

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 836

Introduced by Assembly Member Galgiani

February 17, 2011

~~An act to amend Section 90 of the Labor Code, relating to employment.~~ *An act to amend Section 21647 of the Business and Professions Code, relating to secondhand goods.*

LEGISLATIVE COUNSEL'S DIGEST

AB 836, as amended, Galgiani. ~~Employment.~~ *Secondhand goods.*

Existing law authorizes a peace officer to place a hold on property in possession of a pawnbroker, secondhand dealer, or coin dealer if the peace officer has probable cause to believe that property is stolen, as specified. Existing law requires a pawnbroker, secondhand dealer, or coin dealer to produce property at reasonable times and places whenever the property is required by a peace officer in a criminal investigation and provides that the pawnbroker, secondhand dealer, or coin dealer may deliver the property to the peace officer upon request. Existing law makes it a crime, punishable by specified fines or imprisonment, or both, if a person knowingly violates these provisions.

This bill would instead require a pawnbroker, secondhand dealer, or coin dealer to deliver property to a peace officer upon request when the property is required by a peace officer in a criminal investigation.

Because a knowing violation of the bill's provisions by a pawnbroker, secondhand dealer, or coin dealer would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law provides the Labor Commissioner and his or her deputies and agents free access to all places of labor and to all documents necessary to conduct their lawful duties.~~

~~This bill would make nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~yes.
State-mandated local program: ~~no~~yes.

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

1 SECTION 1. Section 21647 of the Business and Professions
2 Code is amended to read:

3 21647. (a) Whenever any peace officer has probable cause to
4 believe that property, except coins, monetized bullion, or
5 “commercial grade ingots” as defined in subdivision (d) of Section
6 21627, in the possession of a pawnbroker, secondhand dealer, or
7 coin dealer is stolen, the peace officer may place a hold on the
8 property for a period not to exceed 90 days. When a peace officer
9 places a hold on the property, the peace officer shall give the
10 pawnbroker, secondhand dealer, or coin dealer a written notice at
11 the time the hold is placed, describing the item or items to be held.
12 During that period the pawnbroker, secondhand dealer, or coin
13 dealer shall not release or dispose of the property, except pursuant
14 to a court order or upon receipt of a written authorization signed
15 by any peace officer who is a member of the law enforcement
16 agency of which the peace officer placing the hold on the property
17 is a member. A pawnbroker, secondhand property dealer, or coin
18 dealer shall not be subject to civil liability for compliance with
19 this section.

20 (b) Whenever property that is in the possession of a pawnbroker,
21 secondhand dealer, or coin dealer, whether or not the property has
22 been placed on hold, is required by a peace officer in a criminal
23 investigation, the pawnbroker, secondhand dealer, or coin dealer,
24 upon reasonable notice, shall produce the property at reasonable
25 times and places ~~or may~~ and shall deliver the property to the peace
26 officer upon the request of any peace officer.

1 (c) Whenever a law enforcement agency has knowledge that
2 property in the possession of a pawnbroker, secondhand dealer,
3 or coin dealer has been reported as lost or stolen, the law
4 enforcement agency shall notify in writing the person who reported
5 the property as lost or stolen of the following:

6 (1) The name, address, and telephone number of the pawnbroker,
7 secondhand dealer, or coin dealer who reported the acquisition of
8 the property.

9 (2) That the law neither requires nor prohibits payment of a fee
10 or any other condition in return for the surrender of the property,
11 except that when the person who reported the property lost or
12 stolen does not choose to participate in the prosecution of an
13 identified alleged thief, the person shall pay the pawnbroker,
14 secondhand dealer, or coin dealer the “out-of-pocket” expenses
15 paid in the acquisition of the property in return for the surrender
16 of the property.

17 (3) That if the person who reported the property as lost or stolen
18 takes no action to recover the property from the pawnbroker,
19 secondhand dealer, or coin dealer within 60 days of the mailing
20 of the notice, the pawnbroker, secondhand dealer, or coin dealer
21 may treat the property as other property received in the ordinary
22 course of business. During the 60-day notice period, the
23 pawnbroker, secondhand dealer, or coin dealer may not release
24 the property to any other person.

25 (4) That a copy of the notice, with the address of the person
26 who reported the property as lost or stolen deleted, will be mailed
27 to the pawnbroker, secondhand dealer, or coin dealer who is in
28 possession of the property.

29 (d) When property that is in the possession of a pawnbroker,
30 secondhand dealer, or coin dealer is subject to a hold as provided
31 in subdivision (a), and the property is no longer required for the
32 purpose of a criminal investigation, the law enforcement agency
33 that placed the hold on the property shall release the hold on the
34 property. When the law enforcement agency has knowledge that
35 the property has been reported lost or stolen, the law enforcement
36 agency shall then make notification to the person who reported
37 the property as lost or stolen pursuant to subdivision (c).

38 (e) If a pledgor seeks to redeem property that is subject to a
39 hold, the pawnbroker shall advise the pledgor of the name of the
40 peace officer who placed the hold on the property and the name

1 of the law enforcement agency of which the officer is a member.
2 If the property is not required to be held pursuant to a criminal
3 prosecution the hold shall be released.

4 (f) Whenever information regarding allegedly lost or stolen
5 property is entered into the Department of Justice automated
6 property system or automated firearms system, and the property
7 is thereafter identified and found to be in the possession of a
8 pawnbroker, secondhand dealer, or coin dealer, and the property
9 is thereafter placed on a hold pursuant to this section and the hold,
10 including any additional hold, is allowed to lapse, or 60 days elapse
11 following the delivery of the notice required to be given by this
12 section to the person who reported the property to be lost or stolen
13 without a claim being made by that person, whichever is later, the
14 pawnbroker, secondhand dealer, or coin dealer may mail under a
15 Certificate of Mailing issued by the United States Post Office,
16 addressed to the law enforcement agency that placed the property
17 on hold, a written request to delete the property listing from the
18 Department of Justice automated property system or automated
19 firearms system, as is applicable. Within 30 days after the request
20 has been mailed, the law enforcement agency shall either cause
21 the property listing to be deleted as requested or place a hold on
22 the property. If no law enforcement agency takes any further action
23 with respect to the property within 45 days after the mailing of the
24 request, the pawnbroker, secondhand dealer, or coin dealer may
25 presume that the property listing has been deleted as requested and
26 may thereafter deal with the property accordingly, and shall not
27 be subject to liability arising from the failure of the removal of the
28 property listing from the Department of Justice automated property
29 system or automated firearms system.

30 (g) Nothing in this section shall be construed to alter the
31 authority of a peace officer to seize property pursuant to any other
32 provision of statutory or case law.

33 *SEC. 2. No reimbursement is required by this act pursuant to*
34 *Section 6 of Article XIII B of the California Constitution because*
35 *the only costs that may be incurred by a local agency or school*
36 *district will be incurred because this act creates a new crime or*
37 *infraction, eliminates a crime or infraction, or changes the penalty*
38 *for a crime or infraction, within the meaning of Section 17556 of*
39 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

3 SECTION 1. ~~Section 90 of the Labor Code is amended to read:~~

4 ~~90. The Labor Commissioner, and his or her deputies and~~
5 ~~agents, shall have free access to all places of labor. Any person,~~
6 ~~or agent or officer thereof, who refuses admission to the Labor~~
7 ~~Commissioner or his or her deputy or agent or who, upon request,~~
8 ~~willfully neglects or refuses to furnish them any statistics or~~
9 ~~information, pertaining to their lawful duties, which are in his or~~
10 ~~her possession or under his or her control, is guilty of a~~
11 ~~misdemeanor, punishable by a fine of not more than one thousand~~
12 ~~dollars (\$1,000).~~

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