural or manmade disaster shall not, in and of itself, preclude
27 conviction.

28 (b) Every person who commits the crime of grand theft, as
29 defined in Section 487 or subdivision (a) of Section 487a, except
30 grand theft of a firearm, during and within an affected county in
31 a “state of emergency” or a “local emergency,” or under an
32 “evacuation order,” resulting from an earthquake, fire, flood, riot,
33 or other natural or unnatural disaster shall be guilty of the crime

1 of looting, punishable by imprisonment in a county jail for one
 2 year or pursuant to subdivision (h) of Section 1170. Every person
 3 who commits the crime of grand theft of a firearm, as defined in
 4 Section 487, during and within an affected county in a “state of
 5 emergency” or a “local emergency” resulting from an earthquake,
 6 fire, flood, riot, or other natural or unnatural disaster shall be guilty
 7 of the crime of looting, punishable by imprisonment in the state
 8 prison, as set forth in subdivision (a) of Section 489. Any person
 9 convicted under this subdivision who is eligible for probation and
 10 who is granted probation shall, as a condition thereof, be confined
 11 in a county jail for at least 180 days, except that the court may, in
 12 the case where the interest of justice would best be served, reduce
 13 or eliminate that mandatory jail sentence, if the court specifies on
 14 the record and enters into the minutes the circumstances indicating
 15 that the interest of justice would best be served by that disposition.
 16 In addition to whatever custody is ordered, the court, in its
 17 discretion, may require any person granted probation following
 18 conviction under this subdivision to serve up to 160 hours of
 19 community service in any program deemed appropriate by the
 20 court, including any program created to rebuild the community.

21 (c) Every person who commits the crime of petty theft, as
 22 defined in Section 488, during and within an affected county in a
 23 “state of emergency” or a “local emergency,” or under an
 24 “evacuation order,” resulting from an earthquake, fire, flood, riot,
 25 or other natural or manmade disaster shall be guilty of a
 26 misdemeanor, punishable by imprisonment in a county jail for six
 27 months. Any person convicted under this subdivision who is
 28 eligible for probation and who is granted probation shall, as a
 29 condition thereof, be confined in a county jail for at least 90 days,
 30 except that the court may, in the case where the interest of justice
 31 would best be served, reduce or eliminate that mandatory minimum
 32 jail sentence, if the court specifies on the record and enters into
 33 the minutes the circumstances indicating that the interest of justice
 34 would best be served by that disposition. In addition to whatever
 35 custody is ordered, the court, in its discretion, may require any
 36 person granted probation following conviction under this
 37 subdivision to serve up to 80 hours of community service in any
 38 program deemed appropriate by the court, including any program
 39 created to rebuild the community.

(d) (1) For purposes of this section, “state of emergency” means conditions that, by reason of their magnitude, are, or are likely to be, beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat.

(2) For purposes of this section, “local emergency” means conditions that, by reason of their magnitude, are, or are likely to be, beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat.

(3) For purposes of this section, a “state of emergency” shall exist from the time of the proclamation of the condition of the emergency until terminated pursuant to Section 8629 of the Government Code. For purposes of this section only, a “local emergency” shall exist from the time of the proclamation of the condition of the emergency by the local governing body until terminated pursuant to Section 8630 of the Government Code.

(4) For purposes of this section, “evacuation order” means an order from the Governor, or a county sheriff, chief of police, or fire marshal, under which persons subject to the order are required to relocate outside of the geographic area covered by the order due to an imminent danger resulting from an earthquake, fire, flood, riot, or other natural or manmade disaster.

(5) Consensual entry into a commercial structure with the intent to commit a violation of Section 470, 476, 476a, 484f, or 484g shall not be charged as a violation under this section.

SEC. 2. 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.