

AMENDED IN ASSEMBLY APRIL 17, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1976

Introduced by Assembly Member Benoit

February 14, 2008

An act to amend Section 653y of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1976, as amended, Benoit. Emergency telephone system: abuse.

Under existing law, any person who knowingly allows the use of, or who uses, the 911 telephone system for any reason other than because of an emergency is guilty of an infraction. The penalty for a first or 2nd violation of that provision is a written warning, as specified. The penalty for a 3rd, 4th, or 5th violation, depending upon the violator's ability to pay, is \$50, \$100, and \$200, respectively.

This bill would make a written warning the penalty for a first violation only and would make the penalty for a 2nd and each subsequent violation monetary fines, as specified.

~~This bill would make this infraction punishable by a fine of \$50 for a first violation or \$100 for a 2nd violation, and would make a 3rd or subsequent violation a misdemeanor punishable by a fine not to exceed \$1,000.~~

~~Because this bill would create additional duties for local officials, it 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~~-no.
State-mandated local program: ~~yes~~-no.

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

1 SECTION 1. Section 653y of the Penal Code is amended to
2 read:

3 653y. (a) Any person who knowingly allows the use or who
4 uses the 911 telephone system for any reason other than because
5 of an emergency is guilty of an infraction, punishable as follows:

6 (1) For a ~~first-or-second~~ violation, a written warning shall be
7 issued to the violator by the public safety entity originally receiving
8 the call describing the punishment for subsequent violations. The
9 written warning shall inform the recipient to notify the issuing
10 agency that the warning was issued inappropriately if the recipient
11 did not make, or knowingly allow the use of the 911 telephone
12 system for, the nonemergency 911 call. The law enforcement
13 agency may provide educational materials regarding the appropriate
14 use of the 911 telephone system.

15 (2) For a ~~third~~ *second* or subsequent violation, a citation may
16 be issued by the public safety entity originally receiving the call
17 pursuant to which the violator shall be subject to the following
18 penalties that may be reduced by a court upon consideration of the
19 violator's ability to pay:

20 (A) For a ~~third~~ *second* violation, a fine of fifty dollars (\$50).

21 (B) For a ~~fourth~~ *third* violation, a fine of one hundred dollars
22 (\$100).

23 (C) For a ~~fifth~~ *fourth* or subsequent violation, a fine of two
24 hundred ~~and fifty~~ dollars-~~(\$200)~~ (\$250).

25 (b) The parent or legal guardian having custody and control of
26 an unemancipated minor who violates this section shall be jointly
27 and severally liable with the minor for the fine imposed pursuant
28 to this section.

29 (c) For purposes of this section, "emergency" means any
30 condition in which emergency services will result in the saving of
31 a life, a reduction in the destruction of property, quicker
32 apprehension of criminals, or assistance with potentially
33 life-threatening medical problems, a fire, a need for rescue, an

1 imminent potential crime, or a similar situation in which immediate
2 assistance is required.

3 (d) Notwithstanding subdivision (a), this section shall not apply
4 to a telephone corporation or any other entity for acts or omissions
5 relating to the routine maintenance, repair, or operation of the 911
6 or 311 telephone system.

7 ~~SECTION 1. Section 653y of the Penal Code is amended to~~
8 ~~read:~~

9 ~~653y. (a) Any person who knowingly allows the use of, or~~
10 ~~who uses, the 911 telephone system for any reason other than~~
11 ~~because of an emergency is guilty of either an infraction or a~~
12 ~~misdemeanor, punishable as follows:~~

13 ~~(1) For a first violation, the person is guilty of an infraction,~~
14 ~~punishable by a fine of fifty dollars (\$50).~~

15 ~~(2) For a second violation, the person is guilty of an infraction,~~
16 ~~punishable by a fine of one hundred dollars (\$100).~~

17 ~~(3) For a third or subsequent violation, the person is guilty of a~~
18 ~~misdemeanor, punishable by a fine not to exceed one thousand~~
19 ~~dollars (\$1,000).~~

20 ~~(b) The parent or legal guardian having custody and control of~~
21 ~~an unemancipated minor who violates this section shall be jointly~~
22 ~~and severally liable with the minor for the fine imposed pursuant~~
23 ~~to this section.~~

24 ~~(c) For purposes of this section, "emergency" means any~~
25 ~~condition in which emergency services will result in the saving of~~
26 ~~a life, a reduction in the destruction of property, quicker~~
27 ~~apprehension of criminals, or assistance with potentially~~
28 ~~life-threatening medical problems, a fire, a need for rescue, an~~
29 ~~imminent potential crime, or a similar situation in which immediate~~
30 ~~assistance is required.~~

31 ~~(d) Notwithstanding subdivision (a), this section shall not apply~~
32 ~~to a telephone corporation or any other entity for acts or omissions~~
33 ~~relating to the routine maintenance, repair, or operation of the 911~~
34 ~~or 311 telephone system.~~

35 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
36 ~~Section 6 of Article XIII B of the California Constitution because~~
37 ~~the only costs that may be incurred by a local agency or school~~
38 ~~district will be incurred because this act creates a new crime or~~
39 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
40 ~~for a crime or infraction, within the meaning of Section 17556 of~~

- 1 ~~the Government Code, or changes the definition of a crime within~~
- 2 ~~the meaning of Section 6 of Article XIII B of the California~~
- 3 ~~Constitution.~~

O