

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

SB 806 (Archuleta)
Version: March 22, 2023
Hearing Date: April 25, 2023
Fiscal: Yes
Urgency: No
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SUBJECT

Trash receptacles and storage containers: reflective markings

DIGEST

This bill authorizes the city attorney or “city counsel” to enforce the law requiring certain markings to be placed on trash receptacles, including reflectors and certain contact information. The bill establishes a fund within the State Treasury where all collected fines are to be deposited.

EXECUTIVE SUMMARY

In order to address the safety issues with unmarked trash receptacles for motorists, cyclists, and pedestrians, legislation was passed to require reflectors on specified bins beginning January 1, 2025. Owners are also required to place their name and phone number on the bins.

A manufacturer or an owner who violates this section is guilty of an infraction punishable by a fine of \$100 for the first violation, \$500 for the second violation, and \$1,000 for the third, or any subsequent violation.

To ensure enforcement of this law, this bill authorizes the city attorney or “city counsel” in the jurisdiction where the violation occurred to enforce this section. It further specifies that any collected fines are to be deposited into the Accident Prevention and Road Safety Fund, which is created in the State Treasury by this bill.

This bill is author-sponsored. There is no known support or opposition.

PROPOSED CHANGES TO THE LAW

Existing state law:

- 1) Requires motortrucks, semitrailers, and buses 80 or more inches in width to be equipped with an amber reflector on each side at the front and a red reflector on each side at the rear, and if the vehicle is 30 or more feet in length, the vehicle must be equipped with an amber reflector on each side at the approximate midpoint of the vehicle. (Veh. Code § 24068.)
- 2) Vehicles with a gross vehicle weight rating of over 10,000 may alternatively comply with reflector-marking requirements set forth in federal regulations; they must also be equipped with the federally mandated conspicuity system consisting of retroreflective sheeting, reflex reflectors, or a combination thereof. (Veh. Code §§ 244611; *see* 49 C.F.R. 571.108.)
- 3) Requires truck tractors and certain vehicles 80 or more inches in width to be equipped with at least three red emergency reflectors, maintained in good working condition, to be used when the vehicle is disabled on the roadway during darkness, in configurations contingent upon the distance of the vehicle from the road. (Veh. Code § 25300.)
- 4) Requires electrically motorized boards operated upon a highway during darkness to be equipped with, among other things, a red reflector on the rear that is visible from a distance of 500 feet, and a white or yellow reflector on each side that is visible from a distance of 200 feet. (Veh. Code § 21293.)
- 5) Requires utility or public utility vehicles operated during darkness to have a warning light, which may consist of a reflector, not more than 50 feet in advance of the vehicle and not more than 50 feet to the rear, or farther as specified when the speed limit on the highway is in excess of 25 miles per hour. (Veh. Code, § 25301.)
- 6) Generally provides that reflectors on the front of a vehicle shall be white or yellow, and generally prohibits the use of red reflectorizing material on the front of a vehicle. (Veh. Code, §§ 25500, 25950.)
- 7) Authorizes a writ of mandate to be issued by any court to compel the performance of a legal duty imposed on a public body. (Code Civ. Proc., § 1085(a); *James v. State of California* (2014) 229 Cal.App.4th 130, 136.)
- 8) Requires that a manufacturer who sells or provides for compensation a trash receptacle or storage container that is designed to be placed on a roadway or the curb of a roadway in order to be emptied or picked up shall mark the trash

receptacle or storage container with a reflector on each side, beginning January 1, 2025. (Health & Saf. Code § 26275.)

- 9) Requires the above reflector markings to include a strip of reflective tape that is at least six inches wide and four inches long placed vertically over each corner of the container where two vertical sides of the container meet. The reflective tape must be fluorescent yellow and made of high-performance retroreflective sheeting of American Society for Testing and Materials (ASTM) D4956-13 Type IX. The requirement applies to any trash receptacle or storage container marketed for sale on and after January 1, 2025, as well as any receptacle or container manufactured previously but still under the ownership of the manufacturer. (Health & Saf. Code § 26275.)
- 10) Requires an owner, other than the manufacturer, of a trash receptacle or storage container that is designed to be placed on a roadway or the curb of a roadway in order to be emptied or picked up shall mark the trash receptacle or storage container with a reflector on each side, beginning January 1, 2026. (Health & Saf. Code § 26275.)
- 11) Requires that an owner of a trash receptacle or storage container who sells or provides it for compensation that is designed to be placed on a roadway or the curb of a roadway in order to be emptied or picked up shall clearly label the trash receptacle or storage container with the owner's name and current telephone number, beginning January 1, 2025. (Health & Saf. Code § 26275.)
- 12) Provides that a manufacturer or owner, other than a local government entity, who violates the above provisions is guilty of an infraction punishable by a fine, as follows:
 - a) \$100 for the first infraction;
 - b) \$500 for the second infraction; and
 - c) \$1,000 for the third and any subsequent infractions. (Health & Saf. Code § 26275.)

This bill:

- 1) Authorizes the city attorney or city counsel in the location where a violation of the trash receptacle reflector law is observed to enforce this section.
- 2) Establishes the Accident Prevention and Road Safety Fund in the State Treasury.
- 3) Provides that all fines for violations of the reflector law are to be deposited in the above fund. Such funds are available upon appropriation by the Legislature.

COMMENTS

1. Trash receptacle safety

SB 1111 (Archuleta, Ch. 244, Stats. 2022) was introduced and signed into law in response to concerns that the absence of nighttime safety markings on large trash receptacles that are placed in the street for pickup can be a safety hazard for motorists, cyclists, and pedestrians who might not see the receptacles until it is too late. SB 1111 established the Rick Best Safety Act, which requires a person who sells, or provides for compensation, a trash receptacle or storage container designed to be placed on the side of the road or curb to be emptied, which is larger than three feet in length and four feet in height (collectively, bins), to mark the bin with a reflector on each side, beginning on January 1, 2025.

Owners of bins purchased before the marking requirement takes effect have until January 1, 2026, to add reflectors to their bins. The law also requires bin owners, beginning January 1, 2025, to mark their bins with their name and telephone number so as to ensure that they can be contacted in the case of violations.

A violation of the reflector and labeling requirements is an infraction, unless the owner or seller is a local government entity, punishable by an escalating fine: \$100 for the first violation, \$500 for the second violation, and \$1,000 for the third and any subsequent violations.

The law becomes operative on January 1, 2025.

2. Enforcement clarity

This bill makes minor changes to this law. It creates the Accident Prevention and Road Safety Fund in the State Treasury. All fines collected in connection with violations of this law are to be deposited into this fund. Moneys in the fund are available upon appropriation by the Legislature.

The bill also provides: "The city attorney or city counsel in the location where the violation is observed may enforce this section." As it stands, public prosecutors are given broad authority to enforce violations of the law, pursuant to statutes such as the Unfair Competition Law, for instance. This provision works to ensure that these public prosecutors are among those offices that can so enforce the Rick Best Safety Act.

It is unclear how the term "city counsel" is intended to be distinct from city attorneys. The phrase cannot be found in any other statutes. The author indicates the intent is to ensure broad public enforcement authority. To effectuate that intent, the author has agreed to the following amendment:

Amendment

Amend Section 26275(d)(2) to read: “(2) The Attorney General, or the district attorney or city attorney in the location where the violation is observed, may enforce this section.”

According to the author:

The Best Safety Act, named after long time legislative staff and lobbyist Roderick “Rick” Best who sadly passed away after a traffic accident with an unmarked dumpster, is a necessary safety measure that will protect the lives of everyone on our roadways. This commonsense bill will require large trash receptacles placed on roads or curbs that are virtually invisible on a dark night to have reflective markings on both sides. Making our roads safer for all will save lives and prevent serious injuries.

SUPPORT

None known

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 1111 (Archuleta, Ch. 244, Stats. 2022) *See* Comment 1.

SB 741 (Archuleta, 2021) would have required the seller or provider of a roadside trash and storage container larger than three feet and taller than four feet to mark the container with a reflector on each side and imposed a civil penalty for failure to do so. SB 741 was similar to SB 1111 but contained fewer specifics. SB 741 died in the Senate Transportation Committee.

SB 1353 (Archuleta, 2020) would have imposed substantially the same requirement of reflectors on trash receptacles as SB 741. SB 1353 was held in the Senate Transportation Committee due to COVID-19-related bill limits.
