

AMENDED IN SENATE JUNE 1, 2016
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 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: 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,~~ *specified*, to submit that information to the department.

Existing law prohibits a person, other than ~~the~~ *an* authorized recycling ~~agent of the city or county,~~ *agent*, 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~~ *recycling or at a designated recycling collection location by any commercial or industrial entity*. 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, these laws~~, 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 *higher* 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 *by another person* on residential, commercial, or industrial premises located within ~~the~~ *a* city, county, or local governmental ~~jurisdiction~~ *jurisdiction, except in compliance with applicable law, as defined*. The bill would apply those same penalties and damages in any civil action against a person alleged to have violated, or to have knowingly participated in the violation of, the segregated recycling laws specified above. 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.

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

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

- 1 SECTION 1. Section 41821.5 of the Public Resources Code
- 2 is 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.

1 (b) (1) Recycling and composting operations and facilities shall
2 submit periodic information to the department on the types and
3 quantities of materials that are disposed of, sold, or transferred to
4 other recycling or composting facilities, end users inside of the
5 state or outside of the state, or exporters, brokers, or transporters
6 for sale inside of the state or outside of the state.

7 (2) Exporters, brokers, self-haulers, and transporters of
8 recyclables or compost shall submit periodic information to the
9 department on the types, quantities, and destinations of materials
10 that are disposed of, sold, or transferred. ~~For purposes of this~~
11 ~~section, The department shall develop regulations implementing~~
12 ~~this section that define “self-hauler” means to include, at a~~
13 ~~minimum, a person or entity that generates and transports, utilizing~~
14 ~~its own employees and equipment, more than one cubic yard per~~
15 ~~week of its own recyclables, organics, or compostable material~~
16 ~~food waste to a location or facility that is not owned and operated~~
17 ~~by that person or entity.~~

18 (3) The information in the reports submitted pursuant to this
19 subdivision may be provided to the department on an aggregated
20 facility-wide basis and may exclude financial data, such as contract
21 terms and conditions (including information on pricing, credit
22 terms, volume discounts and other proprietary business terms), the
23 jurisdiction of the origin of the materials, or information on the
24 entities from which the materials are received. The department
25 may provide this information to jurisdictions, aggregated by
26 company, upon request. The aggregated information, other than
27 that aggregated by company, is public information.

28 (c) The department shall adopt regulations pursuant to this
29 section requiring practices and procedures that are reasonable and
30 necessary to implement this section, and that provide a
31 representative accounting of solid wastes and recyclable materials
32 that are handled, processed, or disposed. Those regulations
33 approved by the department shall not impose an unreasonable
34 burden on waste and recycling handling, processing, or disposal
35 operations or otherwise interfere with the safe handling, processing,
36 and disposal of solid waste and recyclables. The department shall
37 include in those regulations both of the following:

38 (1) Procedures to ensure that an opportunity to comply is
39 provided prior to initiation of enforcement authorized by Section
40 41821.7.

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

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

9 (e) Any person who knowingly or willfully files a false report,
10 or any person who refuses to permit the department or any of its
11 representatives to make inspection or examination of records, or
12 who fails to keep any records for the inspection of the department,
13 or who alters, cancels, or obliterates entries in the records for the
14 purpose of falsifying the records as required by regulations adopted
15 pursuant to this section, is liable for a civil penalty of not less than
16 five hundred dollars (\$500) and not more than ten thousand dollars
17 (\$10,000) for each violation of a separate provision or, for
18 continuing violations, for each day that the violation continues.

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

21 (g) (1) Notwithstanding Title 5 (commencing with Section
22 3426) of Part 1 of Division 4 of the Civil Code and Article 11
23 (commencing with Section 1060) of Chapter 4 of Division 8 of
24 the Evidence Code, all records that the facility or operator is
25 reasonably required to keep to allow the department to verify
26 information in, or verification of, the reports required pursuant to
27 subdivisions (a) and (b) and implementing regulations shall be
28 subject to inspection and copying by the department, but shall be
29 confidential and shall not be subject to disclosure under the
30 California Public Records Act (Chapter 3.5 (commencing with
31 Section 6250) of Division 7 of Title 1 of the Government Code).

32 (2) Notwithstanding Title 5 (commencing with Section 3426)
33 of Part 1 of Division 4 of the Civil Code and Article 11
34 (commencing with Section 1060) of Chapter 4 of Division 8 of
35 the Evidence Code, an employee of a government entity may, at
36 the disposal facility, inspect and copy records related to tonnage
37 received at the facility on or after July 1, 2015, and originating
38 within the government entity's geographic jurisdiction. Those
39 records shall be limited to weight tags that identify the hauler,
40 vehicle, quantity, date, type, and origin of waste received at a

1 disposal facility. Those records shall be available to those
2 government entities for the purposes of subdivision (a) and as
3 necessary to enforce the collection of local fees, but those records
4 shall be confidential and shall not be subject to disclosure under
5 the California Public Records Act (Chapter 3.5 (commencing with
6 Section 6250) of Division 7 of Title 1 of the Government Code).
7 Names of haulers using specific landfills shall not be disclosed by
8 a government entity unless necessary as part of an administrative
9 or judicial enforcement proceeding to fund local programs or
10 enforce local franchises.

11 (3) A government entity may petition the superior court for
12 injunctive or declaratory relief to enforce its authority under
13 paragraph (2). The times for responsive pleadings and hearings in
14 these proceedings shall be set by the judge of the court with the
15 object of securing a decision as to these matters at the earliest
16 possible time.

17 (4) For purposes of this section, a government entity is an entity
18 identified in Section 40145 or an entity formed pursuant to Section
19 40976.

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

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

27 (7) The records subject to inspection and copying by the
28 department pursuant to paragraph (1) or by an employee of a
29 government entity pursuant to paragraph (2) may be redacted by
30 the operator before inspection to exclude confidential pricing
31 information contained in the records, such as contract terms and
32 conditions (including information on pricing, credit terms, volume
33 discounts, and other proprietary business terms), if the redacted
34 information is not information that is otherwise required to be
35 reported to the department.

36 (h) Notwithstanding the Uniform Electronic Transactions Act
37 (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division
38 3 of the Civil Code), reports required by this section shall be
39 submitted electronically, using an electronic reporting format
40 system established by the department.

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

3 SEC. 2. Section 41952 of the Public Resources Code is
4 amended and renumbered to read:

5 41957. Nothing in this chapter limits the right of any person
6 to donate, sell, or otherwise dispose of his or her recyclable
7 materials.

8 SEC. 3. Section 41952 is added to the Public Resources Code,
9 to read:

10 41952. ~~No person, other than the solid waste enterprise duly~~
11 ~~authorized by a city, county, or other local governmental agency,~~
12 ~~person shall collect, remove, or transport solid waste generated by~~
13 ~~another person on residential, commercial, or industrial premises~~
14 ~~located within the a city, county, or local governmental jurisdiction.~~
15 ~~jurisdiction, except in compliance with applicable law. For~~
16 ~~purposes of this section, “applicable law” includes, but is not~~
17 ~~limited to, a municipal ordinance regulating the handling of solid~~
18 ~~waste.~~

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

21 41953. (a) In any civil action by a person, including, but not
22 limited to, a local governmental agency or its recycling-agent
23 agent, against a person alleged to have violated Section 41950 or
24 41951, or by ~~an authorized~~ a person, including, but not limited to,
25 a local governmental agency or a solid waste enterprise authorized
26 by the local governmental agency to handle solid waste, against
27 a person alleged to have ~~violated~~ violated, or to have knowingly
28 participated in the violation of, Section 41952, the court may either
29 allow treble damages, as measured by the market value of the
30 recyclable material removed, or award a civil penalty of not more
31 than two thousand dollars (\$2,000), whichever is greater, for each
32 unauthorized removal, against the unauthorized person removing
33 the recyclable ~~material.~~ material or solid waste.

34 (b) In any civil action by a person, including, but not limited
35 to, a local governmental agency or its recycling-agent agent,
36 against a person alleged to have violated Section 41950 or 41951,
37 or by ~~an authorized~~ a person, including, but not limited to, a local
38 governmental agency or a solid waste enterprise authorized by the
39 local governmental agency to handle solid waste, against a person
40 alleged to have ~~violated~~ violated, or to have knowingly participated

1 *in the violation of*, Section 41952, for a second, or subsequent,
2 time in any 12-month period, the court may either allow treble
3 damages, as measured by the market value of the recyclable
4 material removed, or award a civil penalty of not more than five
5 thousand dollars (\$5,000), whichever is greater, for each
6 unauthorized removal against the unauthorized person removing
7 the recyclable ~~material~~ *material or solid waste*.

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