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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Jesse Arreguín, Chair  
2025 - 2026 Regular

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**Bill No:** AB 468                      **Hearing Date:** July 15, 2025  
**Author:** Gabriel  
**Version:** June 26, 2025  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** SU

**Subject:** *Crimes: looting*

### HISTORY

**Source:** Author

**Prior Legislation:** AB 3078 (Gallagher), Ch. 132, Stats. of 2018  
AB 1595 (Gallagher), Held in Senate Appropriations, 2017  
AB 2820 (Chiu), Ch. 671, Stats. of 2016  
SB 1363 (Ducheny), Ch. 492, Stats. 2004

**Support:** Arcadia Police Officers' Association; Brea Police Association; Burbank Police Officers' Association; California Association of Highway Patrolmen; California Association of School Police Chiefs; California Coalition of School Safety Professionals; California Contract Cities Association; California District Attorneys Association; California Fire Chiefs Association; California Narcotic Officers' Association; California Police Chiefs Association; California Professional Firefighters; California Reserve Peace Officers Association; City and County of San Francisco; City of LA Canada Flintridge; City of Norwalk; City of Thousand Oaks; Claremont Police Officers Association; Corona Police Officers Association; Culver City Police Officers' Association; Fire Districts Association of California; Fullerton Police Officers' Association; Glendale Professional Firefighters Local 776; League of California Cities; Los Angeles County District Attorney's Office; Los Angeles County Sheriff's Department; Los Angeles School Police Management Association; Los Angeles School Police Officers Association; Mayor Daniel Lurie, City and County of San Francisco; Murrieta Police Officers' Association; Newport Beach Police Association; Palos Verdes Police Officers Association; Pasadena Firefighters Local 809; Peace Officers Research Association of California; Placer County Deputy Sheriffs' Association; Pomona Police Officers' Association; Riverside Police Officers Association; Riverside Sheriffs' Association; Sacramento Area Firefighters Local 522; San Francisco Police Department; Town of Hillsborough; Ventura County District Attorney's Office

**Opposition:** ACLU California Action; California Attorneys for Criminal Justice; California Public Defenders Association; Californians United for a Responsible Budget; Ella Baker Center for Human Rights; Fair Chance Project; Felony Murder Elimination Project; Initiate Justice; Initiate Justice Action; Justice2jobs Coalition; LA Defensa; Local 148 LA County Public Defenders Union; Smart Justice California; Universidad Popular; Vera Institute of Justice

## AS PROPOSED TO BE AMENDED IN COMMITTEE

## PURPOSE

***The purpose of this bill is to establish increased penalties for looting in an evacuation zone.***

*Existing law* defines “burglary” as entering a residential or commercial building with the intent to commit grand or petty larceny or any felony or a theft once inside. (Pen. Code, § 459.)

*Existing law* divides burglary into two degrees. First degree burglary is burglary of an inhabited dwelling. All other burglaries are second degree burglary. (Pen. Code, § 460.)

*Existing law* states that for purposes of burglary, “inhabited” means currently being used for dwelling purposes, whether occupied or not. A house, trailer, vessel designed for habitation, or portion of a building is currently being used for dwelling purposes if, at the time of the burglary, it was not occupied solely because a natural or other disaster caused the occupants to leave the premises. (Pen. Code, § 459.)

*This bill* specifies that the fact that the structure entered has been damaged to any extent by a natural or other disaster shall not preclude conviction.

*Existing law* punishes first degree burglary by imprisonment in the state prison for two, four, or six years. (Pen. Code, § 461, subd. (a).)

*Existing law* punishes second-degree burglary as a wobbler with confinement in the county jail either up to one year, or 16 months, two, or three years pursuant to realignment. (Pen. Code, § 461, subd. (b).)

*Existing law* divides theft into two degrees, petty theft and grand theft. (Pen. Code, § 486.)

*Existing law* defines grand theft as when the money, labor, or real or personal property taken is of a value exceeding \$950 dollars, except as specified, and punishes the offense as a wobbler. (Pen. Code, §§ 487 & 489.)

*Existing law* defines petty theft as obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed \$950 and makes it a misdemeanor punishable by a fine not exceeding \$1,000, by imprisonment in the county jail not exceeding six months, or both, except as specified. (Pen. Code, §§ 488 & 490.)

*Existing law* provides that a person who commits specified theft-related offense during and within an affected county in a state of emergency, or a local emergency, or under an evacuation order resulting from a natural or manmade disaster, is guilty of looting and subject to punishment as follows:

- Where the underlying offense is second-degree burglary, by imprisonment in county jail for one year, or by or by imprisonment in the county jail for 16 months, two years, or three years. (Pen. Code, § 463, subd. (a).)

- Where the underlying offense is grand theft, except grand theft of a firearm, by imprisonment in a county jail for one year, or by imprisonment in the county jail for 16 months, two years, or three years. (Pen. Code, § 463, subd. (b).)
- Where the underlying offense is grand theft of a firearm, by imprisonment in state prison for 16 months, or two or three years. (Pen. Code, § 463, subd. (b).)
- Where the underlying offense is petty theft, by imprisonment in a county jail for six months. (Pen. Code, § 463, subd. (c).)

*Existing law* provides that if a person is convicted of looting and granted probation, the person is required to serve a mandatory minimum time in jail as follows, except that a court may reduce or eliminate the jail sentence in the interests of justice:

- Where the underlying offense is second-degree burglary or grand theft, a mandatory minimum term of 180 days in county jail. (Pen. Code, § 463, subds. (a) & (b).)
- Where the underlying offense is petty theft, a mandatory minimum term of 90 days in county jail. (Pen. Code, § 463, subd. (c).)

*Existing law* requires the court, if it reduces or eliminates the mandatory jail sentence for a person granted probation for a looting conviction, to specify on the record and enter into the minutes the circumstances indicating that the interest of justice would be served by that disposition. (Pen. Code, § 463, subds. (a)-(c).)

*Existing law* provides that if a person is convicted of looting and granted probation, the court in its discretion may require the person to also serve specified hours of community service in any program the court deems appropriate, including any program created to rebuild the community, as follows:

- Where the underlying offense is second-degree burglary, up to 240 hours of community service. (Pen. Code, § 463, subd. (a).)
- Where the underlying offense is grand theft, up to 160 hours of community service. (Pen. Code, § 463, subd. (b).)
- Where the underlying offense is petty theft, up to 80 hours of community service. (Pen. Code, § 463, subd. (c).)

*Existing law* provides that, for purposes of a looting involving second-degree burglary, the fact that the structure entered has been damaged by the earthquake, fire, flood, or other natural or manmade disaster shall not, in and of itself, preclude conviction. (Pen. Code, § 463, subd. (a).)

*Existing law* defines “state of emergency” as “conditions that, by reason of their magnitude, are, or are likely to be, beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat.” (Pen. Code, § 463, subd. (d)(1).)

*Existing law* defines “local emergency” as conditions that, by reason of their magnitude, are, or are likely to be, beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat. (Pen. Code, § 463, subd. (d)(2).)

*Existing law* provides that a “state of emergency” shall exist from the time of the proclamation of the condition of the emergency until terminated, as specified, and that a “local emergency” shall exist from the time of the proclamation of the condition of the emergency by the local governing body until terminated, as specified. (Pen. Code, § 463, subd. (d)(3).)

*Existing law* defines “evacuation order” as an order from the Governor, or a county sheriff, chief of police, or fire marshal, under which persons subject to the order are required to relocate outside of the geographic area covered by the order due to an imminent danger resulting from an earthquake, fire, flood, riot, or other natural or manmade disaster. (Pen. Code, § 463, subd. (d)(4).)

*This bill* provides that all of the following offenses when committed during and within an evacuation zone or in an evacuation zone are looting and subject to increased punishment as follows:

- First-degree burglary is punishable by imprisonment in the state prison for two, four, or seven years.
- Second-degree burglary is punishable by imprisonment for 16 months, two years, or three years in county jail.
- Grand theft, except grand theft of a firearm, is punishable by imprisonment for 16 months, two years, or three years in county jail.
- Trespass with the intent to commit larceny is punishable by imprisonment in county jail for one year, or for 16 months, two years, or three years in county jail.
- Theft from an unlocked vehicle is punishable by imprisonment in a county jail for one year, or by imprisonment 16 months, two years, or three years in county jail.

*This bill* defines “evacuation zone” as an evacuation area (area subject to a mandatory evacuation order) or an area subject to an evacuation warning, as specified.

*This bill* states that an “evacuation zone” also includes one or more residential dwelling units while it is undergoing reconstruction following damage or destruction caused by an earthquake, fire, flood, riot, or other natural or manmade disaster, after an evacuation order or warning has been lifted for up to four years, but does not include detached structures on the same property that are not dwelling units or are not otherwise useable for human habitation.

*This bill* provides that the fact that the structure entered has been damaged by a natural or other disaster, does not preclude conviction for looting.

## COMMENTS

### 1. Need for This Bill

According to the author:

"Assembly Bill 468 will provide a sense of security and better protect communities that have been devastated by wildfires. This legislation responds to recent criminal activity in communities devastated by the Palisades and Eaton Fires. Looters – particularly those who impersonate emergency personnel – create chaos and confusion, endanger residents and first responders, undermine public trust in evacuation orders, divert critical emergency resources, and victimize communities that already have suffered devastating harm. AB 468 will close existing loopholes, provide stronger deterrence, and better protect communities during the recovery and rebuilding process."

### 2. Related Legislation and Committee Amendments

Both this bill and SB 571 (Archuleta) address looting, false impersonation, and burglary in response to the Los Angeles fires. SB 571 also includes a provision related to aggravated arson. The authors have agreed to split up both bills. AB 468 (Gabriel) will maintain provisions related to burglary and looting, whereas SB 571 (Archuleta) will maintain provisions related to false impersonation and aggravated arson. These amendments will be taken as committee amendments. Accordingly, this analysis will not discuss provisions in AB 468 (Gabriel) related to false impersonation that are currently still in print, but will be amended out of the bill.

The authors have also agreed to add a contingency enactment clause to each bill. This bill will specify that it shall become operative only if SB 571 is enacted and becomes effective on or before January 1, 2026. Likewise, SB 571 will specify that it shall become operative only if AB 468 is enacted.

Finally, the definition of “evacuation zone” while a residence is undergoing reconstruction will be limited to four years.

### 3. Burglary Provision

The crime of burglary consists of an unlawful entry accompanied by the intent to commit grand or petty larceny or any felony. A burglary of an inhabited dwelling house or an inhabited portion of any building is a first-degree burglary. (Pen. Code, § 460.) “Inhabited” as used in the burglary statute means currently being used for dwelling purposes, whether occupied or not (i.e., a person is currently not present). (Pen. Code, § 459; see also *People v. Marquez* (1983) 143 Cal. App. 3d 797, 800.) Thus, one can be found guilty of first-degree burglary even when the perpetrator gains unlawful entry to an unoccupied building.

A formerly inhabited dwelling becomes uninhabited only when its occupants have moved out permanently and do not intend to return to continue using the structure as a dwelling. (See *People v. Cardona* (1983) 142 Cal.App.3d 481, 483-484 [tenant who moved out of an apartment without intent to return and continue living there left it uninhabited despite leaving some property there]; *People v. Jackson* (1992) 6 Cal.App.4t 1185, 1187-1189 [tenant was resident of inhabited dwelling while in the midst of an uncompleted move of a burglarized apartment]; *People v. Hughes* (2002) 27 Cal.4th 287, at pp. 354–355 [the evidence reflects only that they victim had begun to move].)

In a scenario where a dwelling lies within an evacuation zone, pursuant to case law cited above a home is still inhabited (vs occupied) because the resident intends to return after the evacuation order is lifted. However, it is unclear if this would be the case if the dwelling is damaged to such an extent as to render it uninhabitable. This bill clarifies that the fact the structure entered has been damaged to any extent by a natural or other disaster does not preclude conviction for burglary.

#### 4. Looting Provisions

Existing law defines looting as the commission of specified theft-related offenses during and within an affected county during a state or local of emergency, or under an evacuation order resulting from a natural or manmade disaster. (Pen. Code, § 463.) Where the underlying offense is burglary or grand theft, the punishment for looting is an alternate felony-misdemeanor (wobbler) punishable by imprisonment in county jail for up to one year, or by imprisonment in county jail for 16 months, two years, or three years. (Pen. Code, § 463, subds. (a) & (b).) Where the underlying crime is petty theft, looting is a misdemeanor punishable by up to six months in county jail. (Pen. Code, § 463, subds. (a).) Unlike the punishment for the underlying theft crimes themselves, a person convicted of looting and granted probation must serve a mandatory minimum jail term, unless a judge exercises discretion, in the interests of justice, to reduce or eliminate that term. (Pen. Code, § 463, subds. (a)-(c).)

In the wake of the Eaton and Palisades fires in Los Angeles County in January of this year, there were multiple reports of arrests for looting. (See e.g., S. Lin, *Los Angeles Times*, January 9, 2025, <https://www.latimes.com/california/story/2025-01-09/looting-arrests-wildfire-evacuation-zones>; E. Baumgaertner & R. Mac, *New York Times*, January 11, 2025, <https://www.nytimes.com/2025/01/11/us/la-fires-evacuation-looting.html> [as of July 4, 2025].) On January 9, 2025, Governor Newsom announced deployment of the California National Guard to support local law enforcement to combat instances of looting. (<https://www.gov.ca.gov/2025/01/09/governor-newsom-deploys-california-national-guard-to-los-angeles-fires-looting-will-not-be-tolerated/> [as of July 4, 2025].) The Governor subsequently called for looting in a fire evacuation zone to be a felony. (See <https://www.foxnews.com/politics/newsom-calls-looting-felony-evacuation-zones-amid-la-inferno> [as of July 4, 2025].)

This bill recasts the current looting provisions and increases the penalties for looting in an evacuation zone. As noted above, the current looting statute covers the crimes of second-degree burglary, grand theft, and petty theft. When committed in an evacuation zone, this bill increases the penalties for second-degree burglary and grand theft from a wobbler to a straight felony. This bill does not change the penalty for petty theft.

This bill also adds three new crimes under the looting statute if the offense is committed in an evacuation zone: first-degree burglary, trespass, and “theft from an unlocked vehicle.” This bill increases the upper term for first-degree burglary by one year. This bill increases the punishment for trespass from a misdemeanor to a wobbler. It is unclear if “theft from an unlocked vehicle” refers to a violation of Vehicle Code section 10852 (tampering with vehicle and contents) or a violation of Penal Code section 465 (unlawful entry of a vehicle with intent to commit theft) or to another crime because this bill does not reference a specific statute in relation to this offense. This bill states that the punishment for theft from an unlocked vehicle in an evacuation zone is a wobbler. If “theft from an unlocked vehicle” refers to a violation of Penal Code section 465, then

the punishment remains the same, except for the mandatory minimum jail term if the defendant receives probation. If “theft from an unlocked vehicle” refers to a violation of Vehicle Code section 10852, which is a misdemeanor, then this bill increases the punishment to a wobbler.

The bill defines “evacuation zone” as an evacuation area<sup>1</sup> or an area subject to an evacuation warning. Evacuation area controls remain in effect until an evacuation order is lifted by the initiating law enforcement entity. However, this bill also includes within the scope of this definition, residential dwelling units undergoing reconstruction following damage or destruction caused by an earthquake, fire, flood, riot, or other natural or manmade disaster, *after* an evacuation order or warning has been lifted.

This latter scenario could last years, as has been the case with reconstruction after the Camp Fire which occurred in November of 2018 in Paradise, California. A recent news story by ABC News reported that took two years for the first homes to be completed. More than six years later, residents continue their rebuilding efforts. (ABC News, Six years after the Camp Fire, Paradise residents continue their rebuilding efforts, P. Palmer, February 12, 2025, <https://abc7.com/post/7-side-solutions-years-devastating-camp-fire-residents-continue-rebuilding-efforts/15900157/> [last visited July 9, 2025].) Accordingly, the author has agreed amend the bill to limit this timeframe to four years.

Should the definition of evacuation zone be limited simply to an evacuation area or an area subject to an evacuation zone or warning? For reference, in the recent fires in Los Angeles, while evacuation orders were originally put in place due to the fire itself, the orders were continued because of concerns about air quality and hazardous materials. The final evacuation orders for the Palisades Fire was lifted on June 15, 2025, nearly six months later. (See Los Angeles Fire Department Website, June 15, 2025, <https://lafd.org/alert/evacuation-orders-lifted-palisades-fire-zones-06152025-inc0738> [last visited July 9, 2025].)

## 5. Argument in Support

According to the California District Attorneys Association:

California is, unfortunately, accustomed to natural disasters, be it wildfires or earthquakes. Penal Code section 463—our State’s looting statute—is supposed to act as a deterrent for individuals inclined to double-victimize people who lost their homes or livelihoods to these devastating disasters. But as recent fires, including the 2025 Los Angeles fires have showed, existing law does not capture the ambit of criminal conduct that occurs within evacuation zones. This bill closes those oversights in the Penal Code and ensures that individuals who seize upon a natural disaster to engage in criminal conduct can be prosecuted for their actions appropriately.

Under California’s current burglary statute, “It has long been the rule that a ‘building’ within the meaning of California’s burglary statute ‘is any structure which has walls on all sides and is covered by a roof.’” (*In re Amber S.* (1995) 33 Cal.App.4th 185, quoting *People v. Stickman* (1867) 34 Cal. 242, 245, [collecting

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<sup>1</sup> California Code of regulations Title 19, section 240.1 define “evacuation area” as “a geographic area from which civilians have been evacuated pursuant to an evacuation order and where movement and entry are controlled by fire and law enforcement personnel having jurisdictional authority” – in other words an area under a mandatory evacuation order.

cases].) Section 1 of the bill directly addresses the fact that following a wildfire, earthquake, or natural disaster, a building capable of being burglarized (and, thus, fall under the ambit of section 459) may not have all four walls or a roof still intact. And though the building may have been damaged or destroyed, precious items may still have survived. This bill ensures that California's burglary statute is clear: anyone who enters a structure with the requisite intent can be prosecuted under section 459, even if the building has been damaged by a natural or other disaster.

Section 3 of the bill addresses the overarching issue that our current statute does not capture the ambit of criminal activity individuals commit during the pendency of an evacuation order or within an evacuation zone. Section 3 of your bill addresses that and now ensures that our looting statute covers a variety of theft offenses that may occur in an evacuation zone during a natural disaster. And, importantly, subdivision (g) of amended section 463 ensures that a magistrate reviewing any arrest for a violation amended section 463, appropriately prioritizing public safety and flight risk....

AB 468 gives prosecutors the tools they need to ensure that victims of natural disaster are not further exploited by criminals.

## 6. Argument in Opposition

According to Smart Justice California:

[W]e continue to have serious concerns about the breadth of the bill, the risk that it will target behavior that is not actually 'looting,' and that it will result in racial profiling, and thus we remain opposed unless the bill is amended further....

We request the following amendments:

- Narrow the definition of "evacuation zone" so it is limited to the geographic area actually evacuated and the duration of the evacuation order. As currently drafted, the bill could result in higher penalties for looting for offenses that occur years after the emergency is over.
- Remove the proposed new crime for "trespass with intent to commit larceny." This will lead to racial profiling and is unnecessary given the ability to charge someone with attempted burglary under current law. For example, media reports indicate that following the recent fires in Los Angeles, Black families attempting to save their own belongings were incorrectly characterized as "looters" by the media.
- Remove the penalty increase for petty theft from an unlocked car. This targets individuals with little or no criminal history and whose conduct involves taking small dollars amounts.

– END –