
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: AB 1972 **Hearing Date:** June 11, 2024
Author: Alanis
Version: April 11, 2024
Urgency: No **Fiscal:** Yes
Consultant: JD

Subject: *Regional property crimes task force*

HISTORY

Source: Author

Prior Legislation: AB 1065 (Jones-Sawyer), Chapter 803, Statutes of 2018
AB 331 (Jones-Sawyer), Chapter 113, Statutes of 2021
AB 2543 (Fong), held in Assembly Public Safety 2022
AB 2769 (O'Donnell), held in Assembly Public Safety 2022

Support: California Association of Highway Patrolmen; California Contract Cities Association; California Department of Justice; California District Attorneys Association; California Downtown Association; California Problem Solvers Caucus; California Retailers Association; City of Artesia; City of Buena Park; City of Citrus Heights; City of El Cerrito; City of La Mirada; City of Lakeport; City of Los Alamitos; City of Norwalk; City of Port Hueneme; City of Rancho Palos Verdes; Darrell Steinberg, Mayor of Sacramento; League of California Cities; Los Angeles County Sheriff's Department; Mayor Todd Gloria, City of San Diego; Peace Officers Research Association of California (PORAC); Town of Apple Valley

Opposition: None known

Assembly Floor Vote: 70 - 0

PURPOSE

The purpose of this bill is to expand the focus of the regional property crimes task force to include cargo theft and provide logistical support and law enforcement resources to railroad police as a part of the task force.

Existing law requires CHP, in coordination with the Department of Justice (DOJ), to convene a regional property crimes task force to assist local law enforcement in counties identified as having elevated levels of property crime, including, but not limited to, organized retail theft, vehicle burglary, and theft of vehicle parts and accessories. (Pen. Code, § 13899.)

Existing law states that the task force shall provide local law enforcement with logistical support and other law enforcement resources, including, but not limited to, personnel and equipment. (Pen. Code, § 13899.)

Existing law states that every person who steals, takes, carries, leads, or drives away the personal property of another is guilty of theft. (Pen. Code, § 484, subd. (a).)

Existing law defines grand theft as theft of money, labor, real or personal property of a value exceeding \$950. Grand theft is a wobbler, punishable by imprisonment in a county jail not exceeding one year, or as a felony by imprisonment in the county jail for 16 months, two years, or three years (Pen. Code, § 487, 489.)

Existing law provides that every person who steals, takes, or carries away cargo of another, if the cargo is taken of a value exceeding \$950, is guilty of grand theft. (Pen. Code, § 487h, subd. (a).)

Existing law provides that every person who enters any vessel, railroad car, locked or sealed cargo container, with attempt to commit theft or any felony is guilty of burglary, a wobbler, punishable as a misdemeanor by imprisonment in the county jail for up to a year, or as a felony by imprisonment in the county jail for 16 months, two years, or three years. (Pen. Code, §§ 459, 461.)

Existing law defines “cargo” as any goods, wares, products or manufactured merchandise that has been loaded into a trailer, railcar, or cargo container, awaiting or in transit. (Pen. Code § 487h, subd. (b).)

Existing law defines “cargo container” as a receptacle with strong enough for repeated use, designed to facilitate the carriage of goods, fitted for handling from one mode of transport to another, designed to be easy to fill and empty, and having a cubic displacement of 1,000 cubic feet or more. (Pen. Code, § 458.)

Existing law provides that the value of the money, labor, real property, or personal property taken exceeds \$950 over the course of distinct but related acts, the value of the money, labor, real property, or personal property taken may properly be aggregated to charge a count of grand theft, if the acts are motivated by one intention, one general impulse, and one plan. (Pen. Code, § 487, subd. (e).)

Existing law provides that every person who destroys any part of a railroad, including any structure or fixture attached to or connected with any railroad, is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one year, or a felony, punishable by imprisonment in county jail for a period of 16 months, two, or three years. (Pen. Code, § 489, subd. (c)(1).)

Existing law makes it a felony, punishable by imprisonment in a county jail for a term of two, three, or four years, to obstruct a railroad track. (Pen. Code, § 218.1.)

Existing law makes trespassing on a railroad or any transit related property a misdemeanor. (Pen. Code, § 369i.)

Existing law allows the Governor to appoint and commission, upon application by a railroad company, to appoint police officers to serve at the expense of the company that have the same powers and jurisdiction of peace officers listed in Section 830.33 of the Penal Code (Public Utilities Code § 8226).

Existing law states that the railroad company responsible for designating these peace officers shall also be responsible civilly for any abuse of their authority (Public Utilities Code § 8226).

This bill expands the focus of the regional property crimes tasks force to include cargo theft.

This bill allows railroad police to receive logistical support and law enforcement resources from the regional property crimes task force.

COMMENTS

1. Need for This Bill

According to the Author:

AB 1972 builds off the success of the CHP's regional property crimes task force and incorporates cargo theft into the program assessing the needs of local law enforcement in their efforts to combat this growing crime and providing additional resources for local agencies.

2. CHP's Regional Property Crimes Task Force

AB 1065 (Jones-Sawyer), Chapter 803, Statutes of 2018, among other things, operation of CHP's regional property crimes task force. AB 1065 had a sunset date of January 1, 2021. AB 331 (Jones-Sawyer), Chapter 113, Statutes of 2021, extended the sunset through January 1, 2026.

Under Penal Code section 13899, CHP is required to, in coordination with the DOJ, convene a regional property crimes task force to assist local law enforcement in counties with elevated levels of property crime, including, but not limited to, organized retail theft, vehicle burglary, and theft of vehicle parts and accessories. The task force provides local law enforcement and in these regions with logistical support and other law enforcement resources, including, but not limited to, personnel and equipment, in consultation with task force members. In response to AB 1065, the CHP, in consultation with the DOJ, developed a task force concept to work with allied agencies to combat organized retail theft. Three regional task forces, known as Organized Retail Crime Task Forces (ORCTF), were established by the CHP in three field Divisions with the greatest need for immediate action: Golden Gate Division (encompassing the greater Bay Area), Southern Division (encompassing the greater Los Angeles region), and Border Division (encompassing Orange and San Diego counties). (CHP, [Organized Retail Theft Program](#).)

This bill would add railroad police to the task force and would require CHP and the DOJ to assist railroad police and local law enforcement agencies with cargo thefts.

3. Railroad and Cargo Theft

Under existing law, any person who steals, takes, or carries away cargo of another, if the cargo is taken of a value exceeding \$950, is guilty of grand theft. (Pen. Code, § 487h, subd. (a).) And, any person who enters any railroad car or locked or sealed cargo container with attempt to commit theft or any felony is guilty of burglary, which is a felony, punishable by imprisonment in county jail for a period of 16 months, two or three years. (Pen. Code, §§ 459; 461, subd. (b).)

In instances where the property stolen from a cargo container is less than \$950, the crime is punishable by a fine not exceeding \$1,000 or by imprisonment in the county jail not exceeding 6 months, or both. (Pen. Code, § 490.) If a person trespasses on a railroad or any transit related property during the commission of the offense, they can be charged with an additional misdemeanor. (Pen. Code, § 369i.) If a person trespasses on a railroad with intent to commit robbery, they can be subject to imprisonment of a term of not more than twenty years under federal law. (18 U.S.C. § 1991.)

According to Cargo Net, a database which is the product of a national information-sharing system to combat cargo theft, during the first quarter of 2024 there were 925 documented theft incident reports nationwide, which is a 10 percent rise from the previous quarter, and a 46 percent increase from the first quarter of 2023. In California, there was a 72 percent year-over-year increase in theft incident reports during 2023. Of these documented cases, the most commonly targeted goods were small appliances, liquor, energy drinks, and copper. Types of thefts ranged from complex fraud schemes, where entire truckloads were picked up and never delivered or delivered with digitally altered paperwork to hide the theft from the customer, to simple cargo theft, stealing from unattended, loaded trailers ([2024 First Quarter Supply Chain Risk Trends Analysis](#), CargoNet, Verisk (2024)).

In December 20, 2021, Union Pacific Police Department (UP) sent a letter to Los Angeles County District Attorney George Gascón, regarding train thefts and security concerns. UP often works with local, state, and federal law enforcement agencies on issues concerning the railroad. Union Pacific special agents and local law enforcement officers have overlapping jurisdictions, but UP railroad property is the Union Pacific Police Department's responsibility. The letter raises concerns over the increase in rail theft since the pandemic and states, in part:

Since December 2020, UP has experienced an over 160% increase in criminal rail theft in Los Angeles County. In several months during that period, the increase from the previous year surpassed 200%. In October 2021 alone, the increase was 356% over compared to October 2020. Not only do these dramatic increases represent retail product thefts – they include increased assaults and armed robberies of UP employees performing their duties moving trains [...]

([Letter from Union Pacific Railroad](#) (Dec. 20, 2021).)

Notably, UP's train thefts started right around the time it laid off thousands of workers. According to UP's annual reports to the federal Surface Transportation Board, the company ended 2019 with 23,096 employees. In 2020, that number fell to 20,334. And that number fell again to 18,408 in the third quarter of 2021. ([Quarterly Wage A&B Data](#), Surface Transportation Board.) According to the Los Angeles Times, former UP employees and police say budgetary issues have slashed the ranks of the company's force, leaving as few as half a dozen in the region. (['Like A Third World Country': Gov. Newsom Decries Rail Thefts amid Push to Beef up Enforcement](#), Los Angeles Times (Jan. 20, 2022).) "Union Pacific from Yuma, Ariz., to L.A. has six people patrolling..." and "thefts started about seven months ago as the police presence ebbed." (*Ibid.*) UP's employment numbers remain low, despite record profits for the rail operator. UP reported a net income of \$6.5 billion for 2021. ([Union Pacific Reports Fourth Quarter and Full Year 2021 Results](#), UP (Jan. 2022).) The New York Times reported on rail theft as it exists in the 21st century and cited how over the past decade, during a period of record-breaking profits, the largest railroad companies in the country have been running increasingly longer trains. Some trains stretch two and three miles in length. During this same period of

record profits and extended train lengths, the same companies have reduced the number of employees by almost 30 percent. And the Federal Railroad Administration currently does not limit the lengths of trains despite increasing concerns over safety ([*The Great Freight-Train Heists of the 21st Century*](#), The New York Times (Jan. 23, 2024)).

By adding railroad police to CHP's task force, this bill would allow CHP to provide resources and assistance to railroad police agencies such as UP and other railroad law enforcement agencies.

4. Amendments to be taken in Appropriations Committee

This bill will be amended in the Senate Appropriations Committee to contain an urgency clause, allowing the bill's provisions to take effect immediately upon approval of the Governor. Additionally, the bill will be amended to contain an inoperability clause stating that its provisions will become inoperative if the proposed initiative measure titled, "The Homelessness, Drug Addition, and Theft Reduction Act" (Initiative 23-0017A1) is approved by the voters at the statewide general election on November 5, 2024.

5. Argument in Support

According to the California Department of Justice:

[...] Assembly Bill 1972, which will address organized retail crime by increasing resources to protect the cargo supply networks that retailers depend on. Existing law requires California Highway Patrol (CHP) to coordinate with the Department of Justice (DOJ) to convene a regional property crimes task force in areas experiencing increased levels of property crimes and to assist local law enforcement by providing support, personnel, and equipment. AB 1972 will require the task force to also provide assistance to local law enforcement, including railroad police, in counties with elevated levels of cargo theft.

[...] The problem of organized retail crime is multi-faceted and the answers will be multi-faceted. AB 1972 is an important prong in California's plan to hold the perpetrators of these crimes accountable and keep our communities free of crime. The Attorney General is committed to collaborative strategies to end organized retail theft and thanks you for your leadership on this important bill.

-- END --