

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN ASSEMBLY MAY 13, 2013

AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 791

Introduced by Assembly Member Hagman

February 21, 2013

An act to amend Sections 7505.2, 7506.9, 7507.4, 7507.12, and 7508.2 of, and to add Sections 7508.7 and 7508.8 to, the Business and Professions Code, relating to reposseors.

LEGISLATIVE COUNSEL'S DIGEST

AB 791, as amended, Hagman. Collateral recovery: reposseors.

(1) Existing law, the Collateral Recovery Act, provides for the licensure and regulation of repossession agencies by the Bureau of Security and Investigative Services under the supervision and control of the Director of Consumer Affairs. Existing law requires an applicant for an initial registration or a reregistration to submit an application to the bureau and include certain personal information in the application that is confidential and is prohibited from being disclosed to the public, except for the registrant's full name, the licensee's name and address, and the registration number. *A violation of the act is a crime.*

This bill would prohibit, except as otherwise provided by law, a repossession agency from disclosing to the public, without a court order, the residence address, residence telephone number, cellular telephone number, driver's license number, work schedule, past, present, or future

location, or any other personal information of any licensee, registrant, employee, or independent contractor that it employs. *By creating a new crime, the bill would impose a state-mandated local program.*

(2) *Existing law declares that nothing in the act prohibits the using or taking of personal effects that are connected, adjoined, or affixed to the collateral through an unbroken sequence, if that use or taking is reasonably necessary to effectuate the recovery in a safe manner or to protect the collateral or personal effects.*

The bill would additionally declare that the act does not prohibit the removal of a locking mechanism or security device on the collateral, before, during, or after a repossession.

(2)

(3) *Existing law allows a licensed repossession agency or its registrants to make demand for payment in lieu of repossession, if the demand is made pursuant to an assignment for repossession. Existing law permits the director to assess an administrative fine for specified violations of the act.*

This bill would prohibit a licensed repossession agency or its registrants from making a demand for payment in lieu of ~~repossession,~~ and repossession. The bill would also prohibit a repossession agency from selling collateral recovered under the provisions of the ~~act.~~ act and would modify the director's authority to assess administrative fines for specified violations of the act. By creating a new crime, the bill would impose a state-mandated local program. The bill would make conforming changes.

The bill would also allow a person affiliated with a repossession agency to wear ~~a~~ an oval, shield, round, square, or non-7 point badge, cap insignia, or jacket ~~label~~ patch if it bears on its face all or a substantial part of the repossession agency's name, the repossession agency license number issued by the Director of Consumer Affairs to that individual or agency, and the word "repossessor." The bill would require all badges, cap insignias, and jacket ~~labels~~ patches worn by a repossession agency to be a standard design approved by the director and to be clearly visible. The bill would prohibit a repossession agency from wearing a badge on his or her ~~belt.~~ belt or a hanging badge around his or her neck. The bill would make these provisions inapplicable to a holder of a temporary registration, as specified. The bill would authorize the director to assess a fine of ~~\$25 per violation of these provisions.~~ \$100 for the first violation, \$100 for the second violation, and \$250 for each violation

thereafter. By creating a new crime, the bill would impose a state-mandated local program.

(4) “Collateral” is defined, for purposes of the act, as any specific vehicle, trailer, boat, recreational vehicle, motor home, appliance, or other property that is subject to a security agreement. Existing law provides, with regard to collateral subject to registration under the Vehicle Code, that a repossession is complete when the reposessor gains entry to the collateral, or when the collateral becomes connected to a tow truck or the reposessor’s tow vehicle.

This bill additionally would declare that repossession is complete when the reposessor moves the entire collateral present, the reposessor pushes the collateral, or the reposessor gains control of the collateral.

(5) 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.

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

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

- 1 SECTION 1. Section 7505.2 of the Business and Professions
- 2 Code is amended to read:
- 3 7505.2. Nothing in this chapter prohibits the using or taking
- 4 of personal effects that are connected, adjoined, or affixed to the
- 5 collateral through an unbroken sequence, if that use or taking is
- 6 reasonably necessary to effectuate the recovery in a safe manner
- 7 or to protect the collateral or personal effects. *Nothing in this*
- 8 *chapter prohibits the removal of a locking mechanism or security*
- 9 *device on the collateral, before, during, or after a repossession.*
- 10 No storage fee shall be charged for the first week on any personal
- 11 effects used to effectuate a recovery pursuant to this section. Any
- 12 personal effects used or taken pursuant to this section shall be
- 13 processed in a reasonably expedient manner pursuant to Sections
- 14 7507.9 and 7507.10.
- 15 SEC. 2. Section 7506.9 of the Business and Professions Code
- 16 is amended to read:

1 7506.9. (a) Upon the issuance of the initial registration,
2 reregistration, or renewal, the chief shall issue to the registrant a
3 suitable pocket identification card. At the request of the registrant,
4 the identification card may include a photograph of the registrant.
5 The photograph shall be of a size prescribed by the bureau. The
6 card shall contain the name of the licensee with whom the registrant
7 is registered. The applicant may request to be issued an enhanced
8 pocket card that shall be composed of durable material and may
9 incorporate technologically advanced security features. The bureau
10 may charge a fee sufficient to reimburse the department for costs
11 for furnishing the enhanced pocket card. The fee charged may not
12 exceed the actual cost for system development, maintenance, and
13 processing necessary to provide the service, and may not exceed
14 six dollars (\$6). If the applicant does not request an enhanced card,
15 the department shall issue a standard card at no cost to the
16 applicant.

17 (b) Until the registration certificate is issued or denied, a person
18 may be assigned to work with a temporary registration on a secure
19 form prescribed by the chief, and issued by the qualified certificate
20 holder, ~~that has been embossed by the bureau with the state seal~~
21 for a period not to exceed 120 days from the date the employment
22 or contract commenced, provided the person signs a declaration
23 under penalty of perjury that he or she has not been convicted of
24 a felony or committed any other act constituting grounds for denial
25 of a registration pursuant to Section 7506.8 (unless he or she
26 declares that the conviction of a felony or the commission of a
27 specified act or acts occurred prior to the issuance of a registration
28 by the chief and the conduct was not the cause of any subsequent
29 suspension or termination of a registration), and that he or she has
30 read and understands the provisions of this chapter.

31 (c) The chief shall issue an additional temporary registration
32 for not less than 60 days nor more than 120 days, if the chief
33 determines that the investigation of the applicant will take longer
34 to complete than the initial temporary registration time period.

35 (d) No person shall perform the duties of a registrant for a
36 licensee unless the person has in his or her possession a valid
37 repossessor registration card or evidence of a valid temporary
38 registration or registration renewal as described in subdivision (b)
39 or (e) of this section or subdivision (c) of Section 7506.10. Every
40 person, while engaged in any activity for which licensure is

1 required, shall display his or her valid pocket card as provided by
2 regulation.

3 (e) A person may work as a registrant pending receipt of the
4 registration card if he or she has been approved by the bureau and
5 carries on his or her person a hardcopy printout or electronic copy
6 of the bureau's approval from the bureau's Internet Web site and
7 a valid picture identification.

8 ~~SECTION 1.~~

9 *SEC. 3.* Section 7507.4 of the Business and Professions Code
10 is amended to read:

11 7507.4. A licensed repossession agency or its registrants shall
12 not make demand for payment in lieu of repossession and shall
13 not sell collateral recovered under this chapter.

14 *SEC. 4.* *Section 7507.12 of the Business and Professions Code*
15 *is amended to read:*

16 7507.12. (a) With regard to collateral subject to registration
17 under the Vehicle Code, a repossession is complete ~~when the~~
18 ~~repossessor gains~~ *if any of the following occurs:*

19 (1) ~~The reposessor gains entry to the collateral or when the~~
20 *collateral.*

21 (2) *The collateral becomes connected to a tow truck or the*
22 *repossessor's tow vehicle, as those terms are defined in Section*
23 *615 of the Vehicle Code.* ~~No~~

24 (3) *The reposessor moves the entire collateral present.*

25 (4) *The reposessor pushes the collateral.*

26 (5) *The reposessor gains control of the collateral.*

27 (b) *No person other than the legal owner may direct a*
28 *repossessor to release a vehicle without legal authority to do so.*

29 ~~SEC. 2.~~

30 *SEC. 5.* Section 7508.2 of the Business and Professions Code
31 is amended to read:

32 7508.2. The director may assess administrative fines for any
33 of the following prohibited acts:

34 (a) Recovering collateral or making any money demand in lieu
35 thereof, including, but not limited to, collateral registered under
36 the Vehicle Code, that has been sold under a security agreement
37 before a signed or telegraphic authorization has been received from
38 the legal owner, debtor, lienholder, lessor, or repossession agency
39 acting on behalf of the legal owner, debtor, lienholder, or lessor
40 of the collateral. A telephonic assignment is acceptable if the legal

1 owner, debtor, lienholder, lessor, or repossession agency acting
2 on behalf of the legal owner, debtor, lienholder, or lessor is known
3 to the licensee and a written authorization from the legal owner,
4 debtor, lienholder, lessor, or repossession agency acting on behalf
5 of the legal owner, debtor, lienholder, or lessor is received by the
6 licensee within 10 working days or a request by the licensee for a
7 written authorization from the legal owner, debtor, lienholder,
8 lessor, or repossession agency acting on behalf of the legal owner,
9 debtor, lienholder, or lessor is made in writing within 10 working
10 days. Referrals of assignments from one licensee to another
11 licensee are acceptable. The referral of an assignment shall be
12 made under the same terms and conditions as in the original
13 assignment. The fine shall be twenty-five dollars (\$25) for each
14 of the first five violations and one hundred dollars (\$100) for each
15 violation thereafter, per audit.

16 (b) Using collateral or personal effects, which have been
17 recovered, for the personal benefit of a licensee, or officer, partner,
18 manager, registrant, or employee of a licensee. The fine shall be
19 twenty-five dollars (\$25) for the first violation and one hundred
20 dollars (\$100) for each violation thereafter. This subdivision does
21 not apply to personal effects disposed of pursuant to subdivision
22 (c) of Section 7507.9. Nothing in this subdivision prohibits the
23 using or taking of personal property connected, adjoined, or affixed
24 to the collateral through an unbroken sequence if that use or taking
25 is reasonably necessary to effectuate the recovery in a safe manner
26 or to protect the collateral or personal effects.

27 (c) Selling collateral recovered under this chapter. The fine shall
28 be one hundred dollars (\$100) for the first violation, *one hundred*
29 *dollars (\$100) for the second violation*, and five hundred dollars
30 (\$500) for each violation ~~thereafter, per audit.~~ *thereafter.*

31 (d) Unlawfully entering any private building or secured area
32 without the consent of the owner, or of the person in legal
33 possession thereof, at the time of repossession. The fine shall be
34 five hundred dollars (\$500) for each violation.

35 (e) Committing unlawful assault or battery on another person.
36 The fine shall be five hundred dollars (\$500) for each violation.

37 (f) Falsification or alteration of an inventory. The fine shall be
38 twenty-five dollars (\$25) for each violation.

39 (g) Soliciting from the legal owner the recovery of specific
40 collateral registered under the Vehicle Code or under the motor

1 vehicle licensing laws of other states after the collateral has been
2 seen or located on a public street or on public or private property
3 without divulging the location of the vehicle. The fine shall be one
4 hundred dollars (\$100) for the first violation and two hundred fifty
5 dollars (\$250) for each violation thereafter.

6 ~~SEC. 3.~~

7 *SEC. 6.* Section 7508.7 is added to the Business and Professions
8 Code, to read:

9 7508.7. Except as otherwise provided by law, a repossession
10 agency shall not disclose to the public, without a court order, the
11 residence address, residence telephone number, cellular telephone
12 number, driver's license number, work schedule, past, present, or
13 future location, or any other personal information of any licensee,
14 registrant, employee, or independent contractor that it employs.

15 ~~SEC. 4.~~

16 *SEC. 7.* Section 7508.8 is added to the Business and Professions
17 Code, to read:

18 7508.8. (a) ~~A~~ *Notwithstanding Section 7508.3, an oval, shield,*
19 *round, square, or non-seven point badge, cap insignia, or jacket*
20 ~~label patch~~ *may be worn by a licensee, officer, director, partner,*
21 *manager, independent contractor, qualified certificate holder,*
22 *qualified manager, or employee of a repossession agency. If a*
23 *badge, cap insignia, or jacket label patch is worn, it shall bear on*
24 *its face all of the following:*

25 (1) All or a substantial part of the repossession agency's name.

26 (2) The *repossession agency* license number issued by the
27 director to that individual or agency.

28 (3) The word "repossessor."

29 (b) A reposessor shall not wear a badge on his or her ~~belt:~~ *belt*
30 *or a hanging badge around his or her neck.*

31 (c) All badges, cap insignias, and jacket ~~labels~~ *patches* worn by
32 a reposessor shall be a standard design approved by the director
33 and shall be clearly visible.

34 (d) This section shall not apply to a holder of *a* temporary
35 registration pursuant to Section 7506.9.

36 (e) The director may assess a fine of ~~twenty-five dollars (\$25)~~
37 ~~per violation of this section~~ *one hundred dollars (\$100) for the*
38 *first violation, one hundred dollars (\$100) for the second violation,*
39 *and two hundred and fifty dollars (\$250) for each violation*
40 *thereafter.*

1 *SEC. 8. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

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