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## SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair  
2019 - 2020 Regular

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**Bill No:** SB 224                      **Hearing Date:** April 2, 2019  
**Author:** Grove  
**Version:** February 7, 2019  
**Urgency:** No                              **Fiscal:** Yes  
**Consultant:** SC

**Subject:** *Grand Theft: Agricultural Equipment*

### HISTORY

**Source:** Tulare County Sheriff's Office

**Prior Legislation:** AB 924 (Bigelow), Ch. 618, Stats. 2013  
SB 44 (Denham), Ch. 18, Stats. 2003  
AB 157 (Reyes), Ch. 564, Stats. 1999  
AB 2768 (Poochigian), Ch. 327, Stats. 1996

**Support:** Associated Builders and Contractors – Central California Chapter; Bakersfield Association of Realtors; California Cattlemen's Association; California Chamber of Commerce; California Farm Bureau Federation; California Peace Officers' Association; California State Sheriffs' Association; Fresno Chamber of Commerce; Fresno County Farm Bureau; Greater Bakersfield Chamber of Commerce; Homebuilders Association of Kern County; Kern County Farm Bureau; Kern County Hispanic Chamber of Commerce; Kern Homebuilders Association; Kern Taxpayers Association; Santa Barbara County District Attorney's Office; Santa Barbara County Sheriff's Office; Tulare Chamber of Commerce; Tulare County District Attorney's Office; Tulare County Farm Bureau; Western United Dairymen

**Opposition:** American Civil Liberties Union of California; California Public Defenders Association

### PURPOSE

*The purpose of this bill is to specify that theft of certain agricultural equipment whose value exceeds \$950 is grand theft, and to require the proceeds of the fine imposed following a conviction of the new provision to be allocated to the Central Valley Rural Crime Prevention Program or the Central Coast Rural Crime Prevention Program.*

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

*Existing law* states that grand theft is committed when the money, labor, or real or personal property taken is of a value exceeding \$950, except in specified cases of theft authorizing a lower threshold. (Pen. Code, § 487.)

*Existing law* generally punishes grand theft as an alternate felony-misdemeanor. (Pen. Code, § 489, subd. (c).)

*Existing law* includes separate grand theft statutes for theft of specific items where the value of the items taken exceeds \$950. (See Pen. Code, §§ 487e, 487h, and 487j.)

*Existing law* provides that when a fine is not prescribed in statute, the court may impose a fine not exceeding \$1,000 for a misdemeanor or up to \$10,000 for a felony in addition to the imprisonment prescribed. (Pen. Code, § 672.)

*Existing law* authorizes the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare to develop a Central Valley Rural Crime Prevention Program. (Pen. Code, § 14171.)

*Existing law* encourages the Counties of Monterey, San Benito, Santa Barbara, Santa Cruz, and San Luis Obispo to develop, adopt, and implement a Central Coast Rural Crime Prevention Program, modeled after the Central Valley Rural Crime Prevention Program. (Pen. Code, § 14180.)

*This bill* creates a separate grand theft statute for the theft of tractors, all-terrain vehicles, or other agricultural equipment, or any portion thereof, used in the acquisition or production of food for public consumption where the property exceeds \$950.

*This bill* provides that if the value of the property taken exceeds \$50,000, a violation of the new section is punishable as an alternate felony-misdemeanor, punishable by up to one year imprisonment in county jail, or 16 months, or 2 or 3 years in county jail, and by a fine not exceeding \$10,000.

*This bill* states that in a county participating in a rural crime prevention program, the proceeds of the fine imposed pursuant to the new section shall be allocated by the Controller, upon appropriation by the Legislature, to the Central Valley Rural Crime Prevention Program or to the Central Coast Rural Crime Prevention Program, respectively.

## COMMENTS

### 1. Need for This Bill

According to the author of this bill:

According to the Tulare County District Attorney's office, there have been 36 cases of agriculture vehicle theft since 2016. Currently, law enforcement agencies cannot simply separate the aggregate data to easily identify agricultural theft in their analysis of local crime.

The Tulare County Sheriff's Department has identified there are nearly \$1 million in losses of agricultural equipment in 2018. For farmers, losing a \$100,000 tractor can be devastating. These losses require time and money to replace, fix and/or recover the equipment and can result in a complete loss of crops. For smaller operations, this can be career ending.

Theft of agriculture equipment not only affects the ability of farmers and agriculture business owners to make a living, it also paralyzes their production of commercial goods in the form of food, textile materials and water.

**2. Theft of Agricultural Equipment**

The National Equipment Register, through a joint alliance with the National Insurance Crime Bureau, issues an annual report on equipment theft in the United States. Data for its report are collected through the National Equipment Register’s database which is used by owners and law enforcement agencies to report thefts and information reported to a separate database that insurers use to report thefts.

According to the most recent National Equipment Register’s report, Texas experienced the most equipment thefts (2,375). California was fourth on the list of top ten states to experience equipment thefts (694). Mowers and tractors were the most frequently stolen with summer months experiencing higher frequencies of theft than other seasons. The report estimated that only about 21% of stolen equipment was recovered. California had the second highest rate of equipment recovery (340), just after Texas (372). Most equipment was recovered in the same state where they were stolen. The average value of each stolen equipment was \$29,258. (For more information see < <http://www.ner.net/wp-content/uploads/2017/10/Annual-Theft-Report-2016.pdf> > [as of Mar. 8, 2019].)

Under existing law, theft of any item that is valued over \$950 is considered grand theft. (Pen. Code, § 487). This bill would create a specific statute providing that theft of certain agricultural equipment where the value of the equipment exceeds \$950 is grand theft.

**3. Criminal Fines and Penalty Assessments**

This bill specifies a fine of up to \$10,000 upon a conviction of the new section if the value of the equipment taken exceeds \$50,000. The default criminal fine on a felony is up to \$10,000 unless otherwise specified. The default criminal fine on a misdemeanor conviction is up to \$1,000.

This bill applies up to \$10,000 fine on both misdemeanor and felony convictions of the new provision. While a maximum \$10,000 fine is the default fine for felonies, it substantially higher than the maximum default fine for misdemeanors.

When a fine is imposed in a criminal case, that base amount is increased by over 300% because of penalty assessments required for each criminal fine. Assuming a defendant was fined \$10,000 as the maximum fine, the following penalty assessments would be imposed pursuant to the Penal Code and the Government Code which would significantly increase the total fine:

Base Fine:		\$ 10,000
State Penalty Assessment:	\$10 for every \$10	\$10,000
County Penalty Assessment:	\$7 for every \$10	\$7,000
Court Construction Penalty Assessment:	\$5 for every \$10	\$5,000

Proposition 69 DNA Penalty Assessment:	\$1 for every \$10	\$1000
DNA Identification Fund Penalty Assessment:	\$4 for every \$10	\$4000
EMS Penalty Assessment:	\$2 for every \$10	\$2000
EMAT Penalty Assessment:	\$4 per conviction	\$4
State Surcharge:	20% of base fine	\$2,000
Court Operations Assessment:	\$40 per conviction	\$40
Conviction Assessment Fee:	\$30 per felony or misdemeanor conviction	\$30
Night Court Fee:	\$1 per fine and fee imposed	\$1
Total Fine with Assessments:		\$41,075

**4. Restitution**

In addition to the fine and penalty assessments, a defendant is also required to pay a restitution fine and restitution to the victim for economic losses. (Pen. Code, § 1202.4, subd. (a)(3).)

The amount of the restitution fine is set at the discretion of the court and has a wide statutory range (for a felony minimum of \$300 and a maximum of \$10,000; for a misdemeanor minimum of \$150 and a maximum of \$1,000). (Pen. Code, § 1202.4, subd. (b)(1).) The court is required to impose a restitution fine unless it finds compelling and extraordinary reasons for not doing so and states those reasons on the record. (Pen. Code, 1202.4, subd. (c).) A defendant’s inability to pay is not a compelling and extraordinary reason not to impose the restitution fine. (*Ibid.*)

Restitution is money paid directly from the defendant to the victim of a crime who incurs an economic loss as a result of the commission of a crime. In theft cases, restitution would at minimum include “[f]ull or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.” (Pen. Code, 1202.4, subd. (f)(3)(A).) Other costs that may be included in the restitution order is such as loss of profit or income. Restitution to victims take priority over any payments made by and any money collected from the defendant, including state surcharges and fines imposed pursuant to a conviction. (Pen. Code, § 1203.1d.) The restitution order is enforceable by the victim as a civil judgment (Pen. Code, §§ 1202.4, subd. (i), 1214, subd. (b)) and are not dischargeable in bankruptcy court if the offender files for bankruptcy (*People v Moser* (1996) 50 Ca.App.4th 130, 136.)

**5. Rural Crime Prevention Programs**

AB 2768 (Poochigian), Chapter 327, Statutes of 1996 authorized the County of Tulare to begin a three-year pilot project known as the "Rural Crime Demonstration Project". In 1997, the project was expanded to include five counties, Tulare, Fresno, Kern, Kings, and Madera. The following year, AB 157 (Reyes), Chapter 564, Statutes of 1999, authorized the development of the Rural Crime Task Force in Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare Counties, and \$3.541 million was appropriated to carry out the purpose of the task force. AB 374

(Matthews), Chapter 719, Statutes of 2002, renamed the "Rural Crime Prevention Program" the "Central Valley Rural Crime Prevention Program", and required the program to develop a uniform procedure for the collection and reporting of data on agricultural crimes.

SB 44 (Denham), Chapter 18, Statutes of 2003 authorized the counties of Monterey, San Luis Obispo, Santa Barbara, Santa Cruz, and San Benito to develop Central Coast Rural Crime Prevention Programs modeled on Central Valley Rural Crime Prevention Programs, to be administered by the county sheriff's office in Monterey County and by the district attorney's office in each of the other four counties. Sources of funding for the program may include, but shall not be limited to, appropriations from local government and private contributions.

Having a specialized team of law enforcement officers permanently assigned to rural crime prevention allows for specialization and consistent interaction between ranchers, farmers, and the crime prevention units. The overall goal of these programs is to reduce rural crime by coordinating the efforts of law enforcement and the agricultural community.

This bill provides that for violations of the new section created by this bill where the value of the items stolen exceeds \$50,000, the proceeds of the fine shall be allocated to the Central Valley Rural Crime Prevention Program or the Central Coast Rural Crime Prevention Program.

## **6. Argument in Support**

According to the California Farm Bureau Federation:

California's rural communities have seen a sharp increase in crime, specifically equipment, metal, crop, and mail theft, which requires unique problem solving and broad cooperation from all levels of law enforcement, land owners and businesses. The costs to remediate impacts from rural crime fall disproportionately on land holders who are already underserved by state and local crime prevention programs. Specific to property theft, farmers, ranchers and dairymen and women make significant investment to purchase and service farm implements that are essential to their operations with multiple uses. Theft of equipment, like tractors, all-terrain vehicles (ATVs), and utility trailers, not only come at a significant financial price to farms, but also can delay important cultural activities, such as planting, pruning, harvesting, or pest management activities that are dependent upon such equipment. To exacerbate this issue, though some regions do specifically address rural crimes, information about agricultural-specific theft is often co-mingled with other property theft data, making it difficult to contextualize the issue which may otherwise allow officers to better work jurisdictions to identify criminal patterns and prioritize enforcement activities.

In response, SB 224 (Grove) would distinguish theft of high-value agricultural equipment from the broader grand theft categorization and authorize associated fines to be utilized by participating counties to abate rural crime. This would result in strengthened ability by law enforcement agencies in rural areas to detect and monitor agricultural based crimes.

## 7. Argument in Opposition

According to the American Civil Liberties Union of California:

Stealing personal property valued at more than \$950 is already considered grand theft under California law. Thus today, stealing a tractor, an all-terrain vehicle, or another type of agricultural equipment which has a value exceeding \$950 already constitutes a crime of grand theft and can be punished by up to three years in jail. Existing law likewise already permits a judge to impose a restitution fine of up to \$10,000 for felony grand theft. A judge can also require the person to pay restitution to the victim in an amount commensurate to the economic loss suffered, which, in the case of agricultural equipment whose value exceeds \$50,000, could be in excess of \$50,000. This fine and restitution are added to any other fines or fees imposed as a result of the conviction. It is unreasonable and unnecessary to add yet another fine.

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