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THIRD READING

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Bill No: AB 468  
Author: Gabriel (D), Irwin (D) and Pacheco (D), et al.  
Amended: 9/6/25 in Senate  
Vote: 21

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SENATE PUBLIC SAFETY COMMITTEE: 6-0, 7/15/25  
AYES: Arreguín, Seyarto, Caballero, Gonzalez, Pérez, Wiener

ASSEMBLY FLOOR: 72-0, 6/3/25 - See last page for vote

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**SUBJECT:** Crimes: looting

**SOURCE:** Author

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**DIGEST:** This bill establish increased penalties for looting in an evacuation zone.

*Senate Amendments of 9/6/25* redefine an “evacuation zone.”

**ANALYSIS:**

Existing law:

- 1) Provides that a person who commits specified theft-related offense during and within an affected county in a state of emergency, or a local emergency, or under an evacuation order resulting from a natural or manmade disaster, is guilty of looting and subject to punishment as follows:
  - a) Where the underlying offense is second-degree burglary, by imprisonment in county jail for one year, or by or by imprisonment in the county jail for 16 months, two years, or three years. (Penal Code (Pen. Code), § 463, subd. (a).)
  - b) Where the underlying offense is grand theft, except grand theft of a firearm, by imprisonment in a county jail for one year, or by imprisonment in the

- county jail for 16 months, two years, or three years. (Pen. Code, § 463, subd. (b).)
- c) Where the underlying offense is grand theft of a firearm, by imprisonment in state prison for 16 months, or two or three years. (Pen. Code, § 463, subd. (b).)
  - d) Where the underlying offense is petty theft, by imprisonment in a county jail for six months. (Pen. Code, § 463, subd. (c).)
- 2) Provides that if a person is convicted of looting and granted probation, the person is required to serve a mandatory minimum time in jail as follows, except that a court may reduce or eliminate the jail sentence in the interests of justice:
- a) Where the underlying offense is second-degree burglary or grand theft, a mandatory minimum term of 180 days in county jail. (Pen. Code, § 463, subds. (a) & (b).)
  - b) Where the underlying offense is petty theft, a mandatory minimum term of 90 days in county jail. (Pen. Code, § 463, subd. (c).)
- 3) Provides that, for purposes of a looting involving second-degree burglary, the fact that the structure entered has been damaged by the earthquake, fire, flood, or other natural or manmade disaster shall not, in and of itself, preclude conviction. (Pen. Code, § 463, subd. (a).)
- 4) Defines “state of emergency” as “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.” (Pen. Code, § 463, subd. (d)(1).)
- 5) Defines “local emergency” as 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. (Pen. Code, § 463, subd. (d)(2).)
- 6) Provides that a “state of emergency” shall exist from the time of the proclamation of the condition of the emergency until terminated, as specified, and that a “local emergency” shall exist from the time of the proclamation of the condition of the emergency by the local governing body until terminated, as specified. (Pen. Code, § 463, subd. (d)(3).)

- 7) Defines “evacuation order” as 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. (Pen. Code, § 463, subd. (d)(4).)
- 8) Defines “burglary” as entering a residential or commercial building with the intent to commit grand or petty larceny or any felony or a theft once inside. (Pen. Code, § 459.)
- 9) Divides burglary into two degrees. First degree burglary is burglary of an inhabited dwelling. All other burglaries are second degree burglary. (Pen. Code, § 460.)
- 10) States that for purposes of burglary, “inhabited” means currently being used for dwelling purposes, whether occupied or not. A house, trailer, vessel designed for habitation, or portion of a building is currently being used for dwelling purposes if, at the time of the burglary, it was not occupied solely because a natural or other disaster caused the occupants to leave the premises. (Pen. Code, § 459.)

This bill:

- 1) Provides that all of the following offenses when committed during and within a an evacuation zone are looting and subject to increased punishment as follows:
  - a) First-degree burglary is punishable by imprisonment in the state prison for two, four, or seven years.
  - b) Second-degree burglary is punishable by imprisonment for 16 months, two years, or three years in county jail.
  - c) Grand theft, except grand theft of a firearm, is punishable by imprisonment for 16 months, two years, or three years in county jail.
  - d) Trespass with the intent to commit larceny is punishable by imprisonment in county jail for one year, or for 16 months, two years, or three years in county jail.
  - e) Theft from an unlocked vehicle is punishable by imprisonment in a county jail for one year, or by imprisonment 16 months, two years, or three years in county jail.

2) Defines "evacuation zone" as any of the following:

- a) An evacuation area (area subject to a mandatory evacuation order) or an area subject to an evacuation warning, as specified.
  - b) Includes one or more residential dwelling units in an evacuation area that is damaged or destroyed by an earthquake, fire, flood, riot, or other natural or manmade disaster, for one year after the date an evacuation order or warning went into effect, regardless of whether the evacuation order or warning has been lifted, but does not include detached structures on the same property that are not dwelling units or are not otherwise usable for human habitation.
  - c) Includes one or more residential dwelling units in an area identified in an evacuation area that is damaged or destroyed by an earthquake, fire, flood, riot, or other natural or manmade disaster, and is currently undergoing reconstruction, for up to three years after the date an evacuation order or warning went into effect, regardless of whether the evacuation order or warning has been lifted, but does not include detached structures on the same property that are not dwelling units or are not otherwise usable for human habitation.
- 3) Provides that the fact that the structure entered has been damaged by a natural or other disaster, does not preclude a conviction for looting.
- 4) Specifies, for purposes of burglary, that the fact that the structure entered has been damaged to any extent by a natural or other disaster shall not preclude conviction.

### **Comments**

*Looting Provisions.* Existing law defines looting as the commission of specified theft-related offenses during and within an affected county during a state or local of emergency, or under an evacuation order resulting from a natural or manmade disaster. (Pen. Code, § 463.) Where the underlying offense is burglary or grand theft, the punishment for looting is an alternate felony-misdemeanor (wobbler) punishable by imprisonment in county jail for up to one year, or by imprisonment in county jail for 16 months, two years, or three years. (Pen. Code, § 463, subds. (a) & (b).) Where the

underlying crime is petty theft, looting is a misdemeanor punishable by up to six months in county jail. (Pen. Code, § 463, subds. (a).) Unlike the punishment for the underlying theft crimes themselves, a person convicted of looting and granted probation must serve a mandatory minimum jail term, unless a judge exercises discretion, in the interests of justice, to reduce or eliminate that term. (Pen. Code, § 463, subds. (a)-(c).)

In the wake of the Eaton and Palisades fires in Los Angeles County in January of this year, there were multiple reports of arrests for looting. (See e.g., S. Lin, *Los Angeles Times*, January 9, 2025, <https://www.latimes.com/california/story/2025-01-09/looting-arrests-wildfire-evacuation-zones>; E. Baumgaertner & R. Mac, *New York Times*, January 11, 2025, <https://www.nytimes.com/2025/01/11/us/la-fires-evacuation-looting.html> [as of July 4, 2025].) On January 9, 2025, Governor Newsom announced deployment of the California National Guard to support local law enforcement to combat instances of looting. (<https://www.gov.ca.gov/2025/01/09/governor-newsom-deploys-california-national-guard-to-los-angeles-fires-looting-will-not-be-tolerated/> [as of July 4, 2025].) The Governor subsequently called for looting in a fire evacuation zone to be a felony. (See <https://www.foxnews.com/politics/newsom-calls-looting-felony-evacuation-zones-amid-la-inferno> [as of July 4, 2025].)

This bill recasts the current looting provisions and increases the penalties for looting in an evacuation zone. As noted above, the current looting statute covers the crimes of second-degree burglary, grand theft, and petty theft. When committed in an evacuation zone, this bill increases the penalties for second-degree burglary and grand theft from a wobbler to a straight felony. This bill does not change the penalty for petty theft.

This bill also adds three new crimes under the looting statute if the offense is committed in an evacuation zone: first-degree burglary, trespass, and “theft from an unlocked vehicle.” This bill increases the upper term for first-degree burglary by one year. This bill increases the punishment for trespass from a misdemeanor to a wobbler. It is unclear if “theft from an unlocked vehicle” refers to a violation of Vehicle Code section 10852 (tampering with vehicle and contents) or a violation of Penal Code section 465 (unlawful entry of a vehicle with intent to commit theft) or to another crime because this bill does not reference a specific statute in relation to this offense. This bill states that the punishment for theft from an unlocked vehicle in an evacuation zone is a wobbler. If “theft from an unlocked vehicle” refers to a violation of Penal

Code section 465, then the punishment remains the same, except for the mandatory minimum jail term if the defendant receives probation. If “theft from an unlocked vehicle” refers to a violation of Vehicle Code section 10852, which is a misdemeanor, then this bill increases the punishment to a wobbler.

This bill defines “evacuation zone” as an evacuation area<sup>1</sup> or an area subject to an evacuation warning. Evacuation area controls remain in effect until an evacuation order is lifted by the initiating law enforcement entity. However, this bill also includes within the scope of this definition, residential dwelling units undergoing reconstruction following damage or destruction caused by an earthquake, fire, flood, riot, or other natural or manmade disaster, *after* an evacuation order or warning has been lifted.

Notably, the latter scenario could last years, as has been the case with reconstruction after the Camp Fire which occurred in November of 2018 in Paradise, California. A recent news story by ABC News reported that took two years for the first homes to be completed. More than six years later, residents continue their rebuilding efforts. (ABC News, Six years after the Camp Fire, Paradise residents continue their rebuilding efforts, P. Palmer, February 12, 2025, <https://abc7.com/post/7-side-solutions-years-devastating-camp-fire-residents-continue-rebuilding-efforts/15900157/> [last visited July 9, 2025].) Accordingly, this bill limits this timeframe to three years.

*Burglary Provision.* The crime of burglary consists of an unlawful entry accompanied by the intent to commit grand or petty larceny or any felony. A burglary of an inhabited dwelling house or an inhabited portion of any building is a first-degree burglary. (Pen. Code, § 460.) “Inhabited” as used in the burglary statute means currently being used for dwelling purposes, whether occupied or not (i.e., a person is currently not present). (Pen. Code, § 459; see also *People v. Marquez* (1983) 143 Cal. App. 3d 797, 800.) Thus, one can be found guilty of first-degree burglary even when the perpetrator gains unlawful entry to an unoccupied building.

A formerly inhabited dwelling becomes uninhabited only when its occupants have moved out permanently and do not intend to return to continue using the structure as a dwelling. (See *People v. Cardona* (1983) 142 Cal.App.3d 481, 483-484 [tenant who moved out of an apartment without intent to return

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<sup>1</sup> California Code of regulations Title 19, section 240.1 define “evacuation area” as “a geographic area from which civilians have been evacuated pursuant to an evacuation order and where movement and entry are controlled by fire and law enforcement personnel having jurisdictional authority” – in other words an area under a mandatory evacuation order.

and continue living there left it uninhabited despite leaving some property there]; *People v. Jackson* (1992) 6 Cal.App.4t 1185, 1187-1189 [tenant was resident of inhabited dwelling while in the midst of an uncompleted move of a burglarized apartment]; *People v. Hughes* (2002) 27 Cal.4th 287, at pp. 354–355 [the evidence reflects only that they victim had begun to move].)

In a scenario where a dwelling lies within an evacuation zone, pursuant to case law cited above a home is still inhabited (vs occupied) because the resident intends to return after the evacuation order is lifted. However, it is unclear if this would be the case if the dwelling is damaged to such an extent as to render it uninhabitable. This bill clarifies that the fact the structure entered has been damaged to any extent by a natural or other disaster does not preclude conviction for burglary.

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

According to the Senate Appropriations Committee, unknown, potentially significant costs to the state funded trial court system (Trial Court Trust Fund, General Fund) to adjudicate the increased criminal penalties in this bill. The fiscal impact of this bill to the courts will depend on many unknowns, including the numbers of people charged with an offense and the factors unique to each case. Unknown, potentially significant cost pressures (local funds, General Fund) to county probation departments of an unknown, but potentially significant amount, if individuals convicted under this bill are sentenced to probation and ordered to community service, as specified in this bill. Unknown, potentially significant costs (local funds, General Fund) to the counties to incarcerate people for the crimes created by this bill and to incarcerate individuals sentenced to probation to mandatory minimum jail sentences specified in this bill. The average annual cost to incarcerate one person in county jail varies by county, but likely ranges from \$70,000 to \$90,000 per year. Unknown, potentially significant costs (General Fund) to the Department of Corrections and Rehabilitation (CDCR) to incarcerate people for the crimes created by this bill. The Legislative Analyst's Office (LAO) estimates the average annual cost to incarcerate one person in state prison is \$133,000. Potential cost pressures (General Fund) to the Department of State Hospitals (DSH), in order to adequately house, treat, and care for persons committed to DSH that otherwise would not. Cost pressures to DSH are connected with an increase in state prison sentences. Expanding criminal penalties, especially state prison felonies, will increase the number of defendants declared incompetent to stand trial (IST), or committed to DSH due to their being not guilty by reason of insanity.

**SUPPORT:** (Verified 9/6/25)

Arcadia Police Officers' Association  
Brea Police Association  
Burbank Police Officers' Association  
California Association of Highway Patrolmen  
California Association of School Police Chiefs  
California Coalition of School Safety Professionals  
California Contract Cities Association  
California District Attorneys Association  
California Fire Chiefs Association  
California Narcotic Officers' Association  
California Police Chiefs Association  
California Professional Firefighters  
California Reserve Peace Officers Association  
City and County of San Francisco  
City of LA Canada Flintridge  
City of Los Angeles  
City of Norwalk  
City of Thousand Oaks  
Claremont Police Officers Association  
Corona Police Officers Association  
Culver City Police Officers' Association  
Fire Districts Association of California  
Fullerton Police Officers' Association  
Glendale Professional Firefighters Local 776  
League of California Cities  
Los Angeles County District Attorney's Office  
Los Angeles County Sheriff's Department  
Los Angeles School Police Management Association  
Los Angeles School Police Officers Association  
Mayor Daniel Lurie, City and County of San Francisco  
Murrieta Police Officers' Association  
Newport Beach Police Association  
Palos Verdes Police Officers Association  
Pasadena Firefighters Local 809  
Peace Officers Research Association of California  
Placer County Deputy Sheriffs' Association  
Pomona Police Officers' Association  
Riverside Police Officers Association  
Riverside Sheriffs' Association  
Sacramento Area Firefighters Local 522

San Francisco Police Department  
Town of Hillsborough  
Ventura County District Attorney's Office

**OPPOSITION:** (Verified 9/6/25)

ACLU California Action  
California Attorneys for Criminal Justice  
California Public Defenders Association  
Californians United for a Responsible Budget  
Ella Baker Center for Human Rights  
Fair Chance Project  
Felony Murder Elimination Project  
Initiate Justice  
Initiate Justice Action  
Justice2jobs Coalition  
LA Defensa  
Local 148 LA County Public Defenders Union  
Smart Justice California, a Project of Tides Advocacy  
Universidad Popular  
Vera Institute of Justice

**ARGUMENTS IN SUPPORT:**

According to the California District Attorneys Association:

California is, unfortunately, accustomed to natural disasters, be it wildfires or earthquakes. Penal Code section 463—our State’s looting statute—is supposed to act as a deterrent for individuals inclined to double-victimize people who lost their homes or livelihoods to these devastating disasters. But as recent fires, including the 2025 Los Angeles fires have showed, existing law does not capture the ambit of criminal conduct that occurs within evacuation zones. This bill closes those oversights in the Penal Code and ensures that individuals who seize upon a natural disaster to engage in criminal conduct can be prosecuted for their actions appropriately.

Under California’s current burglary statute, “It has long been the rule that a ‘building’ within the meaning of California's burglary statute ‘is any structure which has walls on all sides and is covered by a roof.’” (*In re Amber S.* (1995) 33 Cal.App.4th 185, quoting *People v. Stickman* (1867) 34 Cal. 242, 245, [collecting cases].) Section 1 of the bill

directly addresses the fact that following a wildfire, earthquake, or natural disaster, a building capable of being burglarized (and, thus, fall under the ambit of section 459) may not have all four walls or a roof still intact. And though the building may have been damaged or destroyed, precious items may still have survived. This bill ensures that California's burglary statute is clear: anyone who enters a structure with the requisite intent can be prosecuted under section 459, even if the building has been damaged by a natural or other disaster.

Section 3 of the bill addresses the overarching issue that our current statute does not capture the ambit of criminal activity individuals commit during the pendency of an evacuation order or within an evacuation zone. Section 3 of your bill addresses that and now ensures that our looting statute covers a variety of theft offenses that may occur in an evacuation zone during a natural disaster. And, importantly, subdivision (g) of amended section 463 ensures that a magistrate reviewing any arrest for a violation amended section 463, appropriately prioritizing public safety and flight risk....

AB 468 gives prosecutors the tools they need to ensure that victims of natural disaster are not further exploited by criminals.

## **ARGUMENTS IN OPPOSITION:**

According to Smart Justice California:

[W]e continue to have serious concerns about the breadth of the bill, the risk that it will target behavior that is not actually 'looting,' and that it will result in racial profiling, and thus we remain opposed unless the bill is amended further....

We request the following amendments:

- Narrow the definition of "evacuation zone" so it is limited to the geographic area actually evacuated and the duration of the evacuation order. As currently drafted, the bill could result in higher penalties for looting for offenses that occur years after the emergency is over.
- Remove the proposed new crime for "trespass with intent to commit larceny." This will lead to racial profiling and is unnecessary given the ability to charge someone with attempted burglary under current

law. For example, media reports indicate that following the recent fires in Los Angeles, Black families attempting to save their own belongings were incorrectly characterized as “looters” by the media.

- Remove the penalty increase for petty theft from an unlocked car. This targets individuals with little or no criminal history and whose conduct involves taking small dollars amounts.

ASSEMBLY FLOOR: 72-0, 6/3/25

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Calderon, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NO VOTE RECORDED: Bonta, Bryan, Caloza, Elhawary, Jackson, Kalra, Sharp-Collins

Prepared by: Sandy Uribe / PUB. S. /  
9/9/25 18:46:36

\*\*\*\* END \*\*\*\*