
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 1652 **Hearing Date:** June 18, 2019
Author: Wicks
Version: March 21, 2019
Urgency: No **Fiscal:** No
Consultant: JK

Subject: *Crimes: Littering*

HISTORY

Source: Author

Prior Legislation: AB 1992 (Canciamilla), Ch. 416, Stats. 2006

Support: Unknown

Opposition: None known

Assembly Floor Vote: 63 - 10

PURPOSE

The purpose of this bill is to authorize a court, in cases of illegal dumping in waterways, to order a defendant to perform other types of community service, in lieu of picking up litter, as a condition of probation.

Existing law makes it a misdemeanor to litter, cause to be littered, dump, or cause to be dumped, waste into specified bodies of water. (Pen. Code, § 347.7 (a).)

Existing law establishes graduated fines for convictions of littering a body of water, as follows:

- 1) A mandatory fine between \$250 and \$1000 upon a first conviction.
- 2) A mandatory fine between \$500 and \$1,500 upon a second conviction.
- 3) A mandatory fine between \$750 and \$3,000 upon a third or subsequent conviction. (Pen. Code, § 347.7 (b).)

Existing law authorizes the court to require a person convicted of this offense and granted probation to perform eight hours of community service consisting of picking up litter as a condition of probation. (Pen. Code, § 347.7 (c).)

Existing law provides that a person giving information leading to the arrest and conviction of a person for specified dumping violations is entitled to an award which shall be 50% of the fine levied against and collected from the perpetrator. (Pen. Code, § 374 (a).)

This bill authorizes the court to require as a condition of probation, in addition to any other condition of probation, in addition to any fine imposed, that any person convicted of this offense perform not less than eight hours of community service, including, but not limited to, picking up litter at a time and place within the jurisdiction of the court.

COMMENTS

1. Need for This Bill

According to the author; “AB 1652 is an update to existing law and will allow courts to require an alternative community service option, other than litter pick up, when a person is convicted of littering in a body of water.”

2. Court’s Authority to Set Probation Conditions

Courts are given wide discretion to set probation conditions which foster rehabilitation and protect the public. “A condition of probation will not be held invalid unless it ‘(1) has no relationship to the crime of which the offender was convicted, (2) relates to conduct which is not in itself criminal, and (3) requires or forbids conduct which is not reasonably related to future criminality’ Conversely, a condition of probation which requires or forbids conduct which is not itself criminal is valid if that conduct is reasonably related to the crime of which the defendant was convicted or to future criminality.” (*People v. Lent* (1975) 15 Cal.3d 481, 486, footnote omitted; *People v. Bianco* (2001) 93 Cal.App.4th 748, 752.)

A condition of probation requiring the defendant to perform community service has been found to be reasonable and within the sound discretion of the trial court. (See e.g., *People v. Beach* (1983) 147 Cal.App.3d 612, 623.)

Existing law allows the court to order a defendant convicted of illegal dumping in waterways to pick up litter as a condition of probation. This bill would allow a court to order other types of community service instead of picking up litter.

3. Related Legislation

SB 409 (Wilk), 1) expands the crime of illegal dumping to include the transporting of waste matter, rocks, concrete, asphalt, or dirt for the purpose of dumping; 2) makes it a crime to dump, deposit or receive waste matter, rocks, concrete or asphalt, or dirt on private property with the consent of the owner if a permit or license was required but not obtained; and 3) increases the fines for illegal dumping and make the violations a misdemeanor not an infraction; and, to make it illegal to transport commercial quantities to dump in specified locations.

SB 409 has been referred to Assembly Public Safety.

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