

AMENDED IN SENATE MAY 11, 2016

AMENDED IN SENATE JULY 16, 2015

AMENDED IN ASSEMBLY MAY 19, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1103

Introduced by Assembly Member Dodd

February 27, 2015

An act to amend ~~Section 42649.8 of, and to add Sections 42649.88, 42649.89, 42649.9, 42649.91, and 42649.92 to, Sections 41821.5 and 41953 of, to amend and renumber Section 41952 of, and to add Section 41952 to,~~ the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1103, as amended, Dodd. Solid waste: ~~organic waste disposal.~~
The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste. Existing law requires exporters, brokers, and transporters of recyclables or compost to submit periodic information to the department on the types, quantities, and destinations of materials that are disposed of, sold, or transferred.

This bill would additionally require a self-hauler, as defined, to submit that information to the department.

Existing law prohibits a person, other than the authorized recycling agent of the city or county, from removing specified materials that have been segregated from solid waste materials and placed at a designated recycling collection location for residential curbside collection programs authorized by a city, county, or local agency for the purposes

of collection and recycling. Existing law authorizes a court, in a civil action by a recycling agent against a person alleged to have violated that or another specified law, to either allow treble damages or award a civil penalty, as specified, against the unauthorized person removing the recyclable material, and to allow treble damages or award a civil penalty, as specified, against a person for a second violation and subsequent violations.

This bill would prohibit a person, other than the solid waste enterprise duly authorized by a city, county, or other local governmental agency, subject to these same penalties and damages, from collecting, removing, or transporting solid waste generated on residential, commercial, or industrial premises located within the city, county, or local governmental jurisdiction. The bill would require a court, if a plaintiff prevails in a civil action brought pursuant to these and related provisions, to award to the plaintiff reasonable attorneys' fees, expert witness fees, and costs incurred in the course of the litigation.

~~Existing law, on and after April 1, 2016, requires a business that generates a certain amount of organic waste to arrange for recycling services specifically for organic waste, and requires each city, county, or regional agency approved by the Department of Resources Recycling and Recovery to implement an organic waste recycling program designed to divert organic waste generated by those businesses, except as specified. Existing law defines the term "organic waste" for purposes of those provisions to include food waste.~~

~~This bill would require a person who transports a certain amount of food waste to be registered by the department, except as specified. The bill would require a registered transporter to maintain a record of food waste transported that contains specified documents and information, and to certify, under penalty of perjury, to the accuracy of the record. By expanding the application of the crime of perjury, the bill would impose a state-mandated local program. The bill would authorize the department to impose fees on registered transporters for vehicles used to transport food waste for the department's reasonable regulatory costs in administering these provisions regulating the diversion of food waste, as specified. The bill would require food waste transporters and facilities to report specified information to the department at least quarterly, including, among other things, the quantity of food waste transported or received, as applicable. The bill would subject a registered transporter of food waste to a civil penalty, payable to the department, for a violation of these provisions. The bill would require a jurisdiction or~~

~~other local governmental agency to inspect vehicles that are used by transporters to transport food waste. By imposing additional duties on local governmental agencies, the bill 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

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

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

1 SECTION 1. Section 41821.5 of the Public Resources Code is
2 amended to read:

3 41821.5. (a) Disposal facility operators shall submit
4 information on the disposal tonnages by jurisdiction or region of
5 origin that are disposed of at each disposal facility to the
6 department, and to counties that request the information, in a form
7 prescribed by the department. To enable disposal facility operators
8 to provide that information, solid waste handlers and transfer
9 station operators shall provide information to disposal facility
10 operators on the origin of the solid waste that they deliver to the
11 disposal facility.

12 (b) (1) Recycling and composting operations and facilities shall
13 submit periodic information to the department on the types and
14 quantities of materials that are disposed of, sold, or transferred to
15 other recycling or composting facilities, end users inside of the
16 state or outside of the state, or exporters, brokers, or transporters
17 for sale inside of the state or outside of the state.

18 (2) Exporters, ~~brokers,~~ *brokers, self-haulers,* and transporters
19 of recyclables or compost shall submit periodic information to the
20 department on the types, quantities, and destinations of materials
21 that are disposed of, sold, or transferred. *For purposes of this*
22 *section, "self-hauler" means a person or entity that generates and*

1 *transports, utilizing its own employees and equipment, more than*
 2 *one cubic yard per week of its own recyclables, organics, or*
 3 *compostable material to a location or facility that is not owned*
 4 *and operated by that person or entity.*

5 (3) The information in the reports submitted pursuant to this
 6 subdivision may be provided to the department on an aggregated
 7 facility-wide basis and may exclude financial data, such as contract
 8 terms and conditions (including information on pricing, credit
 9 terms, volume discounts and other proprietary business terms), the
 10 jurisdiction of the origin of the materials, or information on the
 11 entities from which the materials are received. The department
 12 may provide this information to jurisdictions, aggregated by
 13 company, upon request. The aggregated information, other than
 14 that aggregated by company, is public information.

15 (c) The department shall adopt regulations pursuant to this
 16 section requiring practices and procedures that are reasonable and
 17 necessary to implement this section, and that provide a
 18 representative accounting of solid wastes and recyclable materials
 19 that are handled, processed, or disposed. Those regulations
 20 approved by the department shall not impose an unreasonable
 21 burden on waste and recycling handling, processing, or disposal
 22 operations or otherwise interfere with the safe handling, processing,
 23 and disposal of solid waste and recyclables. The department shall
 24 include in those regulations both of the following:

25 (1) Procedures to ensure that an opportunity to comply is
 26 provided prior to initiation of enforcement authorized by Section
 27 41821.7.

28 (2) Factors to be considered in determining penalty amounts
 29 that are similar to those provided in Section 45016.

30 (d) Any person who refuses or fails to submit information
 31 required by regulations adopted pursuant to this section is liable
 32 for a civil penalty of not less than five hundred dollars (\$500) and
 33 not more than five thousand dollars (\$5,000) for each violation of
 34 a separate provision or, for continuing violations, for each day that
 35 the violation continues.

36 (e) Any person who knowingly or willfully files a false report,
 37 or any person who refuses to permit the department or any of its
 38 representatives to make inspection or examination of records, or
 39 who fails to keep any records for the inspection of the department,
 40 or who alters, cancels, or obliterates entries in the records for the

1 purpose of falsifying the records as required by regulations adopted
2 pursuant to this section, is liable for a civil penalty of not less than
3 five hundred dollars (\$500) and not more than ten thousand dollars
4 (\$10,000) for each violation of a separate provision or, for
5 continuing violations, for each day that the violation continues.

6 (f) Liability under this section may be imposed in a civil action,
7 or liability may be imposed administratively pursuant to this article.

8 (g) (1) Notwithstanding Title 5 (commencing with Section
9 3426) of Part 1 of Division 4 of the Civil Code and Article 11
10 (commencing with Section 1060) of Chapter 4 of Division 8 of
11 the Evidence Code, all records that the facility or operator is
12 reasonably required to keep to allow the department to verify
13 information in, or verification of, the reports required pursuant to
14 subdivisions (a) and (b) and implementing regulations shall be
15 subject to inspection and copying by the department, but shall be
16 confidential and shall not be subject to disclosure under the
17 California Public Records Act (Chapter 3.5 (commencing with
18 Section 6250) of Division 7 of Title 1 of the Government Code).

19 (2) Notwithstanding Title 5 (commencing with Section 3426)
20 of Part 1 of Division 4 of the Civil Code and Article 11
21 (commencing with Section 1060) of Chapter 4 of Division 8 of
22 the Evidence Code, an employee of a government entity may, at
23 the disposal facility, inspect and copy records related to tonnage
24 received at the facility on or after July 1, 2015, and originating
25 within the government entity's geographic jurisdiction. Those
26 records shall be limited to weight tags that identify the hauler,
27 vehicle, quantity, date, type, and origin of waste received at a
28 disposal facility. Those records shall be available to those
29 government entities for the purposes of subdivision (a) and as
30 necessary to enforce the collection of local fees, but those records
31 shall be confidential and shall not be subject to disclosure under
32 the California Public Records Act (Chapter 3.5 (commencing with
33 Section 6250) of Division 7 of Title 1 of the Government Code).
34 Names of haulers using specific landfills shall not be disclosed by
35 a government entity unless necessary as part of an administrative
36 or judicial enforcement proceeding to fund local programs or
37 enforce local franchises.

38 (3) A government entity may petition the superior court for
39 injunctive or declaratory relief to enforce its authority under
40 paragraph (2). The times for responsive pleadings and hearings in

1 these proceedings shall be set by the judge of the court with the
 2 object of securing a decision as to these matters at the earliest
 3 possible time.

4 (4) For purposes of this section, a government entity is an entity
 5 identified in Section 40145 or an entity formed pursuant to Section
 6 40976.

7 (5) For purposes of this subdivision, “disposal” and “disposal
 8 facility” have the same meanings as prescribed by Sections 40120.1
 9 and 40121, respectively.

10 (6) Nothing in this subdivision shall be construed to limit or
 11 expand the authority of a government entity that may have been
 12 provided by this section and implementing regulations as they read
 13 on December 31, 2015.

14 (7) The records subject to inspection and copying by the
 15 department pursuant to paragraph (1) or by an employee of a
 16 government entity pursuant to paragraph (2) may be redacted by
 17 the operator before inspection to exclude confidential pricing
 18 information contained in the records, such as contract terms and
 19 conditions (including information on pricing, credit terms, volume
 20 discounts, and other proprietary business terms), if the redacted
 21 information is not information that is otherwise required to be
 22 reported to the department.

23 (h) Notwithstanding the Uniform Electronic Transactions Act
 24 (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division
 25 3 of the Civil Code), reports required by this section shall be
 26 submitted electronically, using an electronic reporting format
 27 system established by the department.

28 (i) All records provided in accordance with this section shall be
 29 subject to Section 40062.

30 *SEC. 2. Section 41952 of the Public Resources Code is*
 31 *amended and renumbered to read:*

32 ~~41952.~~

33 *41957.* Nothing in this chapter limits the right of any person
 34 to donate, sell, or otherwise dispose of his or her recyclable
 35 materials.

36 *SEC. 3. Section 41952 is added to the Public Resources Code,*
 37 *to read:*

38 *41952.* No person, other than the solid waste enterprise duly
 39 authorized by a city, county, or other local governmental agency,
 40 shall collect, remove, or transport solid waste generated on

1 residential, commercial, or industrial premises located within the
2 city, county, or local governmental jurisdiction.

3 SEC. 4. Section 41953 of the Public Resources Code is
4 amended to read:

5 41953. (a) In any civil action by a recycling agent against a
6 person alleged to have violated Section 41950 or 41951, or by an
7 authorized solid waste enterprise against a person alleged to have
8 violated Section 41952, the court may either allow treble damages,
9 as measured by the market value of the recyclable material
10 removed, or award a civil penalty of not more than two thousand
11 dollars (\$2,000), whichever is greater, for each unauthorized
12 removal, against the unauthorized person removing the recyclable
13 material.

14 (b) In any civil action by a recycling agent against a person
15 alleged to have violated Section 41950 or ~~41951~~ 41951, or by an
16 authorized solid waste enterprise against a person alleged to have
17 violated Section 41952, for a second, or ~~subsequent time~~,
18 subsequent, time in any 12-month period, the court may either
19 allow treble damages, as measured by the market value of the
20 recyclable material removed, or award a civil penalty of not more
21 than five thousand dollars (\$5,000), whichever is greater, for each
22 unauthorized removal against the unauthorized person removing
23 the recyclable material.

24 (c) If a plaintiff prevails in a civil action brought pursuant to
25 this chapter, the court shall award to the plaintiff reasonable
26 attorneys' fees, expert witness fees, and costs incurred in the course
27 of the litigation.

28 SECTION 1. ~~(a) The Legislature finds and declares that a~~
29 ~~statewide system of accounting for the diversion of food waste~~
30 ~~through the implementation and enforcement of statewide standards~~
31 ~~for hauling, processing, and transferring of food waste is critical~~
32 ~~to protect public health and safety, to reduce the disposal of food~~
33 ~~waste in landfills, and to improve the environment through the~~
34 ~~reduction of greenhouse gases. According to the State Air~~
35 ~~Resources Board's May 2015 Short-Lived Climate Pollutant~~
36 ~~Reduction Strategy concept paper, "The strategy will consider~~
37 ~~measures to meet a goal of diverting 90 percent of organics from~~
38 ~~landfills through source reduction and organics recycling by 2025."~~

39 (b) It is the intent of the Legislature that food waste material be
40 managed in a manner that is consistent statewide and that tracks

1 the movement of food waste through a regulated system to
2 significantly improve the state's ability to do both of the following:

3 (1) Quantify progress toward greenhouse gas reduction goals
4 statewide.

5 (2) Report diversion levels for determining progress toward the
6 state's current 75 percent recycling goal.

7 SEC. 2. Section 42649.8 of the Public Resources Code is
8 amended to read:

9 42649.8. For purposes of this chapter, the following terms shall
10 apply:

11 (a) "Business" means a commercial or public entity, including,
12 but not limited to, a firm, partnership, proprietorship, joint stock
13 company, corporation, or association that is organized as a
14 for-profit or nonprofit entity, or a multifamily residential dwelling,
15 and including federal, state, county, and municipal entities, special
16 districts, schools, and colleges.

17 (b) "Commercial waste generator" means a business subject to
18 subdivision (a) of Section 42649.2.

19 (c) "Food waste" means discarded putrescible solid, semisolid,
20 and liquid food, including, but not limited to, fruit, vegetables,
21 cheese, meat, bones, poultry, seafood, bread, rice, pasta, oils, and
22 herbs, and any other putrescible matter produced from human food
23 production and preparation activities.

24 (d) "Individual self-hauler" means a self-hauler with only one
25 transporter vehicle that transports not more than one cubic yard
26 of food waste per week from not more than one location.

27 (e) "Organic waste" means food waste, green waste, landscape
28 and pruning waste, nonhazardous wood waste, and food-soiled
29 paper waste that is mixed in with food waste.

30 (f) "Organic waste generator" means a business subject to
31 subdivision (a) of Section 42649.81.

32 (g) "Rural jurisdiction" means a jurisdiction that is located
33 entirely within one or more rural counties, or a regional agency
34 comprised of jurisdictions that are located within one or more rural
35 counties.

36 (h) "Rural county" means a county that has a total population
37 of less than 70,000 persons.

38 (i) "Self-hauler" means a business that hauls more than one
39 cubic yard of its own food waste or hauls food waste from more

1 than one location, rather than contracting for that service, and
2 “self-haul” means to act as a self-hauler.

3 (j) “Transporter vehicle” means a vehicle that transports and
4 delivers food waste to an approved processing facility, and that is
5 operated by a business required to be registered pursuant to Section
6 42649.89.

7 SEC. 3. Section 42649.88 is added to the Public Resources
8 Code, to read:

9 42649.88. Any facility that is permitted or authorized by law
10 to receive food waste may participate in the diversion of food waste
11 pursuant to this chapter.

12 SEC. 4. Section 42649.89 is added to the Public Resources
13 Code, to read:

14 42649.89. (a) Except as expressly provided herein, it is
15 unlawful for any business to transport more than one cubic yard
16 of food waste per week or to transport food waste from more than
17 one location without being registered by the department as a
18 transporter of food waste. The following are exempt from the
19 registration and related requirements of this section:

20 (1) Licensed renderers lawfully operating pursuant to Chapter
21 5 (commencing with Section 19200) of Part 3 of Division 9 of the
22 Food and Agricultural Code.

23 (2) Transporters of agricultural byproducts destined for final
24 disposition on land in a manner that is specifically authorized by
25 the State Water Resources Control Board, or a Regional Water
26 Quality Control Board, provided such final disposition does not
27 adversely affect public health and safety or the environment.

28 (b) The department may impose fees on registered transporters
29 of food waste and individual self-haulers for transporter vehicles
30 for the reasonable regulatory costs to the department to administer
31 the provisions of this chapter regulating the diversion of food
32 waste, not to exceed the following:

33 (1) Except as specified in paragraph (2), three hundred dollars
34 (\$300) for each transporter vehicle.

35 (2) One hundred dollars (\$100) for the transporter vehicle of an
36 individual self-hauler.

37 (c) A registered transporter shall procure and maintain insurance
38 coverage against claims for injuries to persons or damages to
39 property that may arise from, or in connection with, the
40 performance of the work of the transporter. A registered transporter

1 shall ~~maintain commercial liability, commercial automobile~~
2 ~~liability, workers' compensation, and pollution liability insurance~~
3 ~~policies, in an amount and type as determined by the department,~~
4 ~~which amount shall be no less than one million dollars~~
5 ~~(\$1,000,000). A registered transporter lawfully operating pursuant~~
6 ~~to a franchise, contract, license, or permit issued by a local agency~~
7 ~~shall be deemed to have satisfied the requirements of this~~
8 ~~subdivision.~~

9 (d) ~~A transporter vehicle shall be inspected on a regular basis,~~
10 ~~at a frequency and in accordance with standards developed by the~~
11 ~~department, by the jurisdiction or other local governmental entity~~
12 ~~permitting the transporter's operation. The inspection shall include,~~
13 ~~but is not limited to, the vehicle's cleanliness, whether the vehicle~~
14 ~~is watertight, whether the food waste is properly contained, and~~
15 ~~whether the vehicle has been inspected pursuant to Section~~
16 ~~34501.12 of the Vehicle Code. A transporter lawfully operating~~
17 ~~pursuant to a franchise, contract, license, or permit issued by a~~
18 ~~local agency shall be deemed to have satisfied the requirements~~
19 ~~of this subdivision.~~

20 (e) ~~A registered transporter shall comply with state or local laws~~
21 ~~or requirements, including a local ordinance or agreement,~~
22 ~~applicable to the collection, handling, or recycling of solid waste.~~

23 ~~SEC. 5. Section 42649.9 is added to the Public Resources Code,~~
24 ~~to read:~~

25 ~~42649.9. (a) A registered transporter shall maintain a record~~
26 ~~of transported food waste to document that food waste did not~~
27 ~~remain on the premises of the generator for more than seven days,~~
28 ~~consistent with, and subject to the exceptions provided in, Section~~
29 ~~17331 of Title 14 of the California Code of Regulations, and was~~
30 ~~handled in accordance with the provisions of this chapter, as~~
31 ~~specified in regulations to be adopted pursuant to subdivision (e).~~

32 (b) ~~The record shall include a receipt indicating the acceptance~~
33 ~~of the material at a permitted or approved facility, the quantity of~~
34 ~~the material, and the jurisdiction of origin of the food waste. The~~
35 ~~transporter shall certify, under penalty of perjury, that the record~~
36 ~~is accurate.~~

37 (c) ~~A registered transporter shall submit an electronic report to~~
38 ~~the department, at least quarterly, containing all information~~
39 ~~required to be reported pursuant to subdivision (b) of Section~~
40 ~~42649.91.~~

1 ~~(d) A registered transporter shall maintain all records required~~
2 ~~pursuant to this section for a minimum of three years.~~

3 ~~(e) The department may adopt regulations requiring practices~~
4 ~~and procedures that are reasonable and necessary to provide an~~
5 ~~accounting of food waste transported, handled, processed, or~~
6 ~~disposed. The regulations shall not impose an unreasonable burden~~
7 ~~on the transporting, safe handling, processing, and disposal of food~~
8 ~~waste.~~

9 ~~SEC. 6. Section 42649.91 is added to the Public Resources~~
10 ~~Code, to read:~~

11 ~~42649.91. (a) The department shall compile a list of permitted~~
12 ~~and approved facilities authorized to accept food waste and shall~~
13 ~~also notify facilities and registered transporters of the requirements~~
14 ~~relating to transportation of food waste by posting the information~~
15 ~~on the department's Internet Web site.~~

16 ~~(b) The department shall require a registered transporter or~~
17 ~~facility that transports or receives food waste, as applicable, to~~
18 ~~report information to the department at least quarterly concerning~~
19 ~~the transportation and receipt of food waste, including all of the~~
20 ~~following:~~

- 21 ~~(1) The name of the transporter or facility.~~
- 22 ~~(2) The jurisdiction of origin of the food waste.~~
- 23 ~~(3) The quantity of the food waste transported or received in~~
24 ~~weight or volume.~~
- 25 ~~(4) The date and time the food waste was transported or~~
26 ~~received.~~
- 27 ~~(5) The license plate number of the vehicle used for~~
28 ~~transportation.~~
- 29 ~~(6) Any other information required by the department.~~

30 ~~SEC. 7. Section 42649.92 is added to the Public Resources~~
31 ~~Code, to read:~~

32 ~~42649.92. Any person who refuses or fails to submit~~
33 ~~information required by regulations adopted pursuant to Sections~~
34 ~~42649.88 to 42649.91, inclusive, is liable to the department for a~~
35 ~~civil penalty of not less than five hundred dollars (\$500) and not~~
36 ~~more than five thousand dollars (\$5,000) for each violation of a~~
37 ~~separate provision or, for continuing violations, for each day that~~
38 ~~the violation continues.~~

39 ~~SEC. 8. No reimbursement is required by this act pursuant to~~
40 ~~Section 6 of Article XIII B of the California Constitution for certain~~

1 ~~costs that may be incurred by a local agency or school district~~
2 ~~because, in that regard, this act creates a new crime or infraction,~~
3 ~~eliminates a crime or infraction, or changes the penalty for a crime~~
4 ~~or infraction, within the meaning of Section 17556 of the~~
5 ~~Government Code, or changes the definition of a crime within the~~
6 ~~meaning of Section 6 of Article XIII B of the California~~
7 ~~Constitution.~~
8 However, if the Commission on State Mandates determines that
9 this act contains other costs mandated by the state, reimbursement
10 to local agencies and school districts for those costs shall be made
11 pursuant to Part 7 (commencing with Section 17500) of Division
12 4 of Title 2 of the Government Code.