

AMENDED IN ASSEMBLY APRIL 18, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1859**

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**Introduced by Assembly Member Gallagher**

February 10, 2016

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An act to amend Sections ~~7500.1 and 7507.9~~ 7500.1, 7504, 7507.3, 7507.6, 7507.9, 7507.13, and 7508.2 of the Business and Professions Code, and to add Section 22651.03 to the Vehicle Code, relating to collateral recovery.

LEGISLATIVE COUNSEL'S DIGEST

AB 1859, as amended, Gallagher. Collateral recovery: release of vehicle.

(1) 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. That act defines the term “repossession” as meaning the locating or recovering of collateral by means of an assignment. *That act defines the term “assignment” as any written authorization by the legal owner, lienholder, lessor, lessee, registered owner, or the agent of any of them, to repossess any collateral or any written authorization by an employer to recover any collateral entrusted to an employee or former employee in possession of the collateral.* That act requires a licensee to remove personal effects from the collateral and requires a licensee to make a complete and accurate inventory of the personal effects. That act makes a violation of any of its provisions a crime.

This bill would define the terms “repossession” or “repossess” to mean the locating and physical recovering of collateral by means of an assignment. *The bill would define the term “order” as having the same meaning as “assignment” and would change references to “assignment” in the act to “order.”* The bill would instead require a licensee to make a ~~good faith effort to complete and accurate~~ inventory of the personal effects in the collateral and would prohibit a licensee from inventorying or removing any kind of trash or from being held responsible for hidden personal effects. *that are not locked and not retrievable without a key, combination, or damage to the collateral or personal effects.* The bill would authorize a licensee to allow a debtor or person in possession of the collateral to sign a waiver forfeiting personal effects or other personal property not covered by a security agreement and to waive the required inventory of personal effects, and would require a licensee, once the waiver is signed, to immediately dispose of the personal effects or other property. *debtor, with the consent of the licensee, to waive the preparation and presentation of an inventory of the personal effects not covered by a security interest, prior to the completion of the inventory, if the debtor signs a specified statement.* The bill would authorize a licensee to store personal effects inside the collateral, as specified. The bill would also prohibit a licensee from conspiring or agreeing to release personal effects or other personal property not covered by a security agreement to anyone other than the debtor. By placing new prohibitions on a licensee, this bill would expand an existing crime and would, therefore, impose a state-mandated local program.

(2) Existing law specifies how and to whom a vehicle that has been removed by a peace officer may be released, including to the legal owner of the vehicle and the legal owner’s agent.

This bill would, notwithstanding specified sections of law, instead prescribe specified procedures and requirements for releasing a vehicle to a licensed reposessor, as defined, including that the licensed reposessor present a copy of the assignment and pay all towing and storage fees related to the seizure of the vehicle.

Existing law exempts from registration a vehicle repossessed pursuant to a security agreement solely for the purpose of transporting the vehicle from the point of repossession to the storage facilities of the reposessor or other specified places if the reposessor transports the vehicle with appropriate documents and makes them available to a law enforcement officer upon request. Existing law exempts a legal owner of a vehicle from the payment of administrative costs assessed by a city, county, or

city and county for releasing a properly impounded vehicle, unless the legal owner who redeems the vehicle requests a poststorage hearing. Existing law prohibits a city, county, or city and county from requiring the legal owner or the legal owner’s agent to request a poststorage hearing as a requirement for release of the vehicle.

This bill would specify that the above exemptions apply when a vehicle is released to a licensed reposessor.

(3) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. 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 7500.1 of the Business and Professions  
2 Code is amended to read:

3 7500.1. The following terms as used in this chapter have the  
4 meaning expressed in this section:

5 (a) “Advertisement” means any written or printed  
6 communication, including a directory listing, except a free  
7 telephone directory listing that does not allow space for a license  
8 number.

9 (b) “Assignment” or “order” means any written authorization  
10 by the legal owner, lienholder, lessor, lessee, registered owner, or  
11 the agent of any of them, to repossess any collateral, including,  
12 but not limited to, collateral registered under the Vehicle Code  
13 that is subject to a security agreement that contains a repossession  
14 clause. “Assignment” or “order” also means any written  
15 authorization by an employer to recover any collateral entrusted  
16 to an employee or former employee in possession of the collateral.  
17 A photocopy of an ~~assignment~~, *assignment or order*, facsimile  
18 copy of an ~~assignment~~, *assignment or order*, or electronic format

1 of an assignment *or order* shall have the same force and effect as  
2 an original written ~~assignment~~. *assignment or order*.

3 (c) “Bureau” means the Bureau of Security and Investigative  
4 Services.

5 (d) “Chief” means the Chief of the Bureau of Security and  
6 Investigative Services.

7 (e) “Collateral” means any specific vehicle, trailer, boat,  
8 recreational vehicle, motor home, appliance, or other property that  
9 is subject to a security agreement.

10 (f) “Combustibles” means any substances or articles that are  
11 capable of undergoing combustion or catching fire, or that are  
12 flammable, if retained.

13 (g) “Dangerous drugs” means any controlled substances as  
14 defined in Chapter 2 (commencing with Section 11053) of Division  
15 10 of the Health and Safety Code.

16 (h) “Deadly weapon” means and includes any instrument or  
17 weapon of the kind commonly known as a blackjack, slungshot,  
18 billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or  
19 revolver, or any other firearm, any knife having a blade longer  
20 than five inches, any razor with an unguarded blade, and any metal  
21 pipe or bar used or intended to be used as a club.

22 (i) “Debtor” means any person obligated under a security  
23 agreement.

24 (j) “Department” means the Department of Consumer Affairs.

25 (k) “Director” means the Director of Consumer Affairs.

26 (l) “Electronic format” includes, but is not limited to, a text  
27 message, email, or Internet posting.

28 (m) “Health hazard” means any personal effects that if retained  
29 would produce an unsanitary or unhealthful condition, or which  
30 might damage other personal effects.

31 (n) “Legal owner” means a person holding a security interest  
32 in any collateral that is subject to a security agreement, a lien  
33 against any collateral, *a repossession order*, or an interest in any  
34 collateral that is subject to a lease agreement.

35 (o) “Licensee” means an individual, partnership, limited liability  
36 company, or corporation licensed under this chapter as a  
37 repossession agency.

38 (p) “Multiple licensee” means a repossession agency holding  
39 more than one repossession license under this chapter, with one  
40 fictitious trade style and ownership, conducting repossession

1 business from additional licensed locations other than the location  
2 shown on the original license.

3 (q) “Person” includes any individual, partnership, limited  
4 liability company, or corporation.

5 (r) “Personal effects” means any property that is not the property  
6 of the legal owner.

7 (s) “Private building” means and includes any dwelling,  
8 outbuilding, or other enclosed structure.

9 (t) “Qualified certificate holder” or “qualified manager” is a  
10 person who possesses a valid qualification certificate in accordance  
11 with the provisions of Article 5 (commencing with Section 7504)  
12 and is in active control or management of, and who is a director  
13 of, the licensee’s place of business.

14 (u) “Registered owner” means the individual listed in the records  
15 of the Department of Motor Vehicles, or on a conditional sales  
16 contract, or on a repossession ~~assignment~~, *assignment or order*,  
17 as the registered owner.

18 (v) “Registrant” means a person registered under this chapter.

19 (w) “Repossession” or “repossess” means the locating and  
20 physical recovering of collateral by means of an ~~assignment~~.  
21 *assignment or order*.

22 (x) “Secured area” means and includes any fenced and locked  
23 area.

24 (y) “Security agreement” means an obligation, pledge, mortgage,  
25 chattel mortgage, lease agreement, deposit, or lien, given by a  
26 debtor as security for payment or performance of his or her debt,  
27 by furnishing the creditor with a recourse to be used in case of  
28 failure in the principal obligation. “Security agreement” also  
29 includes a bailment where an employer-employee relationship  
30 exists or existed between the bailor and the bailee.

31 (z) “Services” means any duty or labor to be rendered by one  
32 person for another.

33 (aa) “Violent act” means any act that results in bodily harm or  
34 injury to any party involved.

35 (ab) The amendments made to this section by Chapter 418 of  
36 the Statutes of 2006 shall not be deemed to exempt any person  
37 from the provisions of this chapter.

38 *SEC. 2. Section 7504 of the Business and Professions Code is*  
39 *amended to read:*

1 7504. (a) Except as otherwise provided in this chapter, an  
2 applicant for a qualification certificate shall comply with all of the  
3 following:

4 (1) Be at least 18 years of age.

5 (2) Have been, for at least two years of lawful experience, during  
6 the five years preceding the date on which his or her application  
7 is filed, a registrant or have had two years of lawful experience in  
8 recovering collateral within this state. Lawful experience means  
9 experience in recovering collateral as a registrant pursuant to this  
10 chapter or as a salaried employee of a financial institution or  
11 vehicle dealer. Lawful experience does not include any employment  
12 performing work other than ~~skip tracing, debt collection, debt~~  
13 *collection* or actual collateral recovery.

14 Two years' experience shall consist of not less than 4,000 hours  
15 of actual compensated work performed by the applicant preceding  
16 the filing of an application.

17 An applicant shall certify that he or she has completed the  
18 claimed hours of qualifying experience and the exact details as to  
19 the character and nature thereof by written certifications from the  
20 employer, licensee, financial institution, or vehicle dealer, subject  
21 to independent verification by the director as he or she may  
22 determine. In the event of the inability of an applicant to supply  
23 the written certifications from the employer, licensee, financial  
24 institution or vehicle dealer, in whole or in part, applicants may  
25 offer other written certifications from other persons substantiating  
26 their experience for consideration by the director. All certifications  
27 shall include a statement that representations made are true, correct,  
28 and contain no material omissions of fact to the best knowledge  
29 and belief of the applicant or the person submitting the certification.  
30 An applicant or person submitting the certification who declares  
31 as true any material matter pursuant to this paragraph that he or  
32 she knows to be false is guilty of a misdemeanor.

33 (3) Complete and forward to the bureau a qualified certificate  
34 holder application which shall be on a form prescribed by the  
35 director and signed by the applicant. An applicant who declares  
36 as true any material matter pursuant to this paragraph that he or  
37 she knows to be false is guilty of a misdemeanor. The application  
38 shall be accompanied by two recent photographs of the applicant,  
39 of a type prescribed by the director, and two classifiable sets of  
40 his or her fingerprints. The residence address, residence telephone

1 number, and driver's license number of each qualified certificate  
2 holder or applicant for a qualification certificate, if requested, shall  
3 be confidential pursuant to the Information Practices Act of 1977  
4 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part  
5 4 of Division 3 of the Civil Code) and shall not be released to the  
6 public.

7 (4) Pass the required examination.

8 (5) Pay the required application and examination fees to the  
9 bureau.

10 (b) Upon the issuance of the initial qualification certificate or  
11 renewal qualification certificate, the bureau shall issue to the  
12 certificate holder a suitable pocket identification card which  
13 includes a photograph of the certificate holder. The photograph  
14 shall be of a size prescribed by the bureau. The card shall contain  
15 the name of the licensee with whom the certificate holder is  
16 employed.

17 (c) The application form shall contain a statement informing  
18 the applicant that a false or dishonest answer to a question may be  
19 grounds for denial or subsequent suspension or revocation of a  
20 qualification certificate.

21 *SEC. 3. Section 7507.3 of the Business and Professions Code*  
22 *is amended to read:*

23 7507.3. A repossession agency shall be required to keep and  
24 maintain adequate records of all transactions, including, but not  
25 limited to, ~~assignment order~~ forms; vehicle report of repossession  
26 required by Section 28 of the Vehicle Code; vehicle condition  
27 reports, including odometer readings, if available; personal effects  
28 inventory; notice of seizure; and records of all transactions  
29 pertaining to the sale of collateral that has been repossessed,  
30 including, but not limited to, bids solicited and received, cash  
31 received, deposits made to the trust account, remittances to the  
32 seller, and allocation of any moneys not so remitted to appropriate  
33 ledger accounts. Records, including bank statements of the trust  
34 account, shall be retained for a period of not less than four years  
35 and shall be available for examination by the bureau upon demand.  
36 In addition, collateral and personal effects storage areas shall be  
37 made accessible for inspection by the bureau upon demand. An  
38 ~~assignment order~~ form may be an original, a photocopy, a facsimile  
39 copy, or a copy stored in an electronic format.

1     *SEC. 4. Section 7507.6 of the Business and Professions Code*  
2     *is amended to read:*

3     7507.6. (a) Within seven days after a violent act has occurred  
4 involving a licensee, or any officer, partner, qualified certificate  
5 holder, registrant or employee of a licensee, while acting within  
6 the course and scope of his or her employment or contract, that  
7 results in a police report or bodily harm or bodily injury, the  
8 licensee or the licensee's qualified certificate holder or registrant,  
9 shall mail or deliver to the chief a notice concerning the incident  
10 upon a form provided by the bureau.

11     (b) Within seven days after the occurrence of a violent act or a  
12 threatened violent act involving a licensee, or any officer, partner,  
13 qualified certificate holder, registrant, or employee of a licensee  
14 while acting within the course and scope of his or her employment  
15 or contract, that results in a police report or bodily harm or bodily  
16 injury, the licensee or the licensee's qualified certificate holder or  
17 registrant shall send by certified mail, return receipt requested, a  
18 notice containing information about the incident to the person or  
19 individual who made the ~~assignment~~. *order*. If the assignor is not  
20 the legal owner, the assignor shall notify the legal owner of the  
21 contents of the notice.

22     (c) A licensee, qualified certificate holder, or registrant may  
23 send the notice set forth in subdivision (b) for a violent act or  
24 threatened violent act even if a police report is not made or no  
25 bodily harm or bodily injury occurs. Any notice of a threatened  
26 violent act provided pursuant to subdivision (b) may only be used  
27 to notify a subsequent assignee and not for any collateral purpose.  
28 Nothing in this subdivision or subdivision (b) shall be construed  
29 to provide immunity against any claim for defamation.

30     ~~SEC. 2.~~

31     *SEC. 5. Section 7507.9 of the Business and Professions Code*  
32     *is amended to read:*

33     7507.9. Except as otherwise provided in this section, personal  
34 effects shall be removed from the collateral, including any personal  
35 effect that is mounted but detachable from the collateral by a  
36 release mechanism. ~~A licensee shall make a good faith effort to~~  
37 ~~inventory the personal effects, but shall not inventory or remove~~  
38 ~~trash of any kind or be held responsible for hidden personal effects.~~  
39 *The complete and accurate inventory of the personal effects that*  
40 *are not locked and not retrievable without a key, combination, or*



1 *damage to the collateral or personal effects shall be made, and*  
2 *the personal effects shall be labeled and stored by the licensee for*  
3 *a minimum of 60 days in a secure manner, except those personal*  
4 *effects removed by or in the presence of the debtor or the party in*  
5 *possession of the collateral at the time of the repossession. If the*  
6 *licensee or the licensee’s agent cannot determine whether the*  
7 *property attached to the collateral is a personal effect or a part of*  
8 *the collateral, then that fact shall be noted on the inventory and*  
9 *the licensee or agent shall not be obligated to remove the item*  
10 *from the collateral, unless the item can be removed without the*  
11 *use of tools, in which case it shall be removed and inventoried.*  
12 *The licensee or the licensee’s agent shall notify the debtor that if*  
13 *the debtor takes the position that an item is a personal effect, then*  
14 *the debtor shall contact the legal owner to resolve the issue.*

15 (a) The date and time the inventory is made shall be indicated.  
16 The permanent records of the licensee shall indicate the name of  
17 the employee or registrant who performed the inventory.

18 (b) The following items of personal effects are items determined  
19 to present a danger or health hazard when recovered by the licensee  
20 and shall be disposed of in the following manner:

21 (1) Deadly weapons and dangerous drugs shall be turned over  
22 to any law enforcement agency for retention. These items shall be  
23 entered on the inventory and a notation shall be made as to the  
24 date, time, and place the deadly weapon or dangerous drug was  
25 turned over to the law enforcement agency, and a receipt from the  
26 law enforcement agency shall be maintained in the records of the  
27 repossession agency.

28 (2) Combustibles shall be inventoried and noted as “disposed  
29 of, dangerous combustible,” and the item shall be disposed of in  
30 a reasonable and safe manner.

31 (3) Food and other health hazard items shall be inventoried and  
32 noted as “disposed of, health hazard,” and disposed of in a  
33 reasonable and safe manner.

34 (c) Personal effects may be disposed of after being held for at  
35 least 60 days. The inventory, and adequate information as to how,  
36 when, and to whom the personal effects were disposed of, shall  
37 be filed in the permanent records of the licensee and retained for  
38 four years.

39 (d) The inventory shall include the name, address, business  
40 hours, and telephone number of the repossession agency to contact

1 for recovering the personal effects and an itemization of all  
2 personal effects removal and storage charges that will be made by  
3 the repossession agency. The inventory shall also include the  
4 following statement: “Please be advised that the property listed  
5 on this inventory will be disposed of by the repossession agency  
6 after being held for 60 days from the date of this notice IF  
7 UNCLAIMED.”

8 (e) The inventory shall be provided to a debtor not later than  
9 48 hours after the recovery of the collateral, except that if:

10 (1) The 48-hour period encompasses a Saturday, Sunday, or  
11 postal holiday, the inventory shall be provided no later than 72  
12 hours after the recovery of the collateral.

13 (2) The 48-hour period encompasses a Saturday or Sunday and  
14 a postal holiday, the inventory shall be provided no later than 96  
15 hours after the recovery of the collateral.

16 (3) Inventory resulting from repossession of a yacht, motor  
17 home, or travel trailer is such that it shall take at least four hours  
18 to inventory, then the inventory shall be provided no later than 96  
19 hours after the recovery of the collateral. When the 96-hour period  
20 encompasses a Saturday, Sunday, or postal holiday, the inventory  
21 shall be provided no later than 120 hours after the recovery of the  
22 collateral.

23 (4) The licensee is unable to open a locked compartment that  
24 is part of the collateral, the available inventory shall be provided  
25 no later than 96 hours after the recovery of the collateral. When  
26 the 96-hour period encompasses a Saturday, Sunday, or postal  
27 holiday, the inventory shall be provided no later than 120 hours  
28 after the recovery of the collateral.

29 (f) Environmental, Olympic, special interest, or other license  
30 plates issued pursuant to Article 8 (commencing with Section  
31 5000), Article 8.4 (commencing with Section 5060), or Article 8.5  
32 (commencing with Section 5100) of Chapter 1 of Division 3 of  
33 the Vehicle Code that remain the personal effects of the debtor  
34 shall be removed from the collateral and inventoried pursuant to  
35 this section. If the plates are not claimed by the debtor within 60  
36 days, they shall either (1) be effectively destroyed and the licensee  
37 shall, within 30 days thereafter, notify the Department of Motor  
38 Vehicles of their effective destruction on a form promulgated by  
39 the chief that has been approved as to form by the Director of the  
40 Department of Motor Vehicles; or (2) be retained by the licensee

1 indefinitely to be returned to the debtor upon request, in which  
2 case the licensee shall not charge more than 60 days' storage on  
3 the plates.

4 (g) The notice may be given by regular mail addressed to the  
5 last known address of the debtor or by personal service at the option  
6 of the repossession agency.

7 (h) (1) With the consent of the licensee, the debtor ~~waives may~~  
8 ~~waive~~ the preparation and presentation of an inventory if the debtor  
9 redeems the personal effects or other personal property not covered  
10 by a security interest ~~within the time period for the notices required~~  
11 ~~by this section and signs a statement that he or she has received~~  
12 ~~all the property. prior to completion of the inventory and signs a~~  
13 ~~statement that reads only as follows:~~

14 (2) ~~A licensee may allow a debtor or a person in possession of~~  
15 ~~the collateral to sign, at the time of repossession or at a later date,~~  
16 ~~a waiver forfeiting personal effects or other personal property not~~  
17 ~~covered by a security agreement and waiving an inventory of those~~  
18 ~~personal effects or other personal property. Once the waiver has~~  
19 ~~been signed, the licensee shall immediately dispose of the personal~~  
20 ~~effects or personal property.~~

21  
22 *“I, [insert debtor’s name here], have received all personal effects*  
23 *that were in the vehicle at the time of the repossession.”*  
24

25 (2) *No other signature or document shall be required to waive*  
26 *the preparation and presentation of an inventory. The document*  
27 *shall be subject to the confidentiality provision of subdivision (k).*

28 (i) (1) If personal effects or other personal property not covered  
29 by a security agreement are to be released to someone other than  
30 the debtor, the repossession agency shall request written  
31 authorization to do so from the debtor.

32 (2) ~~Subject to paragraph (1), a licensee shall not release or~~  
33 ~~conspire or agree to release personal effects or other personal~~  
34 ~~property not covered by a security agreement to anyone other than~~  
35 ~~the debtor.~~

36 (j) A licensee shall not sell personal effects or other personal  
37 property not covered by a security agreement and remit money  
38 from the sale to a third party, including, but not limited to, any  
39 lending institution.

1 (k) The inventory *or waiver of inventory, as provided in*  
2 *subdivision (h)*, shall be a confidential document. A licensee shall  
3 only disclose the contents of the inventory under the following  
4 circumstances:

5 (1) In response to the order of a court having jurisdiction to  
6 issue the order.

7 (2) In compliance with a lawful subpoena issued by a court of  
8 competent jurisdiction.

9 (3) When the debtor has consented in writing to the release and  
10 the written consent is signed and dated by the debtor subsequent  
11 to the repossession and states the entity or entities to whom the  
12 contents of the inventory may be disclosed.

13 (4) To the debtor.

14 (5) *No other signatures, conditions, documents, or information*  
15 *regarding the inventory, personal effects, or statement may be*  
16 *required or given except as provided in this section or as ordered*  
17 *by a court of competent jurisdiction.*

18 (l) A licensee *who has been notified that collateral will be*  
19 *retrieved* may store personal effects or personal ~~property~~ *property,*  
20 *in compliance with the security standards of this chapter,* inside  
21 the collateral until the collateral is no longer in the possession of  
22 the licensee. ~~The~~ *If a licensee stores personal effects pursuant to*  
23 *this subdivision, the collateral shall not leave the possession of the*  
24 *licensee until all personal effects or personal property have been*  
25 *removed.*

26 *SEC. 6. Section 7507.13 of the Business and Professions Code*  
27 *is amended to read:*

28 7507.13. (a) A licensed repossession agency is not liable for  
29 the act or omission of a legal owner, debtor, lienholder, lessor,  
30 lessee, registered owner, or an agent of any of them, in making an  
31 ~~assignment order~~ to it or for accepting an ~~assignment order~~ from  
32 any legal owner, debtor, lienholder, lessor, lessee, registered owner,  
33 or an agent of any of them, and is entitled to indemnity from the  
34 legal owner, debtor, lienholder, lessor, lessee, or registered owner  
35 for any loss, damage, cost, or expense, including court costs and  
36 attorney’s fees, that it may reasonably incur as a result thereof.  
37 Nothing in this subdivision limits the liability of any person for  
38 his or her tortious conduct.

39 (b) The legal owner, debtor, lienholder, lessor, lessee, registered  
40 owner, or the agent of any of them, is not liable for any act or

1 omission by a licensed repossession agency, or its agent, in carrying  
2 out an ~~assignment~~ *order* and is entitled to indemnity from the  
3 repossession agency for any loss, damage, cost, or expense,  
4 including court costs and attorney's fees, that the legal owner,  
5 debtor, lienholder, lessor, lessee, registered owner, or the agent of  
6 any of them, may reasonably incur as a result thereof. Nothing in  
7 this subdivision limits the liability of any person for his or her  
8 tortious conduct.

9 (c) The legal owner, debtor, lienholder, lessor, lessee, registered  
10 owner, or the agent of any of them, is not guilty of a violation of  
11 Section 7502.1 or 7502.2 if, at the time of the ~~assignment~~, *order*;  
12 the party making the ~~assignment~~ *order* has in its possession a copy  
13 of the reposessor's current, unexpired repossession agency license,  
14 and a copy of the current, unexpired repossession agency's  
15 qualified manager's certificate, and does not have actual knowledge  
16 of any order of suspension or revocation of the license or  
17 certificate.

18 (d) Neither a licensed repossession agency nor a legal owner,  
19 debtor, lienholder, lessor, lessee, registered owner, or an agent of  
20 any of them may, by any means, direct or indirect, express or  
21 implied, instruct or attempt to coerce the other to violate any law,  
22 regulation, or rule regarding the recovery of any collateral,  
23 including, but not limited to, the provisions of this chapter or  
24 Section 9609 of the Commercial Code.

25 (e) A licensed repossession agency, at least annually, on or  
26 before January 31 of each year, shall provide a legal owner from  
27 which the agency accepts an ~~assignment~~ *order* with a copy of this  
28 section, Sections 7500.2, 7507.4, 7507.115, 7507.12, and 7507.125  
29 of this code, and Section 28 of the Vehicle Code.

30 *SEC. 7. 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~~ *order* is acceptable if

1 the legal owner, debtor, lienholder, lessor, or repossession agency  
2 acting on behalf of the legal owner, debtor, lienholder, or lessor  
3 is known to the licensee and a written authorization from the legal  
4 owner, debtor, lienholder, lessor, or repossession agency acting  
5 on behalf of the legal owner, debtor, lienholder, or lessor is  
6 received by the licensee within 10 working days or a request by  
7 the licensee for a written authorization from the legal owner,  
8 debtor, lienholder, lessor, or repossession agency acting on behalf  
9 of the legal owner, debtor, lienholder, or lessor is made in writing  
10 within 10 working days. Referrals of ~~assignments~~ *orders* from one  
11 licensee to another licensee are acceptable. The referral of an  
12 ~~assignment~~ *order* shall be made under the same terms and  
13 conditions as in the original ~~assignment~~ *order*. The fine shall be  
14 twenty-five dollars (\$25) for each of the first five violations and  
15 one hundred dollars (\$100) for each 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, or making a  
28 demand for payment in lieu of repossession. The fine shall be two  
29 hundred fifty dollars (\$250) for the first violation and one thousand  
30 dollars (\$1,000) for each subsequent violation.

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. 8.* Section 22651.03 is added to the Vehicle Code,  
8 immediately following Section 22651, to read:

9 22651.03. (a) Notwithstanding Sections 14602.6 and 22651,  
10 this section shall apply when collateral is released to a licensed  
11 reposessor. For purposes of this section, “licensed reposessor”  
12 means a licensed reposessor, licensed repossession agency, or its  
13 officers or employees pursuant to Chapter 11 (commencing with  
14 Section 7500) of Division 3 of the Business and Professions Code.

15 (b) Pursuant to Section 4022, a vehicle obtained by a licensed  
16 reposessor as a release of collateral is exempt from registration  
17 for purposes of the reposessor removing the vehicle to his or her  
18 storage facility or the facility of the legal owner. A law enforcement  
19 agency, impounding authority, tow yard, storage facility, or any  
20 other person in possession of the collateral shall release the vehicle  
21 without requiring current registration and pursuant to this section.  
22 The law enforcement agency shall be open to issue a release to the  
23 legal owner or a licensed reposessor whenever the agency is open  
24 to serve the public for nonemergency business.

25 (c) The law enforcement agency and the impounding agency,  
26 including any storage facility acting on behalf of the law  
27 enforcement agency or impounding agency, shall comply with this  
28 section and shall not be liable to the registered owner for the  
29 improper release of the vehicle to the legal owner or a licensed  
30 reposessor provided the release complies with this section. A law  
31 enforcement agency shall not refuse to issue a release to a legal  
32 owner or a licensed reposessor on the grounds that it previously  
33 issued a release.

34 (d) A vehicle removed and seized for any reason shall be  
35 released to the legal owner of the vehicle or to a licensed  
36 reposessor if all of the following conditions are met:

37 (1) The legal owner is a motor vehicle dealer, bank, credit union,  
38 acceptance corporation, or other licensed financial institution  
39 legally operating in this state or is another person, not the registered  
40 owner, holding a security interest in the vehicle.

1 (2) (A) The legal owner or the licensed reposessor pays all  
 2 towing and storage fees related to the seizure of the vehicle. Any  
 3 person having possession of the vehicle shall not collect from the  
 4 legal owner of the type specified in paragraph (1) or a licensed  
 5 reposessor any administrative charges imposed pursuant to Section  
 6 22850.5 unless the legal owner voluntarily requested a poststorage  
 7 hearing.

8 (B) A person operating or in charge of a storage facility where  
 9 vehicles are stored pursuant to this section shall accept a valid  
 10 bank credit card or cash for payment of towing, storage, and related  
 11 fees by a legal owner or a licensed reposessor claiming the vehicle.  
 12 A credit card shall be in the name of the person presenting the  
 13 card. "Credit card" means "credit card" as defined in subdivision  
 14 (a) of Section 1747.02 of the Civil Code, except, for the purposes  
 15 of this section, credit card does not include a credit card issued by  
 16 a retail seller.

17 (C) A person operating or in charge of a storage facility  
 18 described in subparagraph (B) who violates subparagraph (B) shall  
 19 be civilly liable to the owner of the vehicle or to the person who  
 20 tendered the fees for four times the amount of the towing, storage,  
 21 and related fees, but not to exceed five hundred dollars (\$500).

22 (D) A person operating or in charge of a storage facility  
 23 described in subparagraph (B) shall have sufficient funds on the  
 24 premises of the primary storage facility during normal business  
 25 hours to accommodate, and make change in, a reasonable monetary  
 26 transaction.

27 (E) Credit charges for towing and storage services shall comply  
 28 with Section 1748.1 of the Civil Code. Law enforcement agencies  
 29 may include the costs of providing for payment by credit when  
 30 making agreements with towing companies on rates.

31 (3) The legal owner or licensed reposessor presents a copy of  
 32 ~~the assignment~~, *assignment or order*, as defined in subdivision (b)  
 33 of Section 7500.1 of the Business and Professions Code; a release  
 34 from the one responsible governmental agency, only if required  
 35 by the agency; a government-issued photographic identification  
 36 card; and any one of the following, as determined by the legal  
 37 owner or the licensed reposessor: a certificate of repossession for  
 38 the vehicle, a security agreement for the vehicle, or title, whether  
 39 paper or electronic, showing proof of legal ownership for the  
 40 vehicle. Any documents presented may be originals, photocopies,



1 or facsimile copies, or may be transmitted electronically. The law  
2 enforcement agency, impounding agency, or any other  
3 governmental agency, or any person acting on behalf of those  
4 agencies, shall not require any documents to be notarized. The law  
5 enforcement agency, impounding agency, or any person acting on  
6 behalf of those agencies may require the licensed reposessor to  
7 produce a photocopy or facsimile copy of its repossession agency  
8 license or registration issued pursuant to Chapter 11 (commencing  
9 with Section 7500) of Division 3 of the Business and Professions  
10 Code.

11 No administrative costs authorized under subdivision (a) of  
12 Section 22850.5 shall be charged to the legal owner, of the type  
13 specified in paragraph (1), who redeems the vehicle unless the  
14 legal owner voluntarily requests a poststorage hearing. No city,  
15 county, city and county, or state agency shall require a legal owner  
16 or a licensed reposessor to request a poststorage hearing as a  
17 requirement for release of the vehicle to the legal owner or the  
18 licensed reposessor. The law enforcement agency, impounding  
19 agency, or other governmental agency, or any person acting on  
20 behalf of those agencies, shall not require any documents other  
21 than those specified in this paragraph. The law enforcement agency,  
22 impounding agency, or other governmental agency, or any person  
23 acting on behalf of those agencies, shall not require any documents  
24 to be notarized. The legal owner or the licensed reposessor shall  
25 be given a copy of any documents he or she is required to sign,  
26 except for a vehicle evidentiary hold logbook. The law enforcement  
27 agency, impounding agency, or any person acting on behalf of  
28 those agencies, or any person in possession of the vehicle may  
29 photocopy and retain the copies of any documents presented by  
30 the legal owner or licensed reposessor.

31 (4) A failure by a storage facility to comply with any applicable  
32 conditions set forth in this subdivision shall not affect the right of  
33 the legal owner or a licensed reposessor to retrieve the vehicle,  
34 provided all conditions required of the legal owner or licensed  
35 reposessor under this subdivision are satisfied.

36 (e) ~~(1)~~—A legal owner or a licensed reposessor that obtains  
37 release of a vehicle pursuant to subdivision (d) shall not release  
38 the vehicle to the registered owner of the vehicle, the person who  
39 was listed as the registered owner when the vehicle was

1 impounded, or any agents of the registered owner, unless the  
2 registered owner is a rental car agency.

3 ~~(2) The legal owner or the licensed reposessor shall not~~  
4 ~~relinquish the vehicle to the registered owner or the person who~~  
5 ~~was listed as the registered owner when the vehicle was impounded~~  
6 ~~until the registered owner or that owner’s agent presents his or her~~  
7 ~~valid driver’s license or valid temporary driver’s license to the~~  
8 ~~legal owner or the licensed reposessor. The legal owner, licensed~~  
9 ~~reposessor, or person in possession of the vehicle shall make~~  
10 ~~every reasonable effort to ensure that the license presented is valid~~  
11 ~~and that possession of the vehicle will not be given to the driver~~  
12 ~~who was involved in the original impoundment proceeding until~~  
13 ~~the expiration of the impoundment period.~~

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

22 ~~SEC. 4.~~

23 *SEC. 9.* No reimbursement is required by this act pursuant to  
24 Section 6 of Article XIII B of the California Constitution for certain  
25 costs that may be incurred by a local agency or school district  
26 because, in that regard, this act creates a new crime or infraction,  
27 eliminates a crime or infraction, or changes the penalty for a crime  
28 or infraction, within the meaning of Section 17556 of the  
29 Government Code, or changes the definition of a crime within the  
30 meaning of Section 6 of Article XIII B of the California  
31 Constitution.

32 However, if the Commission on State Mandates determines that  
33 this act contains other costs mandated by the state, reimbursement  
34 to local agencies and school districts for those costs shall be made  
35 pursuant to Part 7 (commencing with Section 17500) of Division  
36 4 of Title 2 of the Government Code.

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