

AMENDED IN SENATE MARCH 26, 2012

SENATE BILL

No. 1045

Introduced by Senator Emmerson

February 6, 2012

~~An act to amend Section 921 of the Business and Professions Code, relating to healing arts.~~ *An act to add Section 3336.5 to the Civil Code, relating to metal theft.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1045, as amended, Emmerson. ~~Healing arts: disaster response.~~ *Metal theft: damages.*

Existing law governs the business of buying, selling, and dealing in secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, also known as "junk." Existing law further requires junk dealers and recyclers to keep and maintain a written record of all sales and purchases made in the course of their business, including the name and address of each person to whom junk is sold or disposed of.

This bill would prohibit any junk dealer or recycler from possessing a public fire hydrant, fire department connection, as defined, public manhole cover or lid or any part of that cover or lid, or public backflow device or connection to that device without a written certification on the letterhead of the public agency or utility that owns or previously owned the material certifying that the entity has sold or is offering the material for sale and that the person possessing and identified in the certificate is authorized to negotiate the sale of the material. The bill would make junk dealers and recyclers civilly liable for damages of 3 times the agency's or utility's actual damages, including the value of the material, repair and replacement costs, and labor costs. Under the

bill, the agency or utility could also recover court costs and attorney’s fees.

~~Existing law, the Health Care Professional Disaster Response Act, makes certain findings with respect to the shortage of health care practitioners in the event of a disaster and the potential use of practitioners with lapsed or inactive licenses.~~

~~This bill would make technical, nonsubstantive changes to those findings.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. *The Legislature hereby finds and declares all of*
2 *the following:*

3 (a) *Theft of fire hydrants, manhole covers, and backflow devices*
4 *has significantly increased in recent years and represents very*
5 *substantial, and growing, health and safety issues.*

6 (b) *Local utilities, public agencies, and private entities have*
7 *gone to great lengths to protect their customers, residents, and*
8 *properties from the damage that can result from that theft.*

9 (c) *The Legislature believes that any junk dealer or recycler*
10 *who is willing to obtain this material from a person who does not*
11 *have a written certification letter should, in the event that this act*
12 *is adopted, be liable to the owner of the material for three times*
13 *the actual damages, including the cost of replacement, labor costs,*
14 *and repair costs of any damage that occurs during the theft, plus*
15 *court costs and reasonable attorney’s fees.*

16 SEC. 2. *Section 3336.5 is added to the Civil Code, to read:*

17 3336.5. (a) (1) *Any junk dealer or recycler who possesses a*
18 *public fire hydrant, fire department connection, including, but not*
19 *limited to, brass fittings and parts, public manhole cover or lid or*
20 *part of that cover or lid, or public backflow device or connection*
21 *to that device or part of that device without a written certification*
22 *from the public agency or utility owning or previously owning the*
23 *material shall be liable to the agency or utility for the wrongful*
24 *possession of that material.*

25 (2) *A written certification under this subdivision shall be on the*
26 *agency or utility’s letterhead and shall certify both that the agency*
27 *or utility has sold the material described or is offering the material*

1 for sale, salvage, or recycling, and that the person possessing the
2 certification or identified in the certification is authorized to
3 negotiate the sale of that material.

4 (b) The measure of damages for wrongful possession as
5 described in subdivision (a) shall be three times the agency's or
6 utility's actual damages, including the value of the material
7 wrongfully possessed, the cost of replacing the material, labor
8 costs, and the cost of repairing any damage caused by the removal
9 of the material. The agency or utility shall also be entitled to
10 recover court costs and reasonable attorney's fees.

11 SECTION 1. Section 921 of the Business and Professions Code
12 is amended to read:

13 921. (a) The Legislature finds and declares the following:

14 (1) In times of national or state disasters, a shortage of qualified
15 health care practitioners may exist in areas throughout the state
16 where they are desperately required to respond to public health
17 emergencies.

18 (2) Health care practitioners with lapsed or inactive licenses
19 could potentially serve in those areas where a shortage of qualified
20 health care practitioners exists if licensing requirements were
21 streamlined and fees curtailed.

22 (b) Therefore, it is the intent of the Legislature to address these
23 matters through the provisions of the Health Care Professional
24 Disaster Response Act.