
THIRD READING

Bill No: AB 2374
Author: Bauer-Kahan (D), et al.
Amended: 4/7/22 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/14/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 69-0, 5/16/22 - See last page for vote

SUBJECT: Crimes against public health and safety: illegal dumping

SOURCE: Contra Costa County

DIGEST: This bill increases the maximum fines for illegal dumping for persons employing more than 10 full-time employees, and requires any person convicted of illegal dumping to remove or pay the cost of removing the waste matter they were convicted of illegally dumping.

ANALYSIS:

Existing law:

- 1) States that it is unlawful to dump or cause to be dumped waste matter in or upon a public or private highway or road, including any portion of the right-of-way thereof, or in or upon private property into or upon which the public is admitted by easement or license, or upon private property without the consent of the owner, or in or upon a public park or other public property other than property designated or set aside for that purpose by the governing board or body having charge of that property. (Penal Code § 374.3 (a).)
- 2) Provides it is unlawful to place, deposit, or dump, or cause to be placed, deposited, or dumped, rocks, concrete, asphalt, or dirt in or upon a private

highway or road, including any portion of the right-of-way of the private highway or road, or private property, without the consent of the owner or a contractor under contract with the owner for the materials, or in or upon a public park or other public property, without the consent of the state or local agency having jurisdiction over the highway, road, or property. (Penal Code § 374.3 (b).)

- 3) States that a person violating dumping provisions is guilty of an infraction. Each day that waste is placed, deposited, or dumped in violation the law is a separate violation. (Penal Code § 374.3 (c).)
- 4) Provides that illegal dumping prohibitions do not restrict a private owner in the use of his or her own private property, unless the placing, depositing, or dumping of the waste matter on the property creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or district providing fire protection services, or the Department of Forestry and Fire Protection, in which case this section applies. (Penal Code § 374.3 (d).)
- 5) Provides a person convicted of dumping shall be punished by a mandatory fine of not less than \$250 nor more than \$1,000 upon a first conviction, by a mandatory fine of not less than \$500 nor more than \$1,500 upon a second conviction, and by a mandatory fine of not less than \$750 nor more than \$3,000 upon a third or subsequent conviction. If the court finds that the waste matter placed, deposited, or dumped was used tires, the fine prescribed in this subdivision shall be doubled. (Penal Code § 374.3 (e).)
- 6) Provides that the court may require, in addition to any fine imposed upon a conviction, that, as a condition of probation the probationer remove, or pay the cost of removing, any waste matter which the convicted person dumped or caused to be dumped upon public or private property. (Penal Code § 374.3 (f).)
- 7) States that except when the court requires the convicted person to remove waste matter for which he or she is responsible for dumping as a condition of probation, the court may require the probation to pick up waste matter at a time and place within the jurisdiction of the court for not less than 12 hours. (Penal Code § 374.3 (g).)
- 8) States that a person who illegally dumps waste matter in commercial quantities is guilty of a misdemeanor punishable by imprisonment in a county jail for not more than six months and by a fine. The fine is mandatory and shall amount to not less than \$1,000 nor more than \$3,000 upon a first conviction, not less than

\$3,000 nor more than \$6,000 upon a second conviction, and not less than \$6,000 nor more than \$10,000 upon a third or subsequent conviction. (Penal Code § 374.3 (h)(1).)

- 9) Defines “commercial quantities” as an amount of waste matter generated in the course of a trade, business, profession, or occupation, or an amount equal to or in excess of one cubic yard. (Penal Code § 374.3 (h)(2).)

This bill:

- 1) Increases the maximum mandatory fine for illegally placing, depositing, dumping, or causing to be placed, deposited or dumped, waste matter in commercial quantities by a person employing more than 10 full-time employees, as follows:
 - a) From not more than \$3,000 for the first offense to not more than \$5,000;
 - b) From not more than \$6,000 for the second conviction to not more than \$10,000; and,
 - c) From not more than \$10,000 for a third or subsequent conviction to not more than \$20,000.
- 2) Requires the court to order person convicted of illegal dumping, as specified, to remove, or pay the cost of removing, any waste matter which the convicted person dumped or caused to be dumped on public or private property.
- 3) Requires the court, if that person holds a license or permit to conduct business that is substantially related to the conviction, to notify the applicable licensing or permitting entity, if any, that a licensee or permittee had been convicted of illegal dumping.
- 4) Requires the licensing or permitting entity to record and post the conviction on the public profile of the licensee or permittee on the entity's website.
- 5) Provides that any fine shall be based on the person's ability to pay including, but not limited to, consideration of the following:
 - a) The defendant's present financial position;
 - b) The defendant's reasonably discernible future financial position, provided that the court shall not consider a period of more than one year from the date of the hearing for purposes of determining the reasonably discernible future financial position of the defendant;

- c) The likelihood that the defendant will be able to obtain employment within one year from the date of the hearing; and,
- d) Any other factor that may bear upon the defendant's financial capability to pay the fine.

Comments

According to the author:

Illegal dumping has been a serious problem in California for many years. Illegal dumping occurs when solid wastes are discarded or caused to be dumped or placed on any property, either public or private, without proper authorization or legitimate purpose. Illegal dumping is a crime of convenience often by repeat offenders for economic gain. Materials illegally dumped range from household items such as mattresses, furniture, and large appliances to other more traditional commercial business items such as tires, hazardous waste, rock, concrete, asphalt, and dirt.

Illegal dumping is an increasing problem that poses significant health, social, environmental, and economic impacts on communities. Illegal dumping contributes to a loss of community pride, discourages investment and development, decreases property values, and increases a community's vulnerability to crime.

Existing law prohibits the dumping of waste matter upon a road or highway or in other locations. A violation of this prohibition, generally, is an infraction punishable by specific fines that escalate for subsequent convictions. Under existing law, the court may, as a condition of probation, order the convicted person to remove, or pay for the removal of the waste matter. Under existing law, the dumping of commercial quantities of waste is punishable as a misdemeanor and includes escalating fines.

Commercial businesses have been caught illegally dumping in an attempt to "cut corners" and maximize their total profit. Violators assume little risk in doing so because it is economically feasible, as the fines for violating illegal dumping laws are relatively minimal.

Existing penalties do not serve as an adequate deterrent. Additionally, district attorneys throughout California report having difficulty in prosecuting cases.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT: (Verified 6/27/22)

Contra Costa County (source)
California District Attorneys Association
California State Sheriffs' Association
Contractors State License Board
East Bay Municipal Utility District
Los Angeles County District Attorney's Office
Los Angeles County Solid Waste Management Committee/Integrated Waste
Management Task Force
Rural County Representatives of California

OPPOSITION: (Verified 6/27/22)

None received

ASSEMBLY FLOOR: 69-0, 5/16/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Berman, Bigelow, Bloom,
Boerner Horvath, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi,
Cooley, Cooper, Megan Dahle, Daly, Davies, Flora, Mike Fong, Fong,
Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gray,
Grayson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee,
Levine, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, O'Donnell,
Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Luz Rivas, Robert Rivas,
Rodriguez, Salas, Santiago, Seyarto, Smith, Stone, Valladares, Villapudua,
Voepel, Waldron, Ward, Akilah Weber, Wicks, Wilson, Wood, Rendon
NO VOTE RECORDED: Bennett, Cunningham, Low, Muratsuchi, Nazarian,
Nguyen, Quirk-Silva, Blanca Rubio, Ting

Prepared by: Mary Kennedy / PUB. S. /
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