

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 1472 (Alvarez)
Version: April 20, 2023
Hearing Date: July 11, 2023
Fiscal: No
Urgency: No
AM

SUBJECT

Recreational vehicle parks: registration requirements

DIGEST

This bill prohibits a person from requiring an occupant, tenant, or resident in a recreational vehicle park to reregister if the purpose of the reregistration requirement is to prevent the occupant, tenant, or resident from gaining or maintaining status as a resident, and provides for a rebuttable presumption that the reason for requiring reregistration is to prevent them from gaining or maintaining status as a resident. The bill makes a person who violates these provisions liable for a civil penalty of \$500, and requires a court to award reasonable attorney's fees and costs to the prevailing party.

EXECUTIVE SUMMARY

This bill is intended to address an issue that occurred in the author's district. It was reported that tenants at Miramar Mobile Home & RV Park in Imperial Beach were being required to move out every six months for at least a few days or face eviction.¹ Often their rents were increased when they returned. The Miramar Park contains both mobile home and RV spots. In response, the city council issued an emergency ordinance capping rent increases and banning evictions. In the interim, attorneys representing the park owners and tenants have been in negotiations regarding these issues. This bill seeks to prevent this situation from continuing to occur.

The bill is author sponsored and supported by Alliance of Californians for Community Empowerment and the City of Imperial Beach. The bill is opposed by California Outdoor Hospitality Association, De Anza Corporation, and Padre Dam Municipal Water District. This bill was already presented for testimony on June 23, 2023. It will be heard as vote only on July 11, 2023.

¹ Tammy Murga, *Imperial Beach extends protections for RB/mobile home park tenants for 30 days*, San Diego Union-Tribune (Apr. 20, 2023), available at <https://www.sandiegouniontribune.com/communities/south-county/story/2023-04-20/imperial-beach-extends-protections-for-rv-mobile-home-park-tenants-for-30-days>.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the Special Occupancy Parks Act, which governs the construction, permitting, and oversight of maintenance and habitability in recreational vehicle (RV) parks, temporary RV parks, incidental camping areas, or tent camps that are not owned or operated by a government entity or a nonprofit entity under temporary, permanent, or emergency use. (Health & Saf. Code §§ 18860-18874.)
 - a) "Recreational vehicle park" means any area or tract of land, or a separate designated section within a mobilehome park where two or more lots are rented, leased, or held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate owners or users of recreational vehicles, camping cabins, or tents. (Health & Saf. Code § 18862.39.)
 - b) "Occupant" and "resident" are interchangeable and include "occupant," "resident," "tenant," or "guest" as used in the RV Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of the Civil Code). (Health & Saf. Code § 18862.30.)
- 2) Establishes the RV Park Occupancy Law and defines the following terms:
 - a) "Management" means the owner of a recreational vehicle park or an agent or representative authorized to act on their behalf in connection with matters relating to the park. (Civ. Code § 799.26.)
 - b) "Occupant" means the owner or operator of a recreational vehicle who has occupied a lot in a park for 30 days or less. (Civ. Code § 799.28.)
 - c) "Resident" means a tenant who has occupied a lot in a park for nine months or more. (Civ. Code § 799.31.)
 - d) "Tenant" means the owner or operator of a recreational vehicle who has occupied a lot in a park for more than 30 consecutive days. (Civ. Code § 799.32.)
- 3) Prohibits an occupant registration agreement or tenant rental agreement from containing a provision by which the occupant or tenant waives the tenant's rights under the provisions of the RV Park Occupancy Law, and any waiver of these rights is deemed contrary to public policy and void. (Civ. Code § 799.42.)
- 4) Authorizes management to terminate or refuse to renew the right of occupancy of a tenant for other than nonpayment of rent or other charges upon the giving of a written notice to the tenant upon the giving of a written notice to the tenant to remove the RV from the park. The notice is not required to state the cause for termination, but must provide not less than 30 days' notice of termination of the tenancy. (Civ. Code § 799.66.)

- 5) Authorizes management to terminate or refuse to renew the right of occupancy of a defaulting resident upon the giving of a written notice, in a specified manner, to the defaulting resident to remove the recreational vehicle from the park. The notice is required to provide not less than 60 days' notice of termination of the right of occupancy and must specify one of the following reasons for the termination of the right of occupancy:
 - a) Nonpayment of rent, utilities, or reasonable incidental service charges, provided that the amount due has been unpaid for a period of five days from its due date, and provided that the resident is given a three-day "pay or quit" notice subsequent to that five-day period, in the manner prescribed by existing civil procedure law governing "pay or quit" notices;
 - b) Failure of the resident to comply with a local ordinance or state law or regulation relating to the RV park or RVs within a reasonable time after the resident or the management receives a notice of noncompliance from the appropriate governmental agency and the resident has been provided with a copy of that notice;
 - c) Conduct by the resident or guest, upon the park premises, which constitutes a substantial annoyance to other occupants, tenants, or residents;
 - d) Conviction of the resident of prostitution, or a felony controlled substance offense, if the act resulting in the conviction was committed anywhere on the premises of the park, including, but not limited to, within the resident's RV, unless the person convicted of the offense has permanently vacated and does not subsequently reoccupy the RV;
 - e) Failure of the resident or a guest to comply with a rule or regulation of the park which is part of the rental agreement or any amendment, so long as the resident has been notified in writing of the violation and has failed to correct the violation within seven days;
 - f) Condemnation of the park; or
 - g) Change of use of the park or any portion of the park. (Civ. Code § 799.70.)

- 6) Provides the court discretion to award additional penalty fees to a current or former occupant, tenant, or resident who is the prevailing party in a civil action against the management to enforce their rights under the RV Park Occupancy Law. In addition to damages afforded by law, the court may award the current or former occupant, tenant, or resident up to \$500 for each willful violation of any provision of the RV Park Occupancy Law by management. (Civ. Code § 799.79)

This bill:

- 1) Prohibits a person from requiring an occupant, tenant, or resident in a recreational vehicle park to reregister if the purpose of the reregistration requirement is to prevent the occupant, tenant, or resident from gaining or maintaining status as a resident.

- 2) Provides that, if it is established by a preponderance of the evidence that an occupant, tenant, or resident was required to reregister, there will be a rebuttable presumption that the purpose of that requirement was to prevent the occupant, tenant, or resident from gaining or maintaining status as a resident.
- 3) Makes a person who violates these provisions liable for a civil penalty of \$500.
- 4) Requires a court to award reasonable attorney's fees and costs to the prevailing party.

COMMENTS

1. Stated need for the bill

The author writes:

Due to the significant affordable housing shortage in California, a growing population, especially those on fixed income, have been forced to reside in Recreational Vehicles (RV) in RV parks. Some RV parks have been requiring long-term residents to renew their tenant agreements every 6 or 9 months to avoid the tenants being defined as "Resident" (CIV Code Sec. 799.31).

During this renewal process, the tenants, which includes families with small children, are forced to relocate to hotels or find other housing options and move their RV, usually for a few days, and then return to the RV park with a new tenant agreement, often with an increased rental rate. This 'RV Shuffle' process is repeated again and again, resulting in persistent dislocation of a disadvantaged population and causing them ongoing mental and financial hardship.

AB 1472 will discourage the RV Shuffle practice by instituting a financial penalty on RV park owners that require tenants to re-register if the purpose is to prevent tenants from gaining or maintaining status as Resident. This bill is partly modeled after AB 2867 (2004, Núñez) that addressed a similar practice occurring at residential hotels.

2. This bill seeks to prevent the "RV shuffle" in order to protect the rights of residents in RV parks

Under existing law, individuals who have owned an RV and occupied a lot for nine months or more are considered residents and receive certain protections under the RV Park Occupancy Law, such as just cause eviction. (Civ. Code § 799.70.) The author's intent with the bill is to ensure that an owner of a RV park cannot require reregistration for the purpose of preventing a person from gaining or maintaining their status as a resident, and thus all protections afforded to a resident. The author modeled the bill's

provisions on AB 2867 (Núñez, Ch. 950, Stats. 2004), which enacted similar provisions for residential hotels.

In response to the situation that occurred at the Miramar Mobile Home & RV Park in Imperial Beach, the bill prohibits a person from requiring an occupant, tenant, or resident in a recreational vehicle park to reregister if the purpose of the reregistration requirement is to prevent the occupant, tenant, or resident from gaining or maintaining status as a resident. The bill provides that if it is established by a preponderance of the evidence that an occupant, tenant, or resident was required to reregister, there will be a rebuttable presumption that the purpose of that requirement was to prevent the occupant, tenant, or resident from gaining or maintaining status as a resident. A person who violates these provisions is liable for a civil penalty of \$500, and a court is required to award reasonable attorney's fees and costs to the prevailing party.

3. Opposition concerns

The opposition has several concerns. Most importantly, they believe that the bill will severely hamper, if not completely prevent, RV parks that have operated as purely short-term campsites from continuing to operate in the state. They stridently argue that the effect of the bill is to turn every short-term stay RV park in the state into long-term housing, which will effectively end California's RV park industry. They suggest that any park that only allows short-term stays would not be allowed to let anyone who left the park return to the park for another short-term stay or they could be seen as running afoul of the bill's provisions and would risk liability. Opposition also notes that the bill conflicts with provisions in the California Coastal Act of 1976 and many leases from cities or counties that have restrictions requiring RV parks to be short-term stay parks. The California Outdoor Hospitality Association writes that the California Coastal Commission disallows anyone to stay in an RV park for more than 270 days per year in 90-day intervals, and that the Commission has jurisdiction up to 5 miles inland. They also note that RV parks are designed and built to be transient and vacation travel properties, not permanent residences.

As the Padre Dam Municipal Water District writes:

AB 1472 does not delineate any difference in RV sites that are equipped and created for more long-term residency, and true RV recreational campsites, like Santee Lakes Recreation Preserve. Campsites like Santee Lakes are equipped and created for short-term, recreational uses, and are designed for outdoor adventures and exploring. While we understand and appreciate the need to aid the housing crisis in California, we believe this bill would severely limit our ability to continue to operate this recreational feature in San Diego County. For these reasons, we respectfully request amendments to the bill that exclude true recreational campsites, such as Santee Lakes Recreation Preserve.

The opponents also argue that this bill will reduce the amount of transient occupancy tax received by cities and counties. As noted by DeAnza Corporation, an operator of RV parks in San Diego and Orange Counties:

Under current law, for the first 30 days of each consecutive stay at the RV park, customers are paying transient occupancy taxes to the local jurisdiction. If this bill were to become law, it would limit RV parks from re-registering visitors making it more difficult to allow repeat customers even though many RV park visitors like to come back several times a year. This would prevent transient occupancy taxes from being collected from these customers who would have otherwise returned to the RV park and paid the taxes had it not been for this bill. With over 750 RV parks in the state generating hundreds of millions of dollars in transient occupancy tax revenue, local jurisdictions will be financially impacted if state law changes the rules on length of stay.

The bill on its face does not require short-term stay parks to become permanent housing. The bill just prohibits a person from being required to reregister at an RV park if the purpose is to prevent the occupant, tenant, or resident from gaining or maintaining status as a resident. Arguably, if a RV park is prohibited from allowing longer stays due to existing law, local ordinances, or leases with local entities the purpose of reregistration would not be preventing a person from gaining resident status but to comply with the law, ordinance, or lease. There would be no incentive by a party to bring a law suit in those circumstances as the bill provides that the court is to award reasonable fees and costs to the prevailing party.

4. Statements in support

The Alliance of Californians for Community Empowerment San Diego write in support stating:

A growing population in California, especially those on fixed income, are residing in recreational vehicles (RV) within authorized RV parks, in-part due to a shortage of affordable housing options. These tenants have been forced to relocate to hotels or find other housing options and move their RV, usually every 6-months for 48 hours, and then return to the RV Park just so they can continue residing in their RV in an authorized RV park. This process is repeated again and again, and is causing significant mental and financial hardship on tenants.

AB 1472 addresses the RV Shuffle problem which has been requiring long-term RV residents to move out and re-register in order for the tenants to avoid being defined as "Resident" (CIV Code Sec. 799.31).

5. Statements in opposition

The California Outdoor Hospitality Association writes in opposition stating:

If AB 1472 were to become law, park owners wouldn't be able to allow RV campers back in for one year. RV parks serve as temporary lodging for teachers, traveling nurses, line workers, snowbirds from Canada, and even state legislators without the intent of gaining permanent residency. If anything, the state should eliminate the definition of resident in SOPA simply and allow owners the ability to let guests stay as long as they want without making them permanent residents. [...]

Los Angeles County, Santa Clara County and City of San Diego, just to name a few, have policies stating that parks cannot allow people to stay more than a certain amount of time. Sometimes it's 6 months, sometimes it's 30 days, depending on each jurisdiction. AB 1472 would conflict with these jurisdictions unless they were exempted. Asm Alvarez has suggested that conflicted jurisdictions be exempt, however, the list of exemptions is enormous, covering most of the state. SB 620 by Senator Mike McGuire would place a 14-day length of stay limit on new smaller RV park/campgrounds, which is completely in conflict with AB 1472.

If the law were to pass, then overnight, every RV park space in the state would be threatened to be converted to permanent housing and therefore would be lost for the travel or transient market forever. This seems in conflict with legislation to provide access to the outdoors for all.

SUPPORT

Alliance of Californians for Community Empowerment San Diego
City of Imperial Beach

OPPOSITION

California Outdoor Hospitality Association
DeAnza Corporation
Padre Dam Municipal Water District

RELATED LEGISLATION

Pending Legislation: SB 620 (McGuire, 2023) specifies that a special occupancy park does not include a low-impact camping area, as defined. SB 620 is currently pending in the Assembly Housing and Community Development Committee.

Prior Legislation: AB 2867 (Núñez, Ch. 950, Stats. 2004) provided that evidence that an occupant of a residential hotel was required to check out and reregister creates a

rebuttable presumption, solely affecting the burden of producing evidence, of the purpose of having an occupant maintain transient status, as specified.

PRIOR VOTES

Assembly Floor (Ayes 72, Noes 0)

Assembly Housing and Community Development Committee (Ayes 7, Noes 0)
