

**Introduced by Senator Leno**February 24, 2012

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An act to amend Section 496 of the Penal Code, relating to property crime.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1434, as introduced, Leno. Receiving stolen property.

Under existing law, a person who buys or receives property that has been stolen or that has been obtained in a manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds, or aids in concealing, selling, or withholding property from the owner, knowing the property to be so stolen or obtained, is guilty of either a misdemeanor or a felony, as prescribed. Under existing law, a swap meet vendor, as defined, or a person whose principal business is dealing in, or collecting, merchandise or personal property, and every agent, employee, or representative of that person, who buys or receives property of a value in excess of \$950 that has been stolen or obtained in a manner constituting theft or extortion, under circumstances that should cause the person, agent, employee, or representative to make reasonable inquiry to ascertain that the person from whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry is guilty of a misdemeanor or a felony, as specified. If the value of the property is less than \$950, the crime is a misdemeanor. Existing law authorizes treble damages, as well as costs of suit and reasonable attorney's fees, for anyone harmed by these crimes.

This bill would make technical, nonsubstantive changes to these provisions.

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

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

1 SECTION 1. Section 496 of the Penal Code is amended to  
2 read:  
3 496. (a) ~~Every~~(1) A person who buys or receives ~~any~~ property  
4 that has been stolen or that has been obtained in ~~any~~ a manner  
5 constituting theft or extortion, knowing the property to be so stolen  
6 or obtained, or who conceals, sells, withholds, or aids in  
7 concealing, selling, or withholding ~~any~~ property from the owner,  
8 knowing the property to be so stolen or obtained, shall be punished  
9 by imprisonment in a county jail for not more than one year, or  
10 imprisonment pursuant to subdivision (h) of Section 1170.  
11 However, if the district attorney or the grand jury determines that  
12 this action would be in the interests of justice, the district attorney  
13 or the grand jury, as the case may be, may, if the value of the  
14 property does not exceed nine hundred fifty dollars (\$950), specify  
15 in the accusatory pleading that the offense shall be a misdemeanor,  
16 punishable only by imprisonment in a county jail not exceeding  
17 one year.  
18 ~~A~~  
19 (2) A principal in the actual theft of the property may be  
20 convicted pursuant to this section. However, no person may be  
21 convicted both pursuant to this section and of the theft of the same  
22 property.  
23 (b) ~~Every~~(1) A swap meet vendor, as defined in Section 21661  
24 of the Business and Professions Code, and ~~every~~ a person whose  
25 principal business is dealing in, or collecting, merchandise or  
26 personal property, and every agent, employee, or representative  
27 of that person, who buys or receives ~~any~~ property of a value in  
28 excess of nine hundred fifty dollars (\$950) that has been stolen or  
29 obtained in ~~any~~ a manner constituting theft or extortion, under  
30 circumstances that should cause the person, agent, employee, or  
31 representative to make reasonable inquiry to ascertain that the  
32 person from whom the property was bought or received had the  
33 legal right to sell or deliver it, without making a reasonable inquiry,  
34 shall be punished by imprisonment in a county jail for not more

1 than one year, or imprisonment pursuant to subdivision (h) of  
2 Section 1170.

3 ~~Every~~

4 (2) A swap meet vendor, as defined in Section 21661 of the  
5 Business and Professions Code, and ~~every~~ a person whose principal  
6 business is dealing in, or collecting, merchandise or personal  
7 property, and ~~every~~ an agent, employee, or representative of that  
8 person, who buys or receives any property of a value of nine  
9 hundred fifty dollars (\$950) or less that has been stolen or obtained  
10 in ~~any~~ a manner constituting theft or extortion, under circumstances  
11 that should cause the person, agent, employee, or representative  
12 to make reasonable inquiry to ascertain that the person from whom  
13 the property was bought or received had the legal right to sell or  
14 deliver it, without making a reasonable inquiry, shall be guilty of  
15 a misdemeanor.

16 (c) ~~Any~~ A person who has been injured by a violation of  
17 subdivision (a) or (b) may bring an action for three times the  
18 amount of actual damages, if any, sustained by the plaintiff, costs  
19 of suit, and reasonable attorney's fees.

20 (d) Notwithstanding Section 664, ~~any~~ an attempt to commit ~~any~~  
21 an act prohibited by this section, except an offense specified in  
22 the accusatory pleading as a misdemeanor, is punishable by  
23 imprisonment in a county jail for not more than one year, or by  
24 imprisonment pursuant to subdivision (h) of Section 1170.