

Assembly Bill No. 2253

Passed the Assembly August 24, 2006

Chief Clerk of the Assembly

Passed the Senate August 21, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 23112.7 to the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL’S DIGEST

AB 2253, Hancock. Vehicles: illegal dumping.

Existing law prohibits the dumping of various matters upon the highways. Existing law makes it an infraction for a person to dump or cause to be dumped waste matter in or upon specified public or private property and a misdemeanor for a person to dump or cause to be dumped a commercial quantity of waste matter in or upon specified public or private property. Existing law makes it either a misdemeanor or felony for a person to knowingly cause the dumping of hazardous substance on specified property.

This bill would authorize a court to impound a vehicle used in the illegal dumping of waste matter, as defined, or harmful waste matter, as defined, for a time period of up to 6 months, upon the misdemeanor or felony conviction of a person for the illegal dumping of waste matter or harmful waste matter, if the person is the registered owner of the vehicle or registered owner’s agent, and has one or more prior convictions, for illegally dumping waste matter or harmful waste matter, that are not infractions. The bill would make this impoundment procedure inapplicable, if there is a community property interest in the vehicle that is owned by a person other than the defendant under specified circumstances.

The bill would also authorize the court in a criminal action against a person, who is charged with a misdemeanor or felony violation of illegally dumping harmful waste matter, on the motion of the prosecutor or county counsel, to declare a vehicle used in the commission of the violation, upon conviction, to be a nuisance and to order it sold, if the person has 2 or more prior convictions that are not infractions, for illegally dumping waste matter, and the person is the registered owner or the registered owner’s agent or employee. The bill would require the legal and registered owners be provided with a specified notice regarding

the sale of the vehicle. The bill would specify the distribution of the proceeds from the sale of the vehicle. The bill would prohibit the sale of the vehicle under specified circumstances.

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

SECTION 1. Section 23112.7 is added to the Vehicle Code, to read:

23112.7. (a) (1) A motor vehicle used for illegal dumping of waste matter on public or private property is subject to impoundment pursuant to subdivision (c).

(2) A motor vehicle used for illegal dumping of harmful waste matter on public or private property is subject to impoundment and civil forfeiture pursuant to subdivision (d).

(b) For the purposes of this section, the following terms have the following meanings:

(1) “Illegal dumping” means the willful or intentional depositing, dropping, dumping, placing, or throwing of any waste matter onto public or private property that is not expressly designated for the purpose of disposal of waste matter. “Illegal dumping” does not include the discarding of small quantities of waste matter related to consumer goods and that are reasonably understood to be ordinarily carried on or about the body of a living person, including, but not limited to, beverage containers and closures, packaging, wrappers, wastepaper, newspaper, magazines, or other similar waste matter that escapes or is allowed to escape from a container, receptacle, or package.

(2) “Waste matter” means any form of tangible matter described by any of the following:

(A) All forms of garbage, refuse, rubbish, recyclable materials, and solid waste.

(B) Dirt, soil, rock, decomposed rock, gravel, sand, or other aggregate material dumped or deposited as refuse.

(C) Abandoned or discarded furniture; or commercial, industrial, or agricultural machinery, apparatus, structure, or other container; or a piece, portion, or part of these items.

(D) All forms of liquid waste not otherwise defined in or deemed to fall within the purview of Section 25117 of the Health and Safety Code, including, but not limited to, water-based or oil-based paints, chemical solutions, water contaminated with

any substance rendering it unusable for irrigation or construction, oils, fuels, and other petroleum distillates or byproducts.

(E) Any form of biological waste not otherwise designated by law as hazardous waste, including, but not limited to, body parts, carcasses, and any associated container, enclosure, or wrapping material used to dispose these matters.

(F) A physical substance used as an ingredient in any process, now known or hereafter developed or devised, to manufacture a controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code, or that is a byproduct or result of the manufacturing process of the controlled substance.

(3) “Harmful waste matter” is a hazardous substance as defined in Section 374.8 of the Penal Code; a hazardous waste as defined in Section 25117 of the Health and Safety Code; waste that, pursuant to Division 30 (commencing with Section 40000) of the Public Resources Code, cannot be disposed in a municipal solid waste landfill without special handling, processing, or treatment; or waste matter in excess of one cubic yard.

(c) (1) Whenever a person, who has one or more prior convictions of Section 374.3 or 374.8 of the Penal Code that are not infractions, is convicted of a misdemeanor violation of Section 374.3 of the Penal Code, or of a violation of Section 374.8 of the Penal Code, for illegally dumping waste matter or harmful waste matter that is committed while driving a motor vehicle of which he or she is the registered owner of the vehicle, or is the registered owner’s agent or employee, the court at the time of sentencing may order the motor vehicle impounded for a period of not more than six months.

(2) In determining the impoundment period imposed pursuant to paragraph (1), the court shall consider both of the following factors:

(A) The size and nature of the waste matter dumped.

(B) Whether the dumping occurred for a business purpose.

(3) The cost of keeping the vehicle is a lien on the vehicle pursuant to Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code.

(4) Notwithstanding paragraph (1), a vehicle impounded pursuant to this subdivision shall be released to the legal owner or his or her agent pursuant to subdivision (b) of Section 23592.

(5) The impounding agency shall not be liable to the registered owner for the release of the vehicle to the legal owner or his or her agent when made in compliance with paragraph (4).

(6) This subdivision does not apply if there is a community property interest in the vehicle that is owned by a person other than the defendant and the vehicle is the only vehicle available to the defendant's immediate family that may be operated on the highway with a class A, class B, or class C driver's license.

(d) (1) Notwithstanding Section 86 of the Code of Civil Procedure and any other provision of law otherwise prescribing the jurisdiction of the court based upon the value of the property involved, whenever a person, who has two or more prior convictions of Section 374.3 or 374.8 of the Penal Code that are not infractions, is charged with a misdemeanor violation of Section 374.3 of the Penal Code, or of a violation of Section 374.8 of the Penal Code, for illegally dumping harmful waste matter, the court with jurisdiction over the offense may, upon a motion of the prosecutor or the county counsel in a criminal action, declare a motor vehicle if used by the defendant in the commission of the violation, to be a nuisance, and upon conviction order the vehicle sold pursuant to Section 23596, if the person is the registered owner of the vehicle or the registered owner's employee or agent.

(2) The proceeds of the sale of the vehicle pursuant to this subdivision shall be distributed and used in decreasing order of priority, as follows:

(A) To satisfy all costs of the sale, including costs incurred with respect to the taking and keeping of the vehicle pending sale.

(B) To the legal owner in an amount to satisfy the indebtedness owed to the legal owner remaining as of the date of the sale, including accrued interest or finance charges and delinquency charges.

(C) To recover the costs made, incurred, or associated with the enforcement of this section, the abatement of waste matter, and the deterrence of illegal dumping.

(3) A vehicle shall not be sold pursuant to this subdivision in either of the following circumstances:

(A) The vehicle is owned by the employer or principal of the defendant and the use of the vehicle was made without the

employer's or principal's knowledge and consent, and did not provide a direct benefit to the employer's or principal's business.

(B) There is a community property interest in the vehicle that is owned by a person other than the defendant and the vehicle is the only vehicle available to the defendant's immediate family that may be operated on the highway with a class A, class B, or class C driver's license.

Approved _____, 2006

Governor