

Date of Hearing: April 10, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2371 (Juan Carrillo) – As Amended April 1, 2024

SUBJECT: Electrified security fences.

SUMMARY: Makes a number of changes to state law regulating the installation and operation of electrified security fences. Specifically, **this bill:**

- 1) Makes changes to the definition of an electrified security fence, as follows:
 - a) The electrified security fence is powered by an electrical energizer that is driven by solar-charged batteries of no more than 12 volts of direct current
 - b) The electrified security fence is used to protect and secure manufacturing or industrial property, or property zoned under another designation, but legally authorized to be used for a commercial purpose that stores, parks, services, sells, or rents vehicles, vessels, equipment, materials, freight, or utility infrastructure within an outdoor lot or yard, provided that the secured area does not include any existing residential or hospitality uses.
- 2) Specifies the types of property where an owner of real property may install and operate an electrified security fence to include property that is not located in a residential zone *and* falls within the description of property described in 1)b), above.
- 3) Specifies that the perimeter fence that is required under existing law to be installed with an electrified security fence may be a fence or wall, and must be nonelectrified.
- 4) Requires an electrified security fence to include a device that enables first responders to deactivate the electrified security fence in response to an emergency, if utilized by a city, county, or city and county.
- 5) Provides that an owner of real property not specified in 1)b), above, shall not install or operate an electrified security fence where a local ordinance prohibits the installation or operation of an electrified security fence.
- 6) Provides that a local ordinance may prohibit the installation and operation of an electrified security fence that does not comply with the specifications for an electrified security fence as provided in existing law and this bill.
- 7) Clarifies that a local ordinance that prohibits or regulates only the installation or operation of an electrified fence as defined in Section 17151 of the Food and Agricultural Code shall not be construed to apply to an electrified security fence.
- 8) Provides that a city, county, or city and county (city or county) ordinance, regulation, or code may not prohibit the installation and operation of an electrified security fence, nor require a permit or approval that is in addition to an alarm system permit issued by the city or county for property specified in 1)b), above, and in compliance with the specifications for an

electrified security fence and the types of property it may be located on as provided in existing law and this bill.

- 9) Provides that nothing in this bill or existing law governing the installation and operation of electrified security fences shall be construed to alter the authority of a jurisdiction to adopt and enforce an ordinance relating to nonelectrified perimeter fences or walls as legally authorized, if applicable.
- 10) Makes a number of technical, correcting and conforming changes.
- 11) Finds and declares that this bill addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this bill applies to all cities, including charter cities.
- 12) Provides that this bill is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are: To protect and secure businesses, employees, and other stakeholders from escalating incidences of trespass that have led to theft of valuable assets and risks to employee safety, it is necessary that this act take effect immediately.

EXISTING LAW:

- 1) Allows an owner of real property to install and operate an electrified security fence on their property, subject to all of the following:
 - a) The property is not located in a residential zone.
 - b) The fence meets the 2006 international standards and specifications of the International Electrotechnical Commission for electric fence energizers in “International Standard IEC 60335, Part 2-76.”
 - c) The fence is identified by prominently placed warning signs that are legible from both sides of the fence. At a minimum, the warning signs shall meet all of the following criteria:
 - i) The warning signs are placed at each gate and access point, and at intervals along the fence not exceeding 30 feet.
 - ii) The warning signs are adjacent to any other signs relating to chemical, radiological, or biological hazards.
 - iii) The warning signs are marked with a written warning or a commonly recognized symbol for shock, a written warning or a commonly recognized symbol to warn people with pacemakers, and a written warning or commonly recognized symbol about the danger of touching the fence in wet conditions.
 - d) The height of the fence does not exceed 10 feet or 2 feet higher than an existing perimeter fence, whichever is greater. The electrified security fence shall be located behind a perimeter fence that is not less than 5 feet in height. [Civil Code (CIV) § 835]

- 2) Allows an electrified security fence to interface with a monitored alarm device in a manner that enables the alarm system to transmit a signal intended to summon the business, a monitoring service, or both the business and a monitoring service, in response to an intrusion or burglary. (CIV § 835)
- 3) Provides that an owner of real property shall not install or operate an electrified security fence where a local ordinance prohibits the installation or operation of an electrified security fence. (CIV § 835)
- 4) Provides that a local ordinance that prohibits or regulates only the installation or operation of an electrified fence as defined in Section 17151 of the Food and Agricultural Code does not apply to an electrified security fence. (CIV § 835)
- 5) Requires, if a local ordinance allows the installation and operation of an electrified security fence, the installation and operation of the fence to meet the requirements of that ordinance and the requirements outlined in 1), above. (CIV § 835)
- 6) Defines, for the purposes of the provisions above, “electrified security fence” to mean any fence, other than an electrified fence as defined in Section 17151 of the Food and Agricultural Code, that meets the following requirements:
 - a) The fence is powered by an electrical energizer with both of the following output characteristics:
 - i) The impulse repetition rate does not exceed 1 hertz (hz).
 - ii) The impulse duration does not exceed 10 milliseconds, or 10/10000 of a second.
 - b) The fence is used to protect and secure commercial, manufacturing, or industrial property, or property zoned under another designation, but legally authorized to be used for a commercial, manufacturing, or industrial purpose. (CIV § 835)
- 7) Defines “electrified fence” for purposes of the Food and Agriculture Code to mean any fence and appurtenant devices, including, but not limited to, fences and devices used in animal control, and including, but not limited to, a fence consisting of a single strand of wire supported by posts or other fixtures, which has an electrical charge or is connected to a source of electrical current and which is so designed or placed that a person or animal coming into contact with the conductive element of the fence receives an electrical shock; and clarifies that it does not include an electrified security fence as described in Section 835 of the Civil Code. [Food and Agricultural Code (FAC) § 17151]
- 8) Provides that no electrified fences shall be offered for sale, sold, installed, or used in this state, or otherwise connected to a source of electrical current, unless the electrical current is limited and regulated by an electrical controller which meets or exceeds the standards or specifications of the National Electrical Code of the National Fire Protection Association, international standards of the International Electrotechnical Commission, or the Underwriters Laboratories for intermittent type electric fence or electrified fence controllers. (FAC § 17152)

FISCAL EFFECT: None

COMMENTS:

- 1) **Author's Statement.** According to the author, "Commercial property owners statewide face escalating incidences of trespass and criminal activity such as theft, vandalism and threats to employee health and safety, which, in some cases, resulted in the closure of businesses and loss of jobs. Businesses statewide desperately seek help from their local governments to allow effective and safe technology solutions to secure their property and protect their employees.

"Current state law for electrified security alarm technology has been in effect for more than eight years and has safely and effectively secured over 1,000 properties. However, current law has been inconsistently interpreted and applied by some local governments, leading to inequitable responses, or excessive and inefficient permitting processes. In many cases where this security alarm technology may be allowed, some local governments often require unduly lengthy permitting processes that leave businesses and their employees vulnerable to ongoing criminal exploitation."

- 2) **Bill Summary.** This bill makes a number of changes to law governing the installation and operation of electrified security fences. It specifies the types of property on which an electrified security fence may be installed by requiring the property to be manufacturing or industrial property, or property zoned under another designation, but legally authorized to be used for a commercial purpose that stores, parks, services, sells, or rents vehicles, vessels, equipment, materials, freight, or utility infrastructure within an outdoor lot or yard, provided that the secured area does not include any existing residential or hospitality uses (in addition to property not located in a residential zone, as required pursuant to existing law).

This bill provides that a city or county ordinance, regulation, or code may not prohibit the installation and operation of an electrified security fence, nor require a permit or approval that is in addition to an alarm system permit issued by the city or county for this type of property that complies with the specifications for an electrified security fence and the types of property it may be located on as provided in existing law and this bill. A local ordinance may prohibit the installation and operation of an electrified security fence that does not comply with the specifications for an electrified security fence as provided in existing law and this bill.

This bill clarifies that an owner of real property that does not meet the description above may not install or operate an electrified security fence where a local ordinance prohibits the installation or operation of an electrified security fence.

This bill requires an electrified security fence to include a device that enables first responders to deactivate the electrified security fence in response to an emergency, if utilized by a city, county, or city and county. This bill also specifies that the perimeter fence that is required under existing law to be installed with an electrified security fence may be a fence or wall, and must be nonelectrified.

This bill clarifies that nothing in this bill or existing law governing the installation and operation of electrified security fences shall be construed to alter the authority of a jurisdiction to adopt and enforce an ordinance relating to nonelectrified perimeter fences or walls as legally authorized, if applicable.

This bill is sponsored by the Family Business Association of California and AMAROK, LLC.

- 3) **Background.** Electrified security fences are used in industrial and commercial areas to protect property located within the perimeter of the fences, such as equipment yards or commercial storage facilities. The fences are designed to provide a physical and psychological deterrent to potential intruders, and are required to have visible warning signs about the danger of coming into contact with the electrified security fence.

The sale and use of electric fences is generally prohibited in California unless the electrical current is limited and regulated by an electrical controller that meets or exceeds specified standards. Electrified fences that comply with these standards should not ordinarily cause lasting physical harm to animals or people who come in contact with one, because the length of electric shock delivered by the fence is very brief.

Until 2015, the installation and operation of electric fences was exclusively governed by provisions within the Food and Agriculture Code. This led to some confusion or hesitancy on the part of local governments when companies applied to install and operate such fences in commercial or industrial settings, causing permitting delays. In response, California enacted SB 582 (Hall), Chapter 273, Statutes of 2015. The resulting Civil Code Section 835 authorized property owners to install and operate electrified fences outside of residential settings, provided that the fences meet specified requirements and there is no local ordinance prohibiting the installation of such fences.

AB 358 (Flora), Chapter 148, Statutes of 2021, made additional changes. Among those, the bill allowed the installation and operation of electrified security fences on property that is commercial, manufacturing, or industrial property, as well as property zoned under another designation, but legally authorized for commercial, manufacturing, or industrial use. The bill also increased the permissible height of an electrified security fence from a maximum of ten feet to the greater of 10 feet or two feet higher than the accompanying perimeter fence, and reduced the permissible height of the perimeter fence accompanying an electrified security fence from a minimum of six feet to a minimum of five feet.

- 4) **Previous Legislation.** AB 358 (Flora), Chapter 148, Statutes of 2021, made a number of changes to state law regulating the installation and operation of electrified security fences.

SB 582 (Hall), Chapter 273, Statutes of 2015, authorized a property owner to install and operate an electrified fence on their property if the property is not in a residential zone, the fence meets specified requirements, and a local ordinance does not prohibit the installation of such a fence.

- 5) **Arguments in Support.** The Family Business Association of California and AMAROK, LLC., sponsors of this bill, write, "...This bill will enable property owners and businesses to install and employ this security technology in a timely manner, while still allowing local

government authorities to regulate or prohibit installations that do not comply with all requirements under State law. Despite the existing statute's clear requirements for the safe installation and operation of this security alarm technology, great disparity remains among local governments with widely varying local permitting requirements and timelines. These permitting disparities range from one day in a few local jurisdictions to as long as two years in many others due to protracted permitting processes that are never required of other alarm system permit applications...

“Over the past 8 years, more than 1,000 businesses statewide have been permitted for this security technology under Section 835 and are safely and effectively securing their properties and protecting their employees. However, experience shows that more than 97% of applications submitted to local government for the installation and operation of this security technology take well over 90 days to process. Even more detrimental, more than two-thirds of these permit applications are subjected to excessive permitting processes and delays of 6 months to 3 years to obtain approval. In contrast, local governments typically issue other security/burglar alarm permits over the counter or within a few days. This disparity leaves businesses that store vehicles, construction equipment and other forms of large inventory outdoors vulnerable to escalating property crime and significant economic and job losses.

“An unfortunate example is the preventable incident experienced by the family-owned business, Salinas Valley Ford Truck Center in 2021. During the fifth month of waiting for the City of Salinas to approve a permit for an electrified security fence alarm system, a criminal breached the property's chain link fence and committed arson, burning a multi-generation dealership to the ground. The tragedy here was preventable. Had this security alarm technology been permitted in a timely manner, it would have prevented the total loss of the dealership and jobs for 24 employees. A prominent RV sales and service company in La Mirada, Camping World, is another example. Camping World experienced repetitive criminal trespass and the grand theft of multiple Class-A RVs from its vehicle lot while city staff considered and developed a permit application process for nearly two years. This not only subjected Camping World and its customers to property loss and financial costs, but of most concern posed a grave risk to public safety due to stolen RVs being driven by criminals on city streets and highways.

“These examples of hardship imposed on business property owners due to unreasonable delays by local government departments are not unique. AB 2371 provides a concrete solution to overcome these barriers for businesses that urgently need this safe and proven security alarm technology to enhance public safety in the workplace and the community as a whole.”

- 6) **Arguments in Opposition.** The League of California Cities writes, “(Cal Cities) regretfully must take a position of oppose unless amended on AB 2371, which would prohibit local governments from banning electrified security fences within areas zoned for manufacturing, industrial property, or property zoned under another designation as long as the fence is authorized to be used for a commercial purpose that stores, parks, services, sells, or rents vehicles, vessels, equipment, materials, freight, or utility infrastructure within an outdoor lot or yard so long as the land does not include any residential or hospitality uses. As drafted, AB 2371 would force local governments to permit and allow for electrified security fences if such installations meet the requirements in subdivision (b) of Section 835 of the California Civil Code; or ban their installation altogether.

“Considering the potential hazards an electrified security fence can pose to the public, it is critically important for local governments to retain their discretion on a case-by-case basis to ensure installation of such fences is safe and appropriate for the given area. While existing law may help establish minimum standards for the installation of electrified security fences, it simply cannot account for all community circumstances that may require additional discretion. Local governments are best suited to balance the needs of their residents and businesses to ensure potentially hazardous facilities are installed safely and appropriately. Unfortunately, this bill fails to strike that balance.

“Although the bill specifies that if there is a residential or hospitality use near the facility electrified fences may be prohibited by the local government, it fails to account for recent legislation that forced cities to approve housing, by right, without discretions or environmental review in commercial, rental, and parking zones. As local governments continue to address the need for more housing, local governments need discretion to balance competing needs.

“We appreciate the author’s interest in bringing this measure forward and remain committed to work with them to resolve our concerns about the bill’s limit of local government’s authority to determine what is best for its respective community. Unfortunately, at this time Cal Cities respectfully opposes unless amended AB 2371.”

7) **Urgency Clause.** This bill contains an urgency clause and requires a 2/3 vote of each house.

REGISTERED SUPPORT / OPPOSITION:

Support

AMAROK, LLC. [SPONSOR]
Family Business Association of California [SPONSOR]
A.I. Lease Company Oakland
AAA Fire Protection
Abf Freight Systems INC. California
Agm LLC San Diego
Alfred Louie INC Bakersfield
All Points Manufacturing Vallejo
American Cylinder Head INC Oakland
American Pavement Systems Modesto
Arrowhead Towing Antioch
Associated Coffee San Leandro
Astro Turf Fresno
At Industrial Products
Auto Empire Bakersfield
Automotive Engineering Bakersfield
Best Rv Turlock
Bryan Industrial Properties Anaheim
Budd Van Lines Corona
Calchamber
California Fuels and Convenience Alliance

California Landscape Contractor's Association
California Manufacturers and Technology Association
California Self Storage Association
California Trucking Association
Canteen of Coastal California Oxnard
Capitol City Towing Sacramento
Castro Towing Mojave
Coalition for Small and Disabled Veteran Businesses
Collins Electrical Stockton
Copart INC.
Crime Survivors Resource Center
D&M Kitchen and Bath Supply Stockton
David Knott INC. Fresno
E-recycling of California Hayward
Enterprise Rent a Car Company Sacramento
Filo America City of Commerce
Fleet Yards South Gate
Freedom Farms Bakersfield
Gachina Landscape Management Menlo Park
Galey's Marine Bakersfield
Gbh Cultivation Parlier
Gold Rush Distribution San Ramon
Golden Empire Gleaners Bakersfield
Golf Cars of Riverside
Great American Titan Worldwide Santa Fe Springs
Harper Construction
Holt Cat of California
Hunter Logistics Los Angeles
Jb Wholesale Srs Distribution Hesperia
Js West Kerman
Junk-atique Bakersfield
Kvl Tires Fontana
Lee's Iron Metal Vista
Lkq Corporation
Mckinney Trailer Rentals Stockton
Mission Valley Truck Center San Jose
National Federation of Independent Business
Pacific Commercial Truck Body Vernon
Pape Material Handling Whittier
Peace Officers Research Association of California (PORAC)
Pennhall California
Peterson Cat San Leandro
Pinnacle Power Services Vallejo
Pulp Paper & Film Services Fresno
Quadrant Concrete Atwater
Quinn Caterpillar California
Reimer Transport Fresno
Republic Services - Western Region
Republic Services Anaheim

Robert V. Jensen INC. Fresno
Roto Rooter
Ry-den Truck Center Fresno
Sa Recycling Orange
Saia Ltc Freight
Scelzi Enterprises Fresno
Schneider Resources California
Sea Wolf Group Corporation Wilmington
Self Storage Association
Stotz Equipment Montclair
Temecula Motorsports
Total Landscape Bakersfield
Tourcoach Charter & Tours City of Commerce
Tw Metals
United Rentals California
United Rentals Menifee
United Rentals Modesto
Velocity Vehicle Group Fontana
West Coast Imports City of Commerce

Opposition

League of California Cities

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