

AMENDED IN SENATE JUNE 21, 2016

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 provides for the issuance of qualification certificates, required for the management of the places of business of licensed repossession agencies, to applicants who meet certain requirements, including, among others, 2 years of experience in recovering collateral as a registrant pursuant to the act or as a salaried employee of a financial institution or vehicle dealer, as specified.* That act makes a violation of any of its provisions a crime.

This bill, among other things, would exclude experience as an employee of a financial institution from experience that may be applied toward that requirement for qualification certification. The bill would define the terms “repossession” or “repossess” to mean the locating or physically recovering of collateral by means of a repossession order. The bill would define the term “repossession order” as having the same meaning as “assignment” and would change references to “assignment” in the act to “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 ~~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.

Under the Collateral Recovery Act, licensed repossession agencies are not liable for specified acts or omissions of a legal owner, debtor, lienholder, lessor, lessee, registered owner, or agent of any of them, and are entitled to indemnity from the legal owner, debtor, lienholder, lessor, lessee, or registered owner for losses incurred as a result of those acts or omissions. Under the act, those persons or their agents are not liable for acts or omissions by a licensed repossession agency or its agent in carrying out a repossession order and are entitled to indemnity from the licensed repossession agency for losses incurred as a result of those acts or omissions, as specified.

This bill would extend the above-described provisions applicable to a legal owner, debtor, lienholder, lessor, lessee, or registered owner to a debt collector.

(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) "Bureau" means the Bureau of Security and Investigative
- 10 Services.
- 11 (c) "Chief" means the Chief of the Bureau of Security and
- 12 Investigative Services.
- 13 (d) "Collateral" means any specific vehicle, trailer, boat,
- 14 recreational vehicle, motor home, appliance, or other property that
- 15 is subject to a security agreement.
- 16 (e) "Combustibles" means any substances or articles that are
- 17 capable of undergoing combustion or catching fire, or that are
- 18 flammable, if retained.
- 19 (f) "Dangerous drugs" means any controlled substances as
- 20 defined in Chapter 2 (commencing with Section 11053) of Division
- 21 10 of the Health and Safety Code.
- 22 (g) "Deadly weapon" means and includes any instrument or
- 23 weapon of the kind commonly known as a blackjack, slungshot,
- 24 billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or
- 25 revolver, or any other firearm, any knife having a blade longer
- 26 than five inches, any razor with an unguarded blade, and any metal
- 27 pipe or bar used or intended to be used as a club.
- 28 (h) "Debtor" means any person obligated under a security
- 29 agreement.
- 30 (i) "Department" means the Department of Consumer Affairs.
- 31 (j) "Director" means the Director of Consumer Affairs.

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

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

12 (y) “Secured area” means and includes any fenced and locked
 13 area.

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

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

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

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

28 SEC. 2. Section 7504 of the Business and Professions Code is
 29 amended to read:

30 7504. (a) Except as otherwise provided in this chapter, an
 31 applicant for a qualification certificate shall comply with all of the
 32 following:

- 33 (1) Be at least 18 years of age.
- 34 (2) Have been, for at least two years of lawful experience, during
 35 the five years preceding the date on which his or her application
 36 is filed, a registrant or have had two years of lawful experience in
 37 recovering collateral within this state. Lawful experience means
 38 experience in recovering collateral as a registrant pursuant to this
 39 chapter or as a salaried employee of a ~~financial institution or~~

1 vehicle dealer. Lawful experience does not include any employment
2 performing work other than actual collateral recovery.

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

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

22 (3) Complete and forward to the bureau a qualified certificate
23 holder application which shall be on a form prescribed by the
24 director and signed by the applicant. An applicant who declares
25 as true any material matter pursuant to this paragraph that he or
26 she knows to be false is guilty of a misdemeanor. The application
27 shall be accompanied by two recent photographs of the applicant,
28 of a type prescribed by the director, and two classifiable sets of
29 his or her fingerprints. The residence address, residence telephone
30 number, and driver's license number of each qualified certificate
31 holder or applicant for a qualification certificate, if requested, shall
32 be confidential pursuant to the Information Practices Act of 1977
33 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
34 4 of Division 3 of the Civil Code) and shall not be released to the
35 public.

36 (4) Pass the required examination.

37 (5) Pay the required application and examination fees to the
38 bureau.

39 (b) Upon the issuance of the initial qualification certificate or
40 renewal qualification certificate, the bureau shall issue to the

1 certificate holder a suitable pocket identification card which
2 includes a photograph of the certificate holder. The photograph
3 shall be of a size prescribed by the bureau. The card shall contain
4 the name of the licensee with whom the certificate holder is
5 employed.

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

10 SEC. 3. Section 7506.7 of the Business and Professions Code
11 is amended to read:

12 7506.7. (a) Employees of a licensee who are engaged
13 exclusively in stenographic, typing, filing, clerical, ~~in-office~~ ~~skip~~
14 ~~training~~, or other office activities are not required to register under
15 this article.

16 (b) Employees of a licensee who are operating electronic
17 devices, including, but not limited to, cameras, scanners, and
18 automated license plate readers, for the purpose of locating
19 collateral or documenting the location of collateral are not required
20 to register under this article.

21 SEC. 4. 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, repossession 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. A
38 repossession order form may be an original, a photocopy, a
39 facsimile copy, or a copy stored in an electronic format.

1 SEC. 5. 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 repossession 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. 6. Section 7507.9 of the Business and Professions Code
31 is amended to read:

32 7507.9. Except as otherwise provided in this section, personal
33 effects shall be removed from the collateral, including any personal
34 effect that is mounted but detachable from the collateral by a
35 release mechanism. A complete and accurate inventory of the
36 personal effects shall be made, ~~unless the collateral is locked,~~ and
37 the personal effects shall be labeled and stored by the licensee for
38 a minimum of 60 days in a secure manner, except those personal
39 effects removed by or in the presence of the debtor or the party in
40 possession of the collateral at the time of the repossession. If the

1 licensee or the licensee's agent cannot determine whether the
2 property attached to the collateral is a personal effect or a part of
3 the collateral, then that fact shall be noted on the inventory and
4 the licensee or agent shall not be obligated to remove the item
5 from the collateral, unless the item can be removed without the
6 use of tools, in which case it shall be removed and inventoried.
7 The licensee or the licensee's agent shall notify the debtor that if
8 the debtor takes the position that an item is a personal effect, then
9 the debtor shall contact the legal owner to resolve the issue. If the
10 collateral is locked, the licensee shall inventory the personal effects
11 within 15 days, if possible.

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

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

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

25 (2) Combustibles shall be inventoried and noted as "disposed
26 of, dangerous combustible," and the item shall be disposed of in
27 a reasonable and safe manner.

28 (3) Food and other health hazard items shall be inventoried and
29 noted as "disposed of, health hazard," and disposed of in a
30 reasonable and safe manner.

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

36 (d) The inventory shall include the name, address, business
37 hours, and telephone number of the repossession agency to contact
38 for recovering the personal effects and an itemization of all
39 personal effects removal and storage charges that will be made by
40 the repossession agency. The inventory shall also include the

1 following statement: “Please be advised that the property listed
2 on this inventory will be disposed of by the repossession agency
3 after being held for 60 days from the date of this notice IF
4 UNCLAIMED.”

5 (e) The inventory shall be provided to a debtor not later than
6 48 hours after the recovery of the collateral, except that if:

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

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

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

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

26 (f) Environmental, Olympic, special interest, or other license
27 plates issued pursuant to Article 8 (commencing with Section
28 5000), Article 8.4 (commencing with Section 5060), or Article 8.5
29 (commencing with Section 5100) of Chapter 1 of Division 3 of
30 the Vehicle Code that remain the personal effects of the debtor
31 shall be removed from the collateral and inventoried pursuant to
32 this section. If the plates are not claimed by the debtor within 60
33 days, they shall either (1) be effectively destroyed and the licensee
34 shall, within 30 days thereafter, notify the Department of Motor
35 Vehicles of their effective destruction on a form promulgated by
36 the chief that has been approved as to form by the Director of the
37 Department of Motor Vehicles; or (2) be retained by the licensee
38 indefinitely to be returned to the debtor upon request, in which
39 case the licensee shall not charge more than 60 days’ storage on
40 the plates.

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

4 (h) (1) With the consent of the licensee, the debtor may waive
5 the preparation and presentation of an inventory if the debtor
6 redeems the personal effects or other personal property not covered
7 by a security interest within the time period for the notices required
8 by this section or prior to completion of the inventory, whichever
9 is earlier, and signs a statement that reads only as follows:

10
11 “I, [insert debtor’s name here], have received all personal effects
12 that were in the vehicle at the time of the repossession.”
13

14 (2) No other signature or document shall be required to waive
15 the preparation and presentation of an inventory. If the debtor
16 claims there are personal effects or personal property missing, the
17 licensee shall provide the debtor with the phone number of the
18 licensed repossession agency. A licensee shall not require the
19 person retrieving the personal effects to sign any other documents
20 or waivers prior to the return of the personal effects. No other
21 documents or signatures shall be required for the person to receive
22 the personal effects. Any fees paid for clerical, handling,
23 administering, inventorying, or storage of personal effects are
24 confidential and shall only be disclosed by the licensed
25 repossession agency as ordered by a court of competent
26 jurisdiction.

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

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

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

39 (k) The inventory or waiver of inventory, as provided in
40 subdivision (h), shall be a confidential document. A licensee shall

1 only disclose the contents of the inventory under the following
2 circumstances:

3 (1) In response to the order of a court having jurisdiction to
4 issue the order.

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

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

11 (4) To the debtor.

12 (l) A licensee who has been notified that collateral will be
13 retrieved may store personal effects or personal property inside
14 the collateral until the collateral is no longer in the possession of
15 the licensee. If a licensee stores personal effects pursuant to this
16 subdivision, the notice and inventory provisions of this section
17 shall apply, the licensee shall be liable for the security of the
18 personal effects, and the collateral shall not be released by the
19 licensee until all personal effects or personal property have been
20 removed.

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

23 7507.13. (a) A licensed repossession agency is not liable for
24 the act or omission of a legal owner, debt collector, debtor,
25 lienholder, lessor, lessee, registered owner, or an agent of any of
26 them, in making a repossession order to it or for accepting a
27 repossession order from any legal owner, *debt collector*, debtor,
28 lienholder, lessor, lessee, registered owner, or an agent of any of
29 them, and is entitled to indemnity from the legal owner, *debt*
30 *collector*, debtor, lienholder, lessor, lessee, or registered owner for
31 any loss, damage, cost, or expense, including court costs and
32 attorney's fees, that it may reasonably incur as a result thereof.
33 Nothing in this subdivision limits the liability of any person for
34 his or her tortious conduct.

35 (b) The legal owner, *debt collector*, debtor, lienholder, lessor,
36 lessee, registered owner, or the agent of any of them, is not liable
37 for any act or omission by a licensed repossession agency, or its
38 agent, in carrying out a repossession order and is entitled to
39 indemnity from the repossession agency for any loss, damage,
40 cost, or expense, including court costs and attorney's fees, that the

1 legal owner, *debt collector*, debtor, lienholder, lessor, lessee,
2 registered owner, or the agent of any of them, may reasonably
3 incur as a result thereof. Nothing in this subdivision limits the
4 liability of any person for his or her tortious conduct.

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

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

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

26 SEC. 8. Section 7508.2 of the Business and Professions Code
27 is amended to read:

28 7508.2. The director may assess administrative fines for any
29 of the following prohibited acts:

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

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

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

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

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

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

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

35 (g) Soliciting from the legal owner the recovery of specific
36 collateral registered under the Vehicle Code or under the motor
37 vehicle licensing laws of other states after the collateral has been
38 seen or located on a public street or on public or private property
39 without divulging the location of the vehicle. The fine shall be one

1 hundred dollars (\$100) for the first violation and two hundred fifty
 2 dollars (\$250) for each violation thereafter.

3 SEC. 9. Section 22651.03 is added to the Vehicle Code,
 4 immediately following Section 22651, to read:

5 22651.03. (a) Notwithstanding Sections 14602.6 and 22651,
 6 this section shall apply when collateral is released to a licensed
 7 reposessor. For purposes of this section, “licensed reposessor”
 8 means a licensed reposessor, licensed repossession agency, or its
 9 officers or employees pursuant to Chapter 11 (commencing with
 10 Section 7500) of Division 3 of the Business and Professions Code.

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

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

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

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

37 (2) (A) The legal owner or the licensed reposessor pays all
 38 towing and storage fees related to the seizure of the vehicle. Any
 39 person having possession of the vehicle shall not collect from the
 40 legal owner of the type specified in paragraph (1) or a licensed

1 reposessor any administrative charges imposed pursuant to Section
2 22850.5 unless the legal owner voluntarily requested a poststorage
3 hearing.

4 (B) A person operating or in charge of a storage facility where
5 vehicles are stored pursuant to this section shall accept a valid
6 bank credit card or cash for payment of towing, storage, and related
7 fees by a legal owner or a licensed reposessor claiming the vehicle.

8 A credit card shall be in the name of the person presenting the
9 card. "Credit card" means "credit card" as defined in subdivision
10 (a) of Section 1747.02 of the Civil Code, except, for the purposes
11 of this section, credit card does not include a credit card issued by
12 a retail seller.

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

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

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

27 (3) The legal owner or licensed reposessor presents a copy of
28 the repossession order, as defined in Section 7500.1 of the Business
29 and Professions Code; a release from the one responsible
30 governmental agency to give to the tow yard, only if required by
31 the agency; a government-issued photographic identification card;
32 and any one of the following, as determined by the legal owner or
33 the licensed reposessor: a certificate of repossession for the
34 vehicle, a security agreement for the vehicle, or title, whether paper
35 or electronic, showing proof of legal ownership for the vehicle.
36 Any documents presented may be originals, photocopies, or
37 facsimile copies, or may be transmitted electronically. The law
38 enforcement agency, impounding agency, or any other
39 governmental agency, or any person acting on behalf of those
40 agencies, shall not require any documents to be notarized. The law

1 enforcement agency, impounding agency, or any person acting on
2 behalf of those agencies may require the licensed reposessor to
3 produce a photocopy or facsimile copy of its repossession agency
4 license or registration issued pursuant to Chapter 11 (commencing
5 with Section 7500) of Division 3 of the Business and Professions
6 Code.

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

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

32 (e) A legal owner or a licensed reposessor that obtains release
33 of a vehicle pursuant to subdivision (d) shall not release the vehicle
34 to the registered owner of the vehicle, the person who was listed
35 as the registered owner when the vehicle was impounded, or any
36 agents of the registered owner, unless the registered owner is a
37 rental car agency.

38 (f) The legal owner of collateral shall, by operation of law and
39 without requiring further action, indemnify and hold harmless a
40 law enforcement agency, city, county, city and county, the state,

1 a tow yard, storage facility, or an impounding yard from a claim
2 arising out of the release of the collateral to a licensed reposessor
3 and from any damage to the collateral after its release, including
4 reasonable attorney's fees and costs associated with defending a
5 claim, if the collateral was released in compliance with this section.

6 SEC. 10. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution for certain
8 costs that may be incurred by a local agency or school district
9 because, in that regard, this act creates a new crime or infraction,
10 eliminates a crime or infraction, or changes the penalty for a crime
11 or infraction, within the meaning of Section 17556 of the
12 Government Code, or changes the definition of a crime within the
13 meaning of Section 6 of Article XIII B of the California
14 Constitution.

15 However, if the Commission on State Mandates determines that
16 this act contains other costs mandated by the state, reimbursement
17 to local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.