



The Wireless Industry
“Combination Lock Code” to
Public Property?
SB 1252
(Sen. Padilla)



May 22, 2008

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SB 1252

Proposed Government Code Section 8316

BILL HISTORY 2008

May 15 In Assembly. Read first time. Held at Desk.

May 15 Read third time. Passed. (Ayes 40. Noes 0. Page 3797.) To Assembly.

May 13 Read second time. To third reading.

May 12 Read third time. Amended. To second reading.

Apr. 3 Read second time. To third reading.

Apr. 2 From committee: Do pass. (Ayes 5. Noes 0. Page 3267.)

Mar. 25 From committee with author's amendments. Read second time.

Amended. Re-referred to Com. on L.GOV.

Mar. 3 Set for hearing April 2.

Feb. 28 To Com. on L.GOV.

Feb. 19 From print. May be acted upon on or after March 20.

Feb. 15 Introduced. Read first time. To Com. on RLS. for assignment. To print.



SB 1252

Proposed Government Code Section 8316

The people of the State of California do enact as follows:

SECTION 1. Section 8316 is added to the Government Code, to read:

8316. (a) After the proclamation of a state of emergency or local emergency, as described under subdivisions (b) and (c) of Section 8558, or an emergency declared by the President of the United States, a wireless telecommunications carrier, whose wireless telecommunications facilities and equipment have been significantly impaired or rendered inoperable by the conditions causing that emergency, may enter public property, without otherwise required permits, to repair damaged wireless telecommunications equipment or facilities or to install temporary wireless telecommunications equipment or facilities.



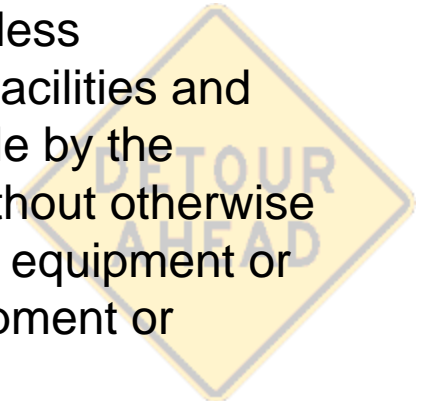
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Government Code Section 8558

(b) "State of emergency" means...air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency..."

(c) "Local emergency" means...within the territorial limits...air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy..."



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(b) (1) This section shall not be interpreted to otherwise affect any authority of a local governmental agency to require permits for wireless carriers to install wireless telecommunications equipment or facilities on public property or as authorizing a permanent installation of wireless telecommunications equipment or facilities on public property.



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Proposed Government Code Section 8316

(b) (1) This section shall **not** be interpreted to otherwise affect any authority of a local governmental agency to require permits for wireless carriers to install wireless telecommunications equipment or facilities on public property or as authorizing a permanent installation of wireless telecommunications equipment or facilities on public property.



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(b) (2) This section shall not apply if the wireless carrier has an agreement with a local governmental permitting agency detailing the procedures for repairing or installing wireless telecommunications equipment or facilities during an emergency.



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(2) This section **shall not apply** if the wireless carrier has an agreement with a local governmental agency detailing the procedures for repairing or installing wireless telecommunications equipment or facilities during an emergency.



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(c) A wireless telecommunications carrier acting under the authority set forth in subdivision (a) shall do all of the following:

(1) Immediately prior to entering the public property, notify any local emergency operations center and any point of contact designated to the wireless carrier by the local permitting agency as the person or entity to inform when entering public property to repair wireless telecommunications equipment or facilities.



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(c) A wireless telecommunications carrier acting under the authority set forth in subdivision (a) shall do all of the following:

(1) Immediately prior to entering the public property, **notify any local emergency operations center** and any point of contact designated to the wireless carrier by the local permitting agency as the person or entity to inform when entering public property to repair wireless telecommunications equipment or facilities.



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(c) A wireless telecommunications carrier acting under the authority set forth in subdivision (a) shall do all of the following:

(1) Immediately prior to entering the property of a person or entity, **any local emergency operations center** and any other facility designated to the wireless carrier by the local permitting agency, the wireless carrier shall notify the person or entity to inform when entering public property to repair wireless telecommunications equipment or facilities.

...any EOC?...



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(c) A wireless telecommunications carrier acting under the authority set forth in subdivision (a) shall do all of the following:

(1) Immediately prior to entering the public property, notify any local emergency operations center **and any point of contact designated to the wireless carrier by the local permitting agency** as the person or entity to inform when entering public property to repair wireless telecommunications equipment or facilities.



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(c) A wireless telecommunications carrier acting under the authority set forth in subdivision (a) **shall do all of the following:**

(2) Within 24 hours of entering the public property, notify the applicable local governmental permitting agency of the wireless carrier's entrance onto the public property.



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(c) A wireless telecommunications carrier acting under the authority set forth in subdivision (a) shall do all of the following:

(2) Within 24 hours of entering the public property, notify the applicable local governmental permitting agency of the wireless carrier's entrance onto the public property.



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(c) A wireless telecommunications carrier acting under the authority set forth in subdivision (a) shall do all of the following:

(3) Within 72 hours of entering the public property, commence any required process to obtain a permit.



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(d) A city, county, or city and county that operates emergency communications facilities or equipment at the same site where a wireless telecommunications carrier has facilities or equipment, and the equipment or facilities of the city, county, or city and county are not collocated, as defined in Section 65850.6, the city, county, or city and county may notify the wireless telecommunications carrier within six hours of a proclamation or declaration of emergency set forth in subdivision (a) that the wireless telecommunications carrier may not proceed under subdivision (a) without prior authorization from the city, county, or city and county. If the wireless telecommunications carrier does not receive this notification within six hours of the declaration or proclamation, the wireless telecommunications carrier may proceed under subdivision (a). This subdivision shall only apply if the wireless telecommunications carrier has no independent contractual authority to enter the property.



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(d) A city, county, or city and county that operates emergency communications facilities or equipment at the same site where a wireless telecommunications carrier has facilities or equipment, and the equipment or facilities of the city, county, or city and county are not collocated, as defined in Section 65850.6, the city, county, or city and county may notify the wireless telecommunications carrier within six hours of a proclamation or declaration of emergency set forth in subdivision (a) that the wireless telecommunications carrier may not proceed under subdivision (a) without prior authorization from the city, county, or city and county. If the wireless telecommunications carrier does not receive this notification within six hours of the declaration or proclamation, the wireless telecommunications carrier may proceed under subdivision (a). **This subdivision shall only apply if the wireless telecommunications carrier has no independent contractual authority to enter the property.**



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(e) A wireless telecommunications carrier shall indemnify and hold harmless a city, county, or city and county, and its elected or appointed officials and employees, from and against all liabilities arising from negligent or intentional acts or omissions of the wireless telecommunications carrier or its officers, employees, agents, or contractors in connection with the wireless telecommunications carrier's entry onto the public property pursuant to this section. This section shall not prohibit a city, county, or city and county from using any existing remedies to prevent or cure an unauthorized entry onto public property by a wireless telecommunications carrier.



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(e) A wireless telecommunications carrier **shall indemnify and hold harmless** a city, county, or city and county, and its elected or appointed officials and employees, from and against all liabilities arising from negligent or intentional acts or omissions of the wireless telecommunications carrier or its officers, employees, agents, or contractors in connection with the wireless telecommunications carrier's entry onto the public property pursuant to this section. This section shall not prohibit a city, county, or city and county from using any existing remedies to prevent or cure an unauthorized entry onto public property by a wireless telecommunications carrier.



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(e) A wireless telecommunications carrier **shall indemnify and hold harmless** a city, county, or city and county, and its elected or appointed officials and employees, from and against all liabilities arising from negligent or intentional acts or omissions of the wireless telecommunications carrier or its officers, employees, agents, or contractors. This section shall not prohibit a city, county, or city and county from using any existing remedies to prevent or cure an unauthorized entry onto public property by a wireless telecommunications carrier.

...defend?...



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(f) For purposes of this section, “temporary wireless telecommunications equipment or facilities” is equipment or facilities that are necessary to temporarily restore service while actions are taken to permanently restore service to the same level of service prior to the damage caused by the condition causing the emergency.



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Proposed Government Code Section 8316

(f) For purposes of this section, “temporary wireless telecommunications equipment or facilities” is equipment or facilities that are necessary to temporarily restore service **while actions are taken to permanently restore service to the same level of service prior to the damage caused by the condition causing the emergency.**



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This bill legalizes what may be the accepted practice in the telecommunications industry. When wireless communications carriers are faced with the decision of whether to wait for a permit and leave customers without service, many apparently make the emergency repairs and deal with the consequences later.

SUPPORT : (Verified 5/14/08)

T-Mobile (source)

California Chamber of Commerce

CTIA - The Wireless Association

League of California Cities

Sheriff-Coroner of San Bernardino County



May 22, 2008

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