

AMENDED IN SENATE AUGUST 7, 2014

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN SENATE JUNE 23, 2014

AMENDED IN ASSEMBLY APRIL 23, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 2503**

**Introduced by Assembly Member Hagman**

February 21, 2014

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An act to amend Sections 7500.2, 7502.2, 7505.3, 7507.3, 7507.115, 7508.1, 7508.4, and 7508.5 of, and to amend and renumber Section 7505.2 of, the Business and Professions Code, to amend Section 41612 of the Government Code, and to amend Sections 28, 4000, ~~9561~~, and 11705 of, and to add Section 10856 to, the Vehicle Code, relating to reposseors, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2503, as amended, Hagman. 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. A violation of the act is a crime.

This bill would require a repossession agency to only transact business with a person or entity as an independent contractor, and would prohibit a licensed repossession agency from allowing ~~any other~~ a person or

entity ~~to~~, other than the qualified certificate holder, to manage the day to day operations, operate, control, or transact business under the license of the repossession agency. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(2) Under existing law, a financial institution that knowingly engages a nonexempt unlicensed person to repossess collateral on its behalf is guilty of a misdemeanor.

This bill would expand the above crime to apply to a buy-here-pay-here dealer, as defined. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(3) Existing law allows a repossession business to continue on a license for 120 days when the qualified certificate holder actively in charge of the office ceases to be in charge because of the death of the licenseholder. Existing law requires a written notice to be made to the Bureau of Security and Investigative Services.

This bill would increase the period to 180 days and would require the written notice to identify the person in charge of running the day-to-day operations of the business.

(4) Existing law prohibits a reposessor from appraising the value of any collateral.

The bill would further prohibit the appraisal or determination of the value of any collateral, whether damaged or not. The bill would also ~~prohibit a condition report that assesses the collateral from containing specified items or descriptions~~ require a specified statement on condition reports and would specify that condition reports do not include all damage or missing parts. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(5) Existing law authorizes the Director of Consumer Affairs to assess administrative fines for various prohibited acts, including using any identification to indicate registration as a reposessor, other than a registration card issued by the Bureau of Security and Investigative Services, except an employer identification card issued by the repossession agency which has bureau approval. Existing law allows an employee of a repossession agency to wear a badge, cap insignia, or jacket patch meeting specified requirements.

This bill would except a badge, cap insignia, or jacket patch from the prohibition on using any identification to indicate registration as a reposessor.

(6) Existing law authorizes the Director of Consumer Affairs to assess an administrative fine for the failure to present a debtor with an itemized receipt of payment, if payment is made in lieu of repossession.

This bill would delete this provision.

(7) Existing law requires that when possession is taken of a vehicle by or on behalf of a legal owner under the terms of a security or lease agreement, the debtor pay the police or parking authority a specified fee. Existing law prohibits the release of the vehicle to the debtor until the debtor provides proof of payment or pays the fee and an administrative fee to the person in possession or the legal owner. Existing law also provides for a fine if the fee is not transmitted to the police or parking authority. Existing law requires proof of payment to be retained by the party releasing possession to the debtor.

This bill would delete the provisions that allow the release of a vehicle to a debtor who pays the fee and an administrative fee to the person in possession or the legal owner. The bill would make other conforming changes to this provision.

(8) Existing law requires the person taking possession of a vehicle whenever possession is taken by or on behalf of any legal owner under the terms of a security agreement or lease agreement to notify local law enforcement within one hour of the repossession, as specified. Violation of these provisions is a crime.

This bill would require the reposessor to contact law enforcement within one hour of the repossession, would specify information that would be required to be provided in the notification, and, ~~if notification cannot be completed,~~ *law enforcement is unable to receive and record the notification*, require the person to continue to attempt ~~contact~~ *notification* until the required information is provided, *as specified*.

By expanding the provisions of existing law, the violation of which is a crime, this bill would impose a state-mandated local program.

(9) Existing law prohibits a person from driving, moving, or leaving standing upon a highway or offstreet public parking facility any motor vehicle or other specified vehicle, unless it is registered and the appropriate fees have been paid. Existing law provides that a vehicle repossessed pursuant to the terms of a security agreement is exempt from registration solely for the purpose of transporting the vehicle from the point of repossession to the storage facilities of the reposessor, and from the storage facilities to the legal owner or a licensed motor vehicle auction, provided that the reposessor transports with the vehicle the

appropriate documents authorizing the repossession and makes them available to a law enforcement officer on request.

This bill would additionally exempt *from the registration requirement a vehicle obtained by a licensed reposessor who has obtained as a release of collateral from registration solely for the purpose of obtaining a release of the collateral from for the purpose of removing the vehicle to the storage facility or the facility of the legal owner. The bill requires a law enforcement agency, impounding authority, tow yard, storage facility, or any other person or entity that has possession of the vehicle, as specified vehicle to release the vehicle without requiring current registration. The bill would require a legal owner of collateral to hold a law enforcement agency, city, county, city and county, the state, a tow yard, storage facility, or impound yard harmless from liability if collateral is released in compliance with statute.*

~~(10) Existing law allows the legal owner or the legal owner's agent to obtain the release of a vehicle, after the vehicle has been removed and seized by a peace officer, as specified, from the impounding agency, by presenting specified documents. Existing law prohibits a city, county, city and county, or state agency from imposing a charge on a legal owner for administrative costs in connection with the release of properly impounded vehicle. Existing law allows a legal owner of a vehicle, or the legal owner's agent, to obtain release of the vehicle from an impounding law enforcement agency, without payment of any fees, fines, or penalties for parking tickets or registration and without proof of current registration, if the vehicle will only be transported pursuant to a specified exemption, and the legal owner pays the cost of towing and storing the vehicle, and completes an affidavit, as specified.~~

~~This bill would apply those provisions to a licensed reposessor seeking to obtain a release of collateral from a law enforcement agency, impounding authority, tow yard, storage facility, or any other person or entity in possession of the collateral. The bill would require a legal owner of collateral to hold those persons or entities harmless from liability if collateral is released in compliance with the bill's provisions.~~

~~(11) Existing law provides that if the legal owner, or his or her agent, repossesses a vehicle on which registration renewal fees are due, the Department of Motor Vehicles is to waive any renewal penalties that are due for late payment if the fees are paid within 60 days of taking possession.~~

~~This bill would apply those provisions to a repossession by a reposessor.~~

(12)

(10) Existing law establishes offenses for, among other things, willfully tampering or injuring a vehicle or its contents, as specified.

This bill would prohibit a person from interfering with the transport of a vehicle or other collateral to a storage facility, auction, or dealer by an individual who is employed by a repossession agency or is licensed as a repossession agency once repossession is complete, as provided. Violation of these provisions would be an infraction pursuant to other provisions of law.

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

(13)

(11) 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.

(14)

(12) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Section 7500.2 of the Business and Professions  
2 Code is amended to read:  
3 7500.2. (a) A repossession agency means and includes any  
4 person who, for any consideration whatsoever, engages in business  
5 or accepts employment to locate or recover collateral, whether  
6 voluntarily or involuntarily, including, but not limited to, collateral  
7 registered under the provisions of the Vehicle Code which is  
8 subject to a security agreement, except for any person registered  
9 pursuant to Article 7 (commencing with Section 7506).  
10 (b) A repossession agency licensed pursuant to this chapter shall  
11 ~~only transact business with another person or entity as an~~  
12 ~~independent contractor and shall not allow any other person or~~  
13 ~~entity to operate or transact business under the license of the~~  
14 ~~repossession agency.~~ *business.*

1 (c) A repossession agency shall not allow a person or entity  
2 other than the qualified certificate holder, as provided in Section  
3 7505.1, to manage the day to day operations, operate, control, or  
4 transact business covered by this act.

5 SEC. 2. Section 7502.2 of the Business and Professions Code  
6 is amended to read:

7 7502.2. (a) A financial institution or a buy-here-pay-here  
8 dealer, as defined by Section 241 of the Vehicle Code, that  
9 knowingly engages a nonexempt unlicensed person to repossess  
10 collateral on its behalf is guilty of a misdemeanor, and is punishable  
11 by a fine of five thousand dollars (\$5,000).

12 (b) Within existing resources, the Commissioner of Business  
13 Oversight may designate employees to investigate and report on  
14 violations of this section by any of the licensees of the department.  
15 Those employees are authorized to actively cooperate with the  
16 bureau in the investigation of those activities.

17 (c) A proceeding to impose the fine specified in subdivision (a)  
18 may be brought in any court of competent jurisdiction in the name  
19 of the people of the State of California by the Attorney General  
20 or by any district attorney or city attorney, or with the consent of  
21 the district attorney, by the city prosecutor in any city or city and  
22 county having a full-time city prosecutor, for the jurisdiction in  
23 which the violation occurred. If the action is brought by a district  
24 attorney, the penalty collected shall be paid to the treasurer of the  
25 county in which the judgment is entered. If the action is brought  
26 by a city attorney or city prosecutor, one-half of the penalty  
27 collected shall be paid to the treasurer of the city in which the  
28 judgment was entered and one-half to the treasurer of the county  
29 in which the judgment was entered. If the action is brought by the  
30 Attorney General, all of the penalty collected shall be deposited  
31 in the Private Security Services Fund.

32 SEC. 3. Section 7505.2 of the Business and Professions Code  
33 is amended and renumbered to read:

34 7507.125. Nothing in this chapter prohibits the using or taking  
35 of personal effects that are connected, adjoined, or affixed to the  
36 collateral through an unbroken sequence, if that use or taking is  
37 reasonably necessary to effectuate the recovery in a safe manner  
38 or to protect the collateral or personal effects. Nothing in this  
39 chapter prohibits the removal of a locking mechanism or security  
40 device on the collateral, before, during, or after a repossession. No

1 storage fee shall be charged for the first week on any personal  
2 effects used to effectuate a recovery pursuant to this section. Any  
3 personal effects used or taken pursuant to this section shall be  
4 processed in a reasonably expedient manner pursuant to Sections  
5 7507.9 and 7507.10.

6 SEC. 4. Section 7505.3 of the Business and Professions Code  
7 is amended to read:

8 7505.3. (a) Whenever a qualified certificate holder actively  
9 in charge of an office ceases to be in charge, the licensee shall file  
10 with the bureau notice, in writing, within 30 days from the  
11 cessation.

12 If the notice is filed, the license shall remain in force for a period  
13 of 90 days after the filing of the notice. At the end of the 90-day  
14 period or an additional period, not to exceed one year, as specified  
15 by the director, if written notice is not given that a qualified person  
16 is then actively in charge of the office, the agency license shall be  
17 automatically suspended.

18 If the licensee shall fail to give written notice at the end of the  
19 30-day period, the agency license shall be automatically suspended.

20 A license suspended under this section may be reinstated upon  
21 payment of the reinstatement fee and submission of a reinstatement  
22 application.

23 A person who performs any act for which a repossession agency  
24 license is required during the period of suspension is subject to  
25 the penal provisions of Article 3 (commencing with Section 7502),  
26 in addition to the provisions of Article 9 (commencing with Section  
27 7508) and Article 10 (commencing with Section 7510).

28 (b) In case of the death of a person licensed as an individual, a  
29 member of the immediate family of the deceased licensee shall be  
30 entitled to continue the business under the same license for 180  
31 days following the death of the licensee, provided that written  
32 notice is made to the bureau within 30 days following the death  
33 of the licensee. The notice shall identify the person in charge of  
34 running the day-to-day operations of the business. At the end of  
35 the 180-day period, the license shall be automatically canceled. If  
36 no request is received within the 30-day period, the license shall  
37 be automatically canceled at the end of that period.

38 (c) In the case of the death or disassociation of a partner of an  
39 entity licensed as a partnership, the licensee shall notify the bureau,  
40 in writing, within 30 days from the death or disassociation of the

1 individual. If notice is given, the license shall remain in force for  
2 90 days following the death or disassociation. At the end of that  
3 period, the license shall be automatically canceled. If the licensee  
4 fails to notify the bureau within the 30-day period, the license shall  
5 be automatically canceled at the end of that period.

6 (d) A license extended under this section is subject to all other  
7 provisions of this chapter.

8 SEC. 5. Section 7507.3 of the Business and Professions Code  
9 is amended to read:

10 7507.3. A repossession agency shall be required to keep and  
11 maintain adequate records of all transactions, including, but not  
12 limited to, assignment forms; vehicle report of repossession  
13 required by Section 28 of the Vehicle Code; vehicle condition  
14 reports, including odometer readings, if available; personal effects  
15 inventory; and notice of seizure. Records shall be retained for a  
16 period of not less than four years and shall be available for  
17 examination by the bureau upon demand. In addition, collateral  
18 and personal effects storage areas shall be made accessible for  
19 inspection by the bureau upon demand. An assignment form may  
20 be an original, a photocopy, a facsimile copy, or a copy stored in  
21 an electronic format.

22 SEC. 6. Section 7507.115 of the Business and Professions  
23 Code is amended to read:

24 7507.115. (a) A licensee shall not appraise or determine the  
25 value of any collateral, whether damaged or not.

26 (b) (1) Notwithstanding subdivision (a), a licensee may  
27 complete a condition report that makes a general assessment of  
28 the collateral.

29 ~~(2) Notwithstanding paragraph (1), a condition report shall not~~  
30 ~~contain any of the following:~~

- 31 ~~(A) A description of the wear and tear of specific parts.~~
- 32 ~~(B) A description of the presence or absence of specific parts.~~
- 33 ~~(C) The condition of the paint on the collateral.~~
- 34 ~~(D) The electrical or mechanical condition.~~
- 35 ~~(E) How the collateral drives or operates.~~
- 36 ~~(F) The type of key used for the collateral.~~

37 (2) *A condition report does not include all damage or missing*  
38 *parts.*

39 (3) *A condition report shall include the following statement:*  
40 *"In accordance with Section 7505.115 of the Business and*

1 *Professions Code, this condition report is a general assessment*  
2 *of the collateral and does not include all damage or missing parts.”*

3 SEC. 7. Section 7508.1 of the Business and Professions Code  
4 is amended to read:

5 7508.1. The director may assess administrative fines for the  
6 following prohibited acts:

7 (a) Knowingly making any false report to his or her employer  
8 or client for whom information was being obtained. The fine shall  
9 be one hundred dollars (\$100) for the first violation, and five  
10 hundred dollars (\$500) for each violation thereafter.

11 (b) Using any identification to indicate registration as a  
12 reposessor, other than the bureau-issued registration card, except  
13 an employer identification card issued by the repossession agency  
14 which has met bureau approval, or a badge, cap insignia, or jacket  
15 patch as provided in Section 7508.8. A bureau-issued registration  
16 card shall be carried by those individuals specified by Section  
17 7506.3, and shall be shown on demand to any bureau employee  
18 or law enforcement officer. The fine shall be twenty-five dollars  
19 (\$25) for each violation.

20 (c) Using an alias in connection with the official activities of  
21 the licensee’s business. A notice of warning shall be issued for the  
22 first violation. Thereafter the fine shall be twenty-five dollars (\$25)  
23 for each violation.

24 (d) Appearing as an assignee party in any court proceeding  
25 involving claim and delivery, replevin, or other possessory court  
26 action, action to foreclose a chattel mortgage, mechanic’s lien,  
27 materialman’s lien, or any other lien. This section shall not prohibit  
28 a licensee from appearing as a defendant in any of the preceding  
29 actions. The fine shall be one hundred dollars (\$100) for each  
30 violation.

31 SEC. 8. Section 7508.4 of the Business and Professions Code  
32 is amended to read:

33 7508.4. The director may assess administrative fines for any  
34 of the following prohibited acts:

35 (a) Conducting business from any location other than that  
36 location to which a license was issued or conducting a business as  
37 an individual, partnership, limited liability company, or corporation  
38 unless the licensee holds a valid license issued to that exact same  
39 individual, partnership, limited liability company, or corporation.  
40 The fine shall be one thousand dollars (\$1,000) for each violation.

- 1 (b) Aiding or abetting an unlicensed reposessor or assigning  
2 his or her license. “Assigning his or her license” means that no  
3 licensee shall permit a registrant, employee, or agent in his or her  
4 own name to advertise, engage clients, furnish reports, or present  
5 bills to clients, or in any manner whatsoever to conduct business  
6 for which a license is required under this chapter. The fine shall  
7 be one thousand dollars (\$1,000) for each violation.
- 8 (c) Failing to register registrants within 15 days. The fine shall  
9 be two hundred fifty dollars (\$250) for each of the first two  
10 violations and one thousand dollars (\$1,000) for each violation  
11 thereafter.
- 12 (d) Employing a person whose registration has expired or been  
13 revoked, denied, suspended, or canceled, if the bureau has furnished  
14 a listing of these persons to the licensee. The fine shall be  
15 twenty-five dollars (\$25) for each violation.
- 16 (e) Failing to notify the bureau, within 30 days, of any change  
17 in officers. A notice of warning shall be issued for the first  
18 violation. Thereafter, the fine shall be twenty-five dollars (\$25)  
19 for each violation.
- 20 (f) Failing to submit the notices regarding a violent act or  
21 threatened violent act within seven days pursuant to Section 7507.6  
22 or to submit a copy of a judgment awarded against the licensee  
23 for an amount of more than the then prevailing maximum claim  
24 that may be brought in small claims court within seven days  
25 pursuant to Section 7507.7. The fine shall be twenty-five dollars  
26 (\$25) for the first violation and one hundred dollars (\$100) per  
27 violation thereafter.
- 28 (g) Failing to include the licensee’s name, address, and license  
29 number in any advertisement. A notice of warning shall be issued  
30 for the first violation. Thereafter, the fine shall be twenty-five  
31 dollars (\$25) for each violation.
- 32 (h) Failing to maintain personal effects for at least 60 days. The  
33 fine shall be twenty-five dollars (\$25) for the first violation and  
34 one hundred dollars (\$100) for each violation thereafter.
- 35 (i) Failing to provide a personal effects list or a notice of seizure  
36 within the time limits set forth in Section 7507.9 or 7507.10. The  
37 fine shall be twenty-five dollars (\$25) for the first violation and  
38 one hundred dollars (\$100) for each violation thereafter.
- 39 (j) Failing to file the required report pursuant to Section 28 of  
40 the Vehicle Code. The fine shall be twenty-five dollars (\$25) for

1 each of the first five violations and one hundred dollars (\$100) for  
2 each violation thereafter, per audit.

3 (k) Failing to maintain an accurate record and accounting of  
4 secure temporary registration forms. The qualified certificate holder  
5 shall be fined twenty-five dollars (\$25) for the first violation, one  
6 hundred dollars (\$100) for the second violation, two hundred fifty  
7 dollars (\$250) for the third violation, and two hundred fifty dollars  
8 (\$250) plus a one-year suspension of the privilege to issue  
9 temporary registrations pursuant to Section 7506.9 for the fourth  
10 and subsequent violations.

11 (l) Representing that a licensee has an office and conducts  
12 business at a specific address when that is not the case. The fine  
13 shall be five thousand dollars (\$5,000) for each violation.

14 (m) Notwithstanding any other provision of law, the money in  
15 the Private Security Services Fund that is attributable to  
16 administrative fines imposed pursuant to subdivision (c) shall not  
17 be continuously appropriated and shall be available for expenditure  
18 only upon appropriation by the Legislature.

19 SEC. 9. Section 7508.5 of the Business and Professions Code  
20 is amended to read:

21 7508.5. The director may assess administrative fines against  
22 a repossession agency registrant for the following acts, in addition  
23 to fines imposed pursuant to any other section in this article. The  
24 fine shall be twenty-five dollars (\$25) for each of the following  
25 violations:

26 (a) Knowingly submit a false report.

27 (b) Submitting a report to a client without authorization by his  
28 or her employer.

29 (c) Failing to carry a bureau-issued identification card and failing  
30 to show that card upon demand to a bureau employee or a law  
31 enforcement officer.

32 (d) Failing to register.

33 (e) Failing to return his or her registration card to the employer  
34 upon termination.

35 (f) Failing to report a violent act involving the registrant to the  
36 licensee or the licensee's qualified certificate holder within 24  
37 hours.

38 SEC. 10. Section 41612 of the Government Code is amended  
39 to read:

1 41612. After possession is taken of any vehicle by or on behalf  
2 of any legal owner thereof under the terms of a security agreement  
3 or lease agreement, the debtor shall pay the chief of police or a  
4 parking authority operated by a city and county a fee of fifteen  
5 dollars (\$15) for the receipt and filing of the report of repossession  
6 pursuant to Section 28 of the Vehicle Code before the vehicle may  
7 be redeemed by the debtor. Any person in possession of the vehicle  
8 shall not release it to the debtor without first obtaining proof of  
9 payment of the fee to the chief of police or parking authority. The  
10 proof of payment, or a copy thereof, shall be retained by the party  
11 releasing possession to the debtor for the period required by law.  
12 An individual working for a repossession agency licensed pursuant  
13 to Chapter 11 (commencing with Section 7500) of Division 3 of  
14 the Business and Professions Code shall not pay the fee to, or  
15 retrieve the receipt from, the chief of police or parking authority.

16 SEC. 11. Section 28 of the Vehicle Code is amended to read:

17 28. (a) Whenever possession is taken of any vehicle by or on  
18 behalf of its legal owner under the terms of a security agreement  
19 or lease agreement, the person taking possession shall contact, for  
20 the purpose of providing the information required pursuant to  
21 subdivision (d) within one hour, after taking possession of the  
22 vehicle, by the most expeditious means available, the city police  
23 department where the taking of possession occurred, if within an  
24 incorporated city, or the sheriff's department of the county where  
25 the taking of possession occurred, if outside an incorporated city,  
26 or the police department of a campus of the University of California  
27 or the California State University, if the taking of possession  
28 occurred on that campus, and shall within one business day forward  
29 a written notice to the city police or sheriff's department. ~~If~~  
30 ~~notification cannot be completed, If, after an attempt to notify, law~~  
31 ~~enforcement is unable to receive and record the notification~~  
32 ~~required pursuant to subdivision (d), the person taking possession~~  
33 ~~of the vehicle shall continue to attempt contact notification until~~  
34 ~~the information required pursuant to subdivision (d) is provided.~~

35 (b) If possession is taken of more than one vehicle, the  
36 possession of each vehicle shall be considered and reported as a  
37 separate event.

38 (c) Any person failing to notify the city police department,  
39 sheriff's department, or campus police department as required by  
40 this section is guilty of an infraction, and shall be fined a minimum

1 of three hundred dollars (\$300), and up to five hundred dollars  
2 (\$500). The district attorney, city attorney, or city prosecutor shall  
3 promptly notify the Bureau of Security and Investigative Services  
4 of any conviction resulting from a violation of this section.

5 (d) For the notification required by this section, the person shall  
6 report only the following information and in the following order:

7 (1) The approximate location of the repossession.

8 (2) The date and approximate time of the repossession.

9 (3) The vehicle year, make, and model.

10 (4) The last six digits of the vehicle identification number.

11 (5) The registered owner as provided on the repossession  
12 assignment.

13 (6) The legal owner requesting the repossession as provided on  
14 the repossession assignment.

15 (7) The name of the repossession agency.

16 (8) The telephone number of the repossession agency.

17 SEC. 12. Section 4000 of the Vehicle Code is amended to read:

18 4000. (a) (1) A person shall not drive, move, or leave standing  
19 upon a highway, or in an offstreet public parking facility, any  
20 motor vehicle, trailer, semitrailer, pole or pipe dolly, or logging  
21 dolly, unless it is registered and the appropriate fees have been  
22 paid under this code or registered under the permanent trailer  
23 identification program, except that an off-highway motor vehicle  
24 which displays an identification plate or device issued by the  
25 department pursuant to Section 38010 may be driven, moved, or  
26 left standing in an offstreet public parking facility without being  
27 registered or paying registration fees.

28 (2) For purposes of this subdivision, “offstreet public parking  
29 facility” means either of the following:

30 (A) Any publicly owned parking facility.

31 (B) Any privately owned parking facility for which no fee for  
32 the privilege to park is charged and which is held open for the  
33 common public use of retail customers.

34 (3) This subdivision does not apply to any motor vehicle stored  
35 in a privately owned offstreet parking facility by, or with the  
36 express permission of, the owner of the privately owned offstreet  
37 parking facility.

38 (4) Beginning July 1, 2011, the enforcement of paragraph (1)  
39 shall commence on the first day of the second month following

1 the month of expiration of the vehicle's registration. This paragraph  
2 shall become inoperative on January 1, 2012.

3 (b) No person shall drive, move, or leave standing upon a  
4 highway any motor vehicle, as defined in Chapter 2 (commencing  
5 with Section 39010) of Part 1 of Division 26 of the Health and  
6 Safety Code, that has been registered in violation of Part 5  
7 (commencing with Section 43000) of Division 26 of the Health  
8 and Safety Code.

9 (c) Subdivisions (a) and (b) do not apply to off-highway motor  
10 vehicles operated pursuant to Sections 38025 and 38026.5.

11 (d) This section does not apply, following payment of fees due  
12 for registration, during the time that registration and transfer is  
13 being withheld by the department pending the investigation of any  
14 use tax due under the Revenue and Taxation Code.

15 (e) Subdivision (a) does not apply to a vehicle that is towed by  
16 a tow truck on the order of a sheriff, marshal, or other official  
17 acting pursuant to a court order or on the order of a peace officer  
18 acting pursuant to this code.

19 (f) Subdivision (a) applies to a vehicle that is towed from a  
20 highway or offstreet parking facility under the direction of a  
21 highway service organization when that organization is providing  
22 emergency roadside assistance to that vehicle. However, the  
23 operator of a tow truck providing that assistance to that vehicle is  
24 not responsible for the violation of subdivision (a) with respect to  
25 that vehicle. The owner of an unregistered vehicle that is disabled  
26 and located on private property, shall obtain a permit from the  
27 department pursuant to Section 4003 prior to having the vehicle  
28 towed on the highway.

29 ~~(g) (1) A licensed reposessor who has obtained a release of~~  
30 ~~collateral is exempt from this section solely for the purpose of~~  
31 ~~obtaining the collateral pursuant to that release from a law~~  
32 ~~enforcement agency, impounding authority, tow yard, storage~~  
33 ~~facility, or any other person or entity in possession of the collateral.~~

34 ~~(2) A licensed reposessor is exempt from this section solely~~  
35 ~~for the purpose of obtaining collateral from a law enforcement~~  
36 ~~agency, impounding authority, tow yard, storage facility, or any~~  
37 ~~other person or company that has possession of the collateral.~~

38 ~~(3) In order to obtain a release of the collateral from a law~~  
39 ~~enforcement agency, impounding authority, tow yard, storage~~  
40 ~~facility, or any other person or company pursuant to paragraph (1)~~

1 or (2), a licensed reposessor shall only be required to present his  
2 or her reposessor license and a copy of the reposessor assignment  
3 to that entity or person.

4 (4) For purposes of paragraph (1), paragraphs (3) and (4) of  
5 subdivision (f) of Section 14602.6, and subparagraph (B) of  
6 paragraph (3) of subdivision (o) of Section 22651 apply.

7 (g) (1) Pursuant to Section 4022 and to subparagraph (B) of  
8 paragraph (3) of subdivision (o) of Section 22651, a vehicle  
9 obtained by a licensed reposessor removing the vehicle to his or  
10 her storage facility or the facility of the legal owner. A law  
11 enforcement agency, impounding authority, tow yard, storage  
12 facility, or any other person in possession of the collateral shall  
13 release the vehicle without requiring current registration and  
14 pursuant to subdivision (f) of Section 14602.6.

15 (5)

16 (2) The legal owner of collateral shall, by operation of law and  
17 without requiring further action, indemnify and hold harmless a  
18 law enforcement agency, city, county, city and county, the state,  
19 a tow yard, storage facility, or an impounding yard from a claim  
20 arising out of the release of the collateral to a licensee, and from  
21 any damage to the collateral after its release, including reasonable  
22 attorney's fees and costs associated with defending a claim, if the  
23 collateral was released in compliance with this subdivision.

24 (h) For purposes of this section, possession of a California  
25 driver's license by the registered owner of a vehicle shall give rise  
26 to a rebuttable presumption that the owner is a resident of  
27 California.

28 SEC. 13. Section 9561 of the Vehicle Code is amended to read:

29 9561. (a) ~~When a legal owner, his or her agent, or a reposessor  
30 who is licensed pursuant to Chapter 11 (commencing with Section  
31 7500) of Division 3 of the Business and Professions Code  
32 repossesses a vehicle on which renewal fees are due, the department  
33 shall waive any renewal penalties that are due for late payment if  
34 the fees are paid within 60 days of taking possession.~~

35 (b) ~~Notwithstanding any other provisions of this code, when a  
36 repossessed vehicle is sold through a dealer conducting a wholesale  
37 motor vehicle auction as provided in subdivision (b) of Section  
38 4456 and Article 5 (commencing with Section 6100) of Chapter  
39 2 of Division 3, any penalties that may be due are waived, if all~~

1 ~~renewal fees that are due are paid not later than 60 days after the~~  
2 ~~date of sale at the auction.~~

3 ~~SEC. 14.~~

4 *SEC. 13.* Section 10856 is added to the Vehicle Code, to read:

5 10856. (a) A person shall not interfere with the transport of a  
6 vehicle to a storage facility, auction, or dealer by an individual  
7 who is employed by a repossession agency or who is licensed  
8 pursuant to Chapter 11 (commencing with Section 7500) of  
9 Division 3 of the Business and Professions Code once repossession  
10 is complete as provided in Section 7507.12 of the Business and  
11 Professions Code. *This subdivision shall not apply to a peace*  
12 *officer while acting in an official capacity.*

13 (b) Any tow yard, impounding agency, or governmental agency,  
14 or any person acting on behalf of those entities, shall not refuse to  
15 release a vehicle or other collateral to anyone that is legally entitled  
16 to that vehicle or other collateral. *This subdivision shall not apply*  
17 *to a vehicle being held for evidence by law enforcement or a*  
18 *prosecuting attorney.*

19 ~~SEC. 15.~~

20 *SEC. 14.* Section 11705 of the Vehicle Code is amended to  
21 read:

22 11705. (a) The department, after notice and hearing, may  
23 suspend or revoke the license issued to a dealer, transporter,  
24 manufacturer, manufacturer branch, remanufacturer,  
25 remanufacturer branch, distributor, or distributor branch upon  
26 determining that the person to whom the license was issued is not  
27 lawfully entitled thereto, or has done any of the following:

28 (1) Filed an application for the license using a false or fictitious  
29 name not registered with the proper authorities, or knowingly made  
30 a false statement or knowingly concealed a material fact, in the  
31 application for the license.

32 (2) Made, or knowingly or negligently permitted, an illegal use  
33 of the special plates issued to the licensee.

34 (3) Used a false or fictitious name, knowingly made a false  
35 statement, or knowingly concealed a material fact, in an application  
36 for the registration of a vehicle, or otherwise committed a fraud  
37 in the application.

38 (4) Failed to deliver to a transferee lawfully entitled thereto a  
39 properly endorsed certificate of ownership.

1 (5) Knowingly purchased, sold, or otherwise acquired or  
2 disposed of a stolen motor vehicle.

3 (6) Failed to provide and maintain a clear physical division  
4 between the type of business licensed pursuant to this chapter and  
5 any other type of business conducted at the established place of  
6 business.

7 (7) Willfully violated Section 3064 or 3065 or any rule or  
8 regulation adopted pursuant thereto.

9 (8) Violated any provision of Division 3 (commencing with  
10 Section 4000) or any rule or regulation adopted pursuant thereto,  
11 or subdivision (a) of Section 38200.

12 (9) Violated any provision of Division 4 (commencing with  
13 Section 10500) or any rule or regulation adopted pursuant thereto.

14 (10) Violated any provision of Article 1 (commencing with  
15 Section 11700) of Chapter 4 of Division 5 or any rule or regulation  
16 adopted pursuant thereto.

17 (11) Violated any provision of Part 5 (commencing with Section  
18 10701) of Division 2 of the Revenue and Taxation Code or any  
19 rule or regulation adopted pursuant thereto.

20 (12) Violated any provision of Chapter 3332b (commencing  
21 with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil  
22 Code or any rule or regulation adopted pursuant thereto.

23 (13) Submitted a check, draft, or money order to the department  
24 for any obligation or fee due the state which was dishonored or  
25 refused payment upon presentation.

26 (14) Has caused any person to suffer any loss or damage by  
27 reason of any fraud or deceit practiced on that person or fraudulent  
28 representations made to that person in the course of the licensed  
29 activity.

30 For purposes of this paragraph, “fraud” includes any act or  
31 omission which is included within the definition of either “actual  
32 fraud” or “constructive fraud” as defined in Sections 1572 and  
33 1573 of the Civil Code, and “deceit” has the same meaning as  
34 defined in Section 1710 of the Civil Code. In addition, “fraud”  
35 and “deceit” include, but are not limited to, a misrepresentation in  
36 any manner, whether intentionally false or due to gross negligence,  
37 of a material fact; a promise or representation not made honestly  
38 and in good faith; an intentional failure to disclose a material fact;  
39 and any act within Section 484 of the Penal Code.

1 For purposes of this paragraph, “person” also includes a  
2 governmental entity.

3 (15) Failed to meet the terms and conditions of an agreement  
4 entered into pursuant to Section 11707.

5 (16) Violated Section 43151, 43152, or 43153 of, or subdivision  
6 (b) of Section 44072.10 of, the Health and Safety Code.

7 (17) Failed to repay a claim paid by the Consumer Motor  
8 Vehicle Recovery Corporation as provided in subdivision (i) of  
9 Section 11703.

10 (18) ~~Violated~~ *As a buy-here-pay-here dealer, violated* any  
11 provision of Chapter 11 (commencing with Section 7500) of  
12 Divisions 3 of the Business and Professions Code or any rule or  
13 regulation adopted pursuant to those provisions.

14 (b) Any of the causes specified in this chapter as a cause for  
15 refusal to issue a license to a transporter, manufacturer,  
16 manufacturer branch, remanufacturer, remanufacturer branch,  
17 distributor, distributor branch, or dealer applicant is cause to  
18 suspend or revoke a license issued to a transporter, manufacturer,  
19 manufacturer branch, remanufacturer, remanufacturer branch,  
20 distributor, distributor branch, or dealer.

21 (c) Except as provided in Section 11707, every hearing provided  
22 for in this section shall be conducted pursuant to Chapter 5  
23 (commencing with Section 11500) of Part 1 of Division 3 of Title  
24 2 of the Government Code.

25 ~~SEC. 16.~~

26 *SEC. 15.* No reimbursement is required by this act pursuant to  
27 Section 6 of Article XIII B of the California Constitution because  
28 the only costs that may be incurred by a local agency or school  
29 district will be incurred because this act creates a new crime or  
30 infraction, eliminates a crime or infraction, or changes the penalty  
31 for a crime or infraction, within the meaning of Section 17556 of  
32 the Government Code, or changes the definition of a crime within  
33 the meaning of Section 6 of Article XIII B of the California  
34 Constitution.

35 ~~SEC. 17.~~

36 *SEC. 16.* This act is an urgency statute necessary for the  
37 immediate preservation of the public peace, health, or safety within  
38 the meaning of Article IV of the Constitution and shall go into  
39 immediate effect. The facts constituting the necessity are:

1 In order to preserve public peace by prohibiting a person from  
2 interfering with the transport of a vehicle to a storage facility,  
3 auction, or dealer by a reposessor, it is necessary that this act take  
4 effect immediately.

O