

AMENDED IN SENATE JUNE 14, 2016

AMENDED IN ASSEMBLY APRIL 18, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1859**

---

---

**Introduced by Assembly Member Gallagher**

February 10, 2016

---

---

An act to amend Sections 7500.1, 7504, 7506.7, 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~~ *or physically* recovering of collateral by means of ~~an assignment~~. *a repossession order*. The bill would define the term ~~“order”~~ *“repossession order”* as having the same meaning as “assignment” and would change references to “assignment” in the act to ~~“order.”~~ *“repossession order.”* *The bill would also define “locate” or “locating” as searching visually, by a licensee, for collateral without the use of an electronic device, including, but not limited to, a camera, scanner, or automated license plate reader. The bill would exempt an employee of a licensee who is operating an electronic device for the purpose of locating collateral or documenting the location of collateral from registration, as specified.* The bill would instead require a licensee to make a complete and accurate inventory of the personal effects in the collateral ~~that are not locked and not retrievable without a key, combination, or damage to the collateral or personal effects~~. *unless the collateral is locked and, if the collateral is locked, would require a licensee to inventory the personal effects within 15 days, if possible.* The bill would authorize a 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, *within the time period for specified notices or prior to the completion of the inventory, whichever is earlier*, if the debtor signs a specified statement. *The bill would require a licensee to give the debtor the phone number of the licensed repossession agency if the debtor claims any personal effects or personal property are missing.* 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

repossessor 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 repossessor or other specified places if the repossessor 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 repossessor.

(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~~

1 ~~the agent of any of them, to repossess any collateral, including,~~  
2 ~~but not limited to, collateral registered under the Vehicle Code~~  
3 ~~that is subject to a security agreement that contains a repossession~~  
4 ~~clause. “Assignment” or “order” also means any written~~  
5 ~~authorization by an employer to recover any collateral entrusted~~  
6 ~~to an employee or former employee in possession of the collateral.~~  
7 ~~A photocopy of an assignment or order, facsimile copy of an~~  
8 ~~assignment or order, or electronic format of an assignment or order~~  
9 ~~shall have the same force and effect as an original written~~  
10 ~~assignment or order.~~

11 ~~(e)~~

12 ~~(b) “Bureau” means the Bureau of Security and Investigative~~  
13 ~~Services.~~

14 ~~(d)~~

15 ~~(c) “Chief” means the Chief of the Bureau of Security and~~  
16 ~~Investigative Services.~~

17 ~~(e)~~

18 ~~(d) “Collateral” means any specific vehicle, trailer, boat,~~  
19 ~~recreational vehicle, motor home, appliance, or other property that~~  
20 ~~is subject to a security agreement.~~

21 ~~(f)~~

22 ~~(e) “Combustibles” means any substances or articles that are~~  
23 ~~capable of undergoing combustion or catching fire, or that are~~  
24 ~~flammable, if retained.~~

25 ~~(g)~~

26 ~~(f) “Dangerous drugs” means any controlled substances as~~  
27 ~~defined in Chapter 2 (commencing with Section 11053) of Division~~  
28 ~~10 of the Health and Safety Code.~~

29 ~~(h)~~

30 ~~(g) “Deadly weapon” means and includes any instrument or~~  
31 ~~weapon of the kind commonly known as a blackjack, slungshot,~~  
32 ~~billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or~~  
33 ~~revolver, or any other firearm, any knife having a blade longer~~  
34 ~~than five inches, any razor with an unguarded blade, and any metal~~  
35 ~~pipe or bar used or intended to be used as a club.~~

36 ~~(i)~~

37 ~~(h) “Debtor” means any person obligated under a security~~  
38 ~~agreement.~~

39 ~~(j)~~

40 ~~(i) “Department” means the Department of Consumer Affairs.~~

- 1     ~~(k)~~
- 2     (j) “Director” means the Director of Consumer Affairs.
- 3     ~~(l)~~
- 4     (k) “Electronic format” includes, but is not limited to, a text  
5 message, email, or Internet posting.
- 6     ~~(m)~~
- 7     (l) “Health hazard” means any personal effects that if retained  
8 would produce an unsanitary or unhealthful condition, or which  
9 might damage other personal effects.
- 10    ~~(n)~~
- 11    (m) “Legal owner” means a person holding a security interest  
12 in any collateral that is subject to a security agreement, a lien  
13 against any collateral, a repossession order, or an interest in any  
14 collateral that is subject to a lease agreement.
- 15    ~~(o)~~
- 16    (n) “Licensee” means an individual, partnership, limited liability  
17 company, or corporation licensed under this chapter as a  
18 repossession agency.
- 19    (o) “Locate” or “locating” means searching visually, by a  
20 licensee, for collateral without the use of an electronic device,  
21 including, but not limited to, a camera, scanner, or automated  
22 license plate reader.
- 23    (p) “Multiple licensee” means a repossession agency holding  
24 more than one repossession license under this chapter, with one  
25 fictitious trade style and ownership, conducting repossession  
26 business from additional licensed locations other than the location  
27 shown on the original license.
- 28    (q) “Person” includes any individual, partnership, limited  
29 liability company, or corporation.
- 30    (r) “Personal effects” means any property that is not the property  
31 of the legal owner.
- 32    (s) “Private building” means and includes any dwelling,  
33 outbuilding, or other enclosed structure.
- 34    (t) “Qualified certificate holder” or “qualified manager” is a  
35 person who possesses a valid qualification certificate in accordance  
36 with the provisions of Article 5 (commencing with Section 7504)  
37 and is in active control or management of, and who is a director  
38 of, the licensee’s place of business.
- 39    (u) “Registered owner” means the individual listed in the records  
40 of the Department of Motor Vehicles, or on a conditional sales

1 contract, or on a repossession assignment or order, as the registered  
2 owner.

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

4 (w) “Repossession” or “repossess” means the locating and  
5 physical or physically recovering of collateral by means of an  
6 assignment or a repossession order.

7 (x) “Repossession order” means any written authorization by  
8 the legal owner, lienholder, lessor, lessee, registered owner, or  
9 the agent of any of them, to repossess any collateral, including,  
10 but not limited to, collateral registered under the Vehicle Code  
11 that is subject to a security agreement that contains a repossession  
12 clause. “Repossession order” also means any written authorization  
13 by an employer to recover any collateral entrusted to an employee  
14 or former employee in possession of the collateral. A photocopy  
15 of a repossession order, facsimile copy of a repossession order,  
16 or electronic format of a repossession order shall have the same  
17 force and effect as an original written repossession order.

18 ~~(x)~~

19 (y) “Secured area” means and includes any fenced and locked  
20 area.

21 ~~(y)~~

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

29 ~~(z)~~

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

32 ~~(aa)~~

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

35 ~~(ab)~~

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

39 SEC. 2. Section 7504 of the Business and Professions Code is  
40 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 ~~debt collection or~~ actual collateral  
13 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~~ *institution*, or vehicle dealer, in whole or in part,  
25 applicants may offer other written certifications from other persons  
26 substantiating their experience for consideration by the director.  
27 All certifications shall include a statement that representations  
28 made are true, correct, and contain no material omissions of fact  
29 to the best knowledge and belief of the applicant or the person  
30 submitting the certification. An applicant or person submitting the  
31 certification who declares as true any material matter pursuant to  
32 this paragraph that he or she knows to be false is guilty of a  
33 misdemeanor.

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

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

8 (4) Pass the required examination.

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

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

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

22 *SEC. 3. Section 7506.7 of the Business and Professions Code*  
23 *is amended to read:*

24 7506.7. (a) Employees of a licensee who are engaged  
25 exclusively in stenographic, typing, filing, clerical, in-office skip  
26 tracing, or other office activities are not required to register under  
27 this article.

28 (b) *Employees of a licensee who are operating electronic*  
29 *devices, including, but not limited to, cameras, scanners, and*  
30 *automated license plate readers, for the purpose of locating*  
31 *collateral or documenting the location of collateral are not*  
32 *required to register under this article.*

33 ~~SEC. 3.~~

34 *SEC. 4. Section 7507.3 of the Business and Professions Code*  
35 *is amended to read:*

36 7507.3. A repossession agency shall be required to keep and  
37 maintain adequate records of all transactions, including, but not  
38 limited to, *repossession* order forms; vehicle report of repossession  
39 required by Section 28 of the Vehicle Code; vehicle condition  
40 reports, including odometer readings, if available; personal effects

1 inventory; notice of seizure; and records of all transactions  
2 pertaining to the sale of collateral that has been repossessed,  
3 including, but not limited to, bids solicited and received, cash  
4 received, deposits made to the trust account, remittances to the  
5 seller, and allocation of any moneys not so remitted to appropriate  
6 ledger accounts. Records, including bank statements of the trust  
7 account, shall be retained for a period of not less than four years  
8 and shall be available for examination by the bureau upon demand.  
9 In addition, collateral and personal effects storage areas shall be  
10 made accessible for inspection by the bureau upon demand. ~~An A~~  
11 *repossession* order form may be an original, a photocopy, a  
12 facsimile copy, or a copy stored in an electronic format.

13 ~~SEC. 4.~~

14 *SEC. 5.* Section 7507.6 of the Business and Professions Code  
15 is amended to read:

16 7507.6. (a) Within seven days after a violent act has occurred  
17 involving a licensee, or any officer, partner, qualified certificate  
18 holder, ~~registrant~~ *registrant*, or employee of a licensee, while acting  
19 within the course and scope of his or her employment or contract,  
20 that results in a police report or bodily harm or bodily injury, the  
21 licensee or the licensee's qualified certificate holder or registrant,  
22 shall mail or deliver to the chief a notice concerning the incident  
23 upon a form provided by the bureau.

24 (b) Within seven days after the occurrence of a violent act or a  
25 threatened violent act involving a licensee, or any officer, partner,  
26 qualified certificate holder, registrant, or employee of a licensee  
27 *licensee*, while acting within the course and scope of his or her  
28 employment or contract, that results in a police report or bodily  
29 harm or bodily injury, the licensee or the licensee's qualified  
30 certificate holder or registrant shall send by certified mail, return  
31 receipt requested, a notice containing information about the  
32 incident to the person or individual who made the *repossession*  
33 order. If the assignor is not the legal owner, the assignor shall  
34 notify the legal owner of the contents of the notice.

35 (c) A licensee, qualified certificate holder, or registrant may  
36 send the notice set forth in subdivision (b) for a violent act or  
37 threatened violent act even if a police report is not made or no  
38 bodily harm or bodily injury occurs. Any notice of a threatened  
39 violent act provided pursuant to subdivision (b) may only be used  
40 to notify a subsequent assignee and not for any collateral purpose.

1 Nothing in this subdivision or subdivision (b) shall be construed  
2 to provide immunity against any claim for defamation.

3 ~~SEC. 5.~~

4 *SEC. 6.* Section 7507.9 of the Business and Professions Code  
5 is amended to read:

6 7507.9. Except as otherwise provided in this section, personal  
7 effects shall be removed from the collateral, including any personal  
8 effect that is mounted but detachable from the collateral by a  
9 release mechanism. A complete and accurate inventory of the  
10 personal effects ~~that are not locked and not retrievable without a~~  
11 ~~key, combination, or damage to the collateral or personal effects~~  
12 shall be made, *unless the collateral is locked*, and the personal  
13 effects shall be labeled and stored by the licensee for a minimum  
14 of 60 days in a secure manner, except those personal effects  
15 removed by or in the presence of the debtor or the party in  
16 possession of the collateral at the time of the repossession. If the  
17 licensee or the licensee's agent cannot determine whether the  
18 property attached to the collateral is a personal effect or a part of  
19 the collateral, then that fact shall be noted on the inventory and  
20 the licensee or agent shall not be obligated to remove the item  
21 from the collateral, unless the item can be removed without the  
22 use of tools, in which case it shall be removed and inventoried.  
23 The licensee or the licensee's agent shall notify the debtor that if  
24 the debtor takes the position that an item is a personal effect, then  
25 the debtor shall contact the legal owner to resolve the issue. *If the*  
26 *collateral is locked, the licensee shall inventory the personal effects*  
27 *within 15 days, if possible.*

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

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

34 (1) Deadly weapons and dangerous drugs shall be turned over  
35 to any law enforcement agency for retention. These items shall be  
36 entered on the inventory and a notation shall be made as to the  
37 date, time, and place the deadly weapon or dangerous drug was  
38 turned over to the law enforcement agency, and a receipt from the  
39 law enforcement agency shall be maintained in the records of the  
40 repossession agency.

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

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

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

12 (d) The inventory shall include the name, address, business  
13 hours, and telephone number of the repossession agency to contact  
14 for recovering the personal effects and an itemization of all  
15 personal effects removal and storage charges that will be made by  
16 the repossession agency. The inventory shall also include the  
17 following statement: “Please be advised that the property listed  
18 on this inventory will be disposed of by the repossession agency  
19 after being held for 60 days from the date of this notice IF  
20 UNCLAIMED.”

21 (e) The inventory shall be provided to a debtor not later than  
22 48 hours after the recovery of the collateral, except that if:

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

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

29 (3) Inventory resulting from repossession of a yacht, motor  
30 home, or travel trailer is such that it shall take at least four hours  
31 to inventory, then the inventory shall be provided no later than 96  
32 hours after the recovery of the collateral. When the 96-hour period  
33 encompasses a Saturday, Sunday, or postal holiday, the inventory  
34 shall be provided no later than 120 hours after the recovery of the  
35 collateral.

36 (4) The licensee is unable to open a locked compartment that  
37 is part of the collateral, the available inventory shall be provided  
38 no later than 96 hours after the recovery of the collateral. When  
39 the 96-hour period encompasses a Saturday, Sunday, or postal

1 holiday, the inventory shall be provided no later than 120 hours  
2 after the recovery of the collateral.

3 (f) Environmental, Olympic, special interest, or other license  
4 plates issued pursuant to Article 8 (commencing with Section  
5 5000), Article 8.4 (commencing with Section 5060), or Article 8.5  
6 (commencing with Section 5100) of Chapter 1 of Division 3 of  
7 the Vehicle Code that remain the personal effects of the debtor  
8 shall be removed from the collateral and inventoried pursuant to  
9 this section. If the plates are not claimed by the debtor within 60  
10 days, they shall either (1) be effectively destroyed and the licensee  
11 shall, within 30 days thereafter, notify the Department of Motor  
12 Vehicles of their effective destruction on a form promulgated by  
13 the chief that has been approved as to form by the Director of the  
14 Department of Motor Vehicles; or (2) be retained by the licensee  
15 indefinitely to be returned to the debtor upon request, in which  
16 case the licensee shall not charge more than 60 days' storage on  
17 the plates.

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

21 (h) (1) With the consent of the licensee, the debtor may waive  
22 the preparation and presentation of an inventory if the debtor  
23 redeems the personal effects or other personal property not covered  
24 by a security interest *within the time period for the notices required*  
25 *by this section or* prior to completion of the ~~inventory~~ inventory,  
26 *whichever is earlier*, and signs a statement that reads only as  
27 follows:

28  
29 “I, [insert debtor’s name here], have received all personal effects  
30 that were in the vehicle at the time of the repossession.”  
31

32 (2) No other signature or document shall be required to waive  
33 the preparation and presentation of an inventory. ~~The document~~  
34 ~~shall be subject to the confidentiality provision of subdivision (k):~~  
35 *If the debtor claims there are personal effects or personal property*  
36 *missing, the licensee shall provide the debtor with the phone*  
37 *number of the licensed repossession agency. A licensee shall not*  
38 *require the person retrieving the personal effects to sign any other*  
39 *documents or waivers prior to the return of the personal effects.*  
40 *No other documents or signatures shall be required for the person*

1 *to receive the personal effects. Any fees paid for clerical, handling,*  
2 *administering, inventorying, or storage of personal effects are*  
3 *confidential and shall only be disclosed by the licensed*  
4 *repossession agency as ordered by a court of competent*  
5 *jurisdiction.*

6 (i) (1) If personal effects or other personal property not covered  
7 by a security agreement are to be released to someone other than  
8 the debtor, the repossession agency shall ~~request~~ *receive* written  
9 authorization to do so from the debtor.

10 (2) Subject to paragraph (1), a licensee shall not release or  
11 conspire or agree to release personal effects or other personal  
12 property not covered by a security agreement to anyone other than  
13 the debtor.

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

18 (k) The inventory or waiver of inventory, as provided in  
19 subdivision (h), shall be a confidential document. A licensee shall  
20 only disclose the contents of the inventory under the following  
21 circumstances:

22 (1) In response to the order of a court having jurisdiction to  
23 issue the order.

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

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

30 (4) To the debtor.

31 ~~(5) No other signatures, conditions, documents, or information~~  
32 ~~regarding the inventory, personal effects, or statement may be~~  
33 ~~required or given except as provided in this section or as ordered~~  
34 ~~by a court of competent jurisdiction.~~

35 (l) A licensee who has been notified that collateral will be  
36 retrieved may store personal effects or personal ~~property, in~~  
37 ~~compliance with the security standards of this chapter, property~~  
38 inside the collateral until the collateral is no longer in the  
39 possession of the licensee. If a licensee stores personal effects  
40 pursuant to this subdivision, *the notice and inventory provisions*

1 of this section shall apply, the licensee shall be liable for the  
 2 security of the personal effects, and the collateral shall not leave  
 3 the possession of be released by the licensee until all personal  
 4 effects or personal property have been removed.

5 ~~SEC. 6.~~

6 SEC. 7. Section 7507.13 of the Business and Professions Code  
 7 is amended to read:

8 7507.13. (a) A licensed repossession agency is not liable for  
 9 the act or omission of a legal owner, *debt collector*, debtor,  
 10 lienholder, lessor, lessee, registered owner, or an agent of any of  
 11 them, in making ~~an~~ a *repossession* order to it or for accepting ~~an~~  
 12 a *repossession* order from any legal owner, debtor, lienholder,  
 13 lessor, lessee, registered owner, or an agent of any of them, and is  
 14 entitled to indemnity from the legal owner, debtor, lienholder,  
 15 lessor, lessee, or registered owner for any loss, damage, cost, or  
 16 expense, including court costs and attorney’s fees, that it may  
 17 reasonably incur as a result thereof. Nothing in this subdivision  
 18 limits the liability of any person for his or her tortious conduct.

19 (b) The legal owner, debtor, lienholder, lessor, lessee, registered  
 20 owner, or the agent of any of them, is not liable for any act or  
 21 omission by a licensed repossession agency, or its agent, in carrying  
 22 out ~~an~~ a *repossession* order and is entitled to indemnity from the  
 23 repossession agency for any loss, damage, cost, or expense,  
 24 including court costs and attorney’s fees, that the legal owner,  
 25 debtor, lienholder, lessor, lessee, registered owner, or the agent of  
 26 any of them, may reasonably incur as a result thereof. Nothing in  
 27 this subdivision limits the liability of any person for his or her  
 28 tortious conduct.

29 (c) The legal owner, debtor, lienholder, lessor, lessee, registered  
 30 owner, or the agent of any of them, is not guilty of a violation of  
 31 Section 7502.1 or 7502.2 if, at the time of the *repossession* order,  
 32 the party making the *repossession* order has in its possession a  
 33 copy of the reposessor’s current, unexpired repossession agency  
 34 license, and a copy of the current, unexpired repossession agency’s  
 35 qualified manager’s certificate, and does not have actual knowledge  
 36 of any order of suspension or revocation of the license or  
 37 certificate.

38 (d) Neither a licensed repossession agency nor a legal owner,  
 39 debtor, lienholder, lessor, lessee, registered owner, or an agent of  
 40 any of them may, by any means, direct or indirect, express or

1 implied, instruct or attempt to coerce the other to violate any law,  
2 regulation, or rule regarding the recovery of any collateral,  
3 including, but not limited to, the provisions of this chapter or  
4 Section 9609 of the Commercial Code.

5 (e) A licensed repossession agency, at least annually, on or  
6 before January 31 of each year, shall provide a legal owner from  
7 which the agency accepts ~~an~~ a *repossession* order with a copy of  
8 this section, Sections 7500.2, 7507.4, 7507.115, 7507.12, and  
9 7507.125 of this code, and Section 28 of the Vehicle Code.

10 ~~SEC. 7.~~

11 *SEC. 8.* Section 7508.2 of the Business and Professions Code  
12 is amended to read:

13 7508.2. The director may assess administrative fines for any  
14 of the following prohibited acts:

15 (a) Recovering collateral or making any money demand in lieu  
16 thereof, including, but not limited to, collateral registered under  
17 the Vehicle Code, that has been sold under a security agreement  
18 before a signed or telegraphic authorization has been received from  
19 the legal owner, debtor, lienholder, lessor, or repossession agency  
20 acting on behalf of the legal owner, debtor, lienholder, or lessor  
21 of the collateral. A telephonic *repossession* order is acceptable if  
22 the legal owner, debtor, lienholder, lessor, or repossession agency  
23 acting on behalf of the legal owner, debtor, lienholder, or lessor  
24 is known to the licensee and a written authorization from the legal  
25 owner, debtor, lienholder, lessor, or repossession agency acting  
26 on behalf of the legal owner, debtor, lienholder, or lessor is  
27 received by the licensee within 10 working days or a request by  
28 the licensee for a written authorization from the legal owner,  
29 debtor, lienholder, lessor, or repossession agency acting on behalf  
30 of the legal owner, debtor, lienholder, or lessor is made in writing  
31 within 10 working days. Referrals of *repossession* orders from one  
32 licensee to another licensee are acceptable. The referral of ~~an~~ a  
33 *repossession* order shall be made under the same terms and  
34 conditions as in the original *repossession* order. The fine shall be  
35 twenty-five dollars (\$25) for each of the first five violations and  
36 one hundred dollars (\$100) for each violation thereafter, per audit.

37 (b) Using collateral or personal effects, which have been  
38 recovered, for the personal benefit of a licensee, or officer, partner,  
39 manager, registrant, or employee of a licensee. The fine shall be  
40 twenty-five dollars (\$25) for the first violation and one hundred

1 dollars (\$100) for each violation thereafter. This subdivision does  
 2 not apply to personal effects disposed of pursuant to subdivision  
 3 (c) of Section 7507.9. Nothing in this subdivision prohibits the  
 4 using or taking of personal property connected, adjoined, or affixed  
 5 to the collateral through an unbroken sequence if that use or taking  
 6 is reasonably necessary to effectuate the recovery in a safe manner  
 7 or to protect the collateral or personal effects.

8 (c) Selling collateral recovered under this chapter, or making a  
 9 demand for payment in lieu of repossession. The fine shall be two  
 10 hundred fifty dollars (\$250) for the first violation and one thousand  
 11 dollars (\$1,000) for each subsequent violation.

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

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

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

20 (g) Soliciting from the legal owner the recovery of specific  
 21 collateral registered under the Vehicle Code or under the motor  
 22 vehicle licensing laws of other states after the collateral has been  
 23 seen or located on a public street or on public or private property  
 24 without divulging the location of the vehicle. The fine shall be one  
 25 hundred dollars (\$100) for the first violation and two hundred fifty  
 26 dollars (\$250) for each violation thereafter.

27 ~~SEC. 8.~~

28 *SEC. 9.* Section 22651.03 is added to the Vehicle Code,  
 29 immediately following Section 22651, to read:

30 22651.03. (a) Notwithstanding Sections 14602.6 and 22651,  
 31 this section shall apply when collateral is released to a licensed  
 32 reposessor. For purposes of this section, “licensed reposessor”  
 33 means a licensed reposessor, licensed repossession agency, or its  
 34 officers or employees pursuant to Chapter 11 (commencing with  
 35 Section 7500) of Division 3 of the Business and Professions Code.

36 (b) Pursuant to Section 4022, a vehicle obtained by a licensed  
 37 reposessor as a release of collateral is exempt from registration  
 38 for purposes of the reposessor removing the vehicle to his or her  
 39 storage facility or the facility of the legal owner. A law enforcement  
 40 agency, impounding authority, tow yard, storage facility, or any

1 other person in possession of the collateral shall release the vehicle  
2 without requiring current registration and pursuant to this section.  
3 The law enforcement agency shall be open to issue a release to the  
4 legal owner or a licensed reposessor whenever the agency is open  
5 to serve the public for nonemergency business.

6 (c) The law enforcement agency and the impounding agency,  
7 including any storage facility acting on behalf of the law  
8 enforcement agency or impounding agency, shall comply with this  
9 section and shall not be liable to the registered owner for the  
10 improper release of the vehicle to the legal owner or a licensed  
11 reposessor provided the release complies with this section. A law  
12 enforcement agency shall not refuse to issue a release to a legal  
13 owner or a licensed reposessor on the grounds that it previously  
14 issued a release.

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

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

22 (2) (A) The legal owner or the licensed reposessor pays all  
23 towing and storage fees related to the seizure of the vehicle. Any  
24 person having possession of the vehicle shall not collect from the  
25 legal owner of the type specified in paragraph (1) or a licensed  
26 reposessor any administrative charges imposed pursuant to Section  
27 22850.5 unless the legal owner voluntarily requested a poststorage  
28 hearing.

29 (B) A person operating or in charge of a storage facility where  
30 vehicles are stored pursuant to this section shall accept a valid  
31 bank credit card or cash for payment of towing, storage, and related  
32 fees by a legal owner or a licensed reposessor claiming the vehicle.  
33 A credit card shall be in the name of the person presenting the  
34 card. "Credit card" means "credit card" as defined in subdivision  
35 (a) of Section 1747.02 of the Civil Code, except, for the purposes  
36 of this section, credit card does not include a credit card issued by  
37 a retail seller.

38 (C) A person operating or in charge of a storage facility  
39 described in subparagraph (B) who violates subparagraph (B) shall  
40 be civilly liable to the owner of the vehicle or to the person who

1 tendered the fees for four times the amount of the towing, storage,  
2 and related fees, but not to exceed five hundred dollars (\$500).

3 (D) A person operating or in charge of a storage facility  
4 described in subparagraph (B) shall have sufficient funds on the  
5 premises of the primary storage facility during normal business  
6 hours to accommodate, and make change in, a reasonable monetary  
7 transaction.

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

12 (3) The legal owner or licensed reposessor presents a copy of  
13 the ~~assignment or repossession~~ order, as defined in ~~subdivision~~  
14 ~~(b)~~ of Section 7500.1 of the Business and Professions Code; a  
15 release from the one responsible governmental ~~agency~~; *agency to*  
16 *give to the tow yard*, only if required by the agency; a  
17 government-issued photographic identification card; and any one  
18 of the following, as determined by the legal owner or the licensed  
19 reposessor: a certificate of repossession for the vehicle, a security  
20 agreement for the vehicle, or title, whether paper or electronic,  
21 showing proof of legal ownership for the vehicle. Any documents  
22 presented may be originals, photocopies, or facsimile copies, or  
23 may be transmitted electronically. The law enforcement agency,  
24 impounding agency, or any other governmental agency, or any  
25 person acting on behalf of those agencies, shall not require any  
26 documents to be notarized. The law enforcement agency,  
27 impounding agency, or any person acting on behalf of those  
28 agencies may require the licensed reposessor to produce a  
29 photocopy or facsimile copy of its repossession agency license or  
30 registration issued pursuant to Chapter 11 (commencing with  
31 Section 7500) of Division 3 of the Business and Professions Code.

32 No administrative costs authorized under subdivision (a) of  
33 Section 22850.5 shall be charged to the legal owner, of the type  
34 specified in paragraph (1), who redeems the vehicle unless the  
35 legal owner voluntarily requests a poststorage hearing. No city,  
36 county, city and county, or state agency shall require a legal owner  
37 or a licensed reposessor to request a poststorage hearing as a  
38 requirement for release of the vehicle to the legal owner or the  
39 licensed reposessor. The law enforcement agency, impounding  
40 agency, or other governmental agency, or any person acting on

1 behalf of those agencies, shall not require any documents other  
2 than those specified in this paragraph. The law enforcement agency,  
3 impounding agency, or other governmental agency, or any person  
4 acting on behalf of those agencies, shall not require any documents  
5 to be notarized. The legal owner or the licensed reposessor shall  
6 be given a copy of any documents he or she is required to sign,  
7 except for a vehicle evidentiary hold logbook. The law enforcement  
8 agency, impounding agency, or any person acting on behalf of  
9 those agencies, or any person in possession of the vehicle may  
10 photocopy and retain the copies of any documents presented by  
11 the legal owner or licensed reposessor.

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

17 (e) A legal owner or a licensed reposessor that obtains release  
18 of a vehicle pursuant to subdivision (d) shall not release the vehicle  
19 to the registered owner of the vehicle, the person who was listed  
20 as the registered owner when the vehicle was impounded, or any  
21 agents of the registered owner, unless the registered owner is a  
22 rental car agency.

23 (f) The legal owner of collateral shall, by operation of law and  
24 without requiring further action, indemnify and hold harmless a  
25 law enforcement agency, city, county, city and county, the state,  
26 a tow yard, storage facility, or an impounding yard from a claim  
27 arising out of the release of the collateral to a licensed reposessor  
28 and from any damage to the collateral after its release, including  
29 reasonable attorney's fees and costs associated with defending a  
30 claim, if the collateral was released in compliance with this section.

31 ~~SEC. 9.~~

32 *SEC. 10.* No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution for certain  
34 costs that may be incurred by a local agency or school district  
35 because, in that regard, this act creates a new crime or infraction,  
36 eliminates a crime or infraction, or changes the penalty for a crime  
37 or infraction, within the meaning of Section 17556 of the  
38 Government Code, or changes the definition of a crime within the  
39 meaning of Section 6 of Article XIII B of the California  
40 Constitution.

1     However, if the Commission on State Mandates determines that  
2     this act contains other costs mandated by the state, reimbursement  
3     to local agencies and school districts for those costs shall be made  
4     pursuant to Part 7 (commencing with Section 17500) of Division  
5     4 of Title 2 of the Government Code.

O