

ASSEMBLY BILL

No. 12

**Introduced by Assembly Member Hoover
(Coauthor: Assembly Member Hadwick)**

January 28, 2025

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

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as introduced, Hoover. 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 makes the theft of money, labor, or property petty theft punishable as a misdemeanor, whenever the value of the property taken does not exceed \$950. Under existing law, if the value of the property taken exceeds \$950, the theft is grand theft, punishable as a misdemeanor or a felony.

Existing law defines any 2nd-degree burglary or grand theft, 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. Existing law makes petty theft committed during and within an affected county in a state of emergency or local emergency a misdemeanor and requires a minimum jail term of 90 days.

Existing law prohibits credibly impersonating a peace officer, firefighter, or employee of a state or local government agency, or a search and rescue team, as specified. A violation of these prohibitions is punishable as a misdemeanor.

This bill would make looting by the means of a 2nd-degree burglary or grand theft punishable instead as a felony. The bill would define a petty theft committed during and within an affected county in a state of emergency or local emergency as looting and make it punishable by imprisonment in the county jail for one year or as a felony. The bill would require any person who in the course of committing or attempting to commit the crime of looting impersonated a peace officer, firefighter, or employee of a state or local government agency, or a search and rescue team, subject to a penalty enhancement. 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, punishable
4 as a second-degree burglary pursuant to subdivision (b) of Section
5 461, during and within an affected county in a “state of emergency”
6 or a “local emergency,” or under an “evacuation order,” resulting
7 from an earthquake, fire, flood, riot, or other natural or manmade
8 disaster shall be guilty of the crime of looting, punishable by
9 ~~imprisonment in a county jail for one year or~~ pursuant to
10 subdivision (h) of Section 1170. Any person convicted under this
11 subdivision who is eligible for probation and who is granted
12 probation shall, as a condition thereof, be confined in a county jail
13 for at least 180 days, except that the court may, in the case where
14 the interest of justice would best be served, reduce or eliminate
15 that mandatory jail sentence, if the court specifies on the record

1 and enters into the minutes the circumstances indicating that the
2 interest of justice would best be served by that disposition. In
3 addition to whatever custody is ordered, the court, in its discretion,
4 may require any person granted probation following conviction
5 under this subdivision to serve up to 240 hours of community
6 service in any program deemed appropriate by the court, including
7 any program created to rebuild the community.

8 ~~For~~

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

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

39 (c) Every person who commits the crime of petty theft, as
40 defined in Section 488, during and within an affected county in a

1 “state of emergency” or a “local emergency,” or under an
2 “evacuation order,” resulting from an earthquake, fire, flood, riot,
3 or other natural or manmade disaster shall be guilty of—a
4 ~~misdemeanor~~; *the crime of looting*, punishable by imprisonment
5 in a county jail ~~for six months~~; *not exceeding one year or pursuant*
6 *to subdivision (h) of Section 1170*. Any person convicted under
7 this subdivision who is eligible for probation and who is granted
8 probation shall, as a condition thereof, be confined in a county jail
9 for at least 90 days, except that the court may, in the case where
10 the interest of justice would best be served, reduce or eliminate
11 that mandatory minimum jail sentence, if the court specifies on
12 the record and enters into the minutes the circumstances indicating
13 that the interest of justice would best be served by that disposition.
14 In addition to whatever custody is ordered, the court, in its
15 discretion, may require any person granted probation following
16 conviction under this subdivision to serve up to 80 hours of
17 community service in any program deemed appropriate by the
18 court, including any program created to rebuild the community.

19 *(d) Any person who commits a violation of this section and who,*
20 *in the course of that violation or attempted violation, impersonates*
21 *a first responder, in violation of Section 538d, 538e, 538g, or 538h,*
22 *shall be subject to a penalty enhancement of an additional two*
23 *years, which shall be served consecutive to any other term imposed*
24 *by the court.*

25 ~~(d)~~

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

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

36 *(3) For purposes of this section, a “state of emergency” shall*
37 *exist from the time of the proclamation of the condition of the*
38 *emergency until terminated pursuant to Section 8629 of the*
39 *Government Code. For purposes of this section only, a “local*
40 *emergency” shall exist from the time of the proclamation of the*

1 condition of the emergency by the local governing body until
2 terminated pursuant to Section 8630 of the Government Code.

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

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

12 SEC. 2. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.

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