

AMENDED IN SENATE AUGUST 2, 2016

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 and,~~ *bill*, 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 requires that a vehicle removed or seized by a peace officer pursuant to specified provisions of law be impounded for 30 days.

This bill would authorize a law enforcement agency to require a licensed reposessor to provide a signed acknowledgment that the repossessed vehicle impounded under those provisions will not be released to the registered owner prior to the expiration of the 30-day period.

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 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) “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.

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

7 (h) “Debtor” means any person obligated under a security
8 agreement.

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

10 (j) “Director” means the Director of Consumer Affairs.

11 (k) “Electronic format” includes, but is not limited to, a text
12 message, email, or Internet posting.

13 (l) “Health hazard” means any personal effects that if retained
14 would produce an unsanitary or unhealthful condition, or which
15 might damage other personal effects.

16 (m) “Legal owner” means a person holding a security interest
17 in any collateral that is subject to a security agreement, a lien
18 against any collateral, a repossession order, or an interest in any
19 collateral that is subject to a lease agreement.

20 (n) “Licensee” means an individual, partnership, limited liability
21 company, or corporation licensed under this chapter as a
22 repossession agency.

23 (o) “Locate” or “locating” means searching visually, by a
24 licensee, for collateral without the use of an electronic device,
25 including, but not limited to, a camera, scanner, or automated
26 license plate reader.

27 (p) “Multiple licensee” means a repossession agency holding
28 more than one repossession license under this chapter, with one
29 fictitious trade style and ownership, conducting repossession
30 business from additional licensed locations other than the location
31 shown on the original license.

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

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

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

38 (t) “Qualified certificate holder” or “qualified manager” is a
39 person who possesses a valid qualification certificate in accordance
40 with the provisions of Article 5 (commencing with Section 7504)

1 and is in active control or management of, and who is a director
2 of, the licensee's place of business.

3 (u) "Registered owner" means the individual listed in the records
4 of the Department of Motor Vehicles, or on a conditional sales
5 contract, or on a repossession order, as the registered owner.

6 (v) "Registrant" means a person registered under this chapter.

7 (w) "Repossession" or "repossess" means the locating or
8 physically recovering of collateral by means of a repossession
9 order.

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

21 (y) "Secured area" means and includes any fenced and locked
22 area.

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

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

32 (ab) "Violent act" means any act that results in bodily harm or
33 injury to any party involved.

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

37 SEC. 2. Section 7504 of the Business and Professions Code is
38 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 vehicle dealer. Lawful
11 experience does not include any employment performing work
12 other than actual collateral recovery.

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

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

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

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

6 (4) Pass the required examination.

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

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

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

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

22 7506.7. (a) Employees of a licensee who are engaged
23 exclusively in stenographic, typing, filing, clerical, or other office
24 activities are not required to register under this article.

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

30 SEC. 4. Section 7507.3 of the Business and Professions Code
31 is amended to read:

32 7507.3. A repossession agency shall be required to keep and
33 maintain adequate records of all transactions, including, but not
34 limited to, repossession order forms; vehicle report of repossession
35 required by Section 28 of the Vehicle Code; vehicle condition
36 reports, including odometer readings, if available; personal effects
37 inventory; notice of seizure; and records of all transactions
38 pertaining to the sale of collateral that has been repossessed,
39 including, but not limited to, bids solicited and received, cash
40 received, deposits made to the trust account, remittances to the

1 seller, and allocation of any moneys not so remitted to appropriate
2 ledger accounts. Records, including bank statements of the trust
3 account, shall be retained for a period of not less than four years
4 and shall be available for examination by the bureau upon demand.
5 In addition, collateral and personal effects storage areas shall be
6 made accessible for inspection by the bureau upon demand. A
7 repossession order form may be an original, a photocopy, a
8 facsimile copy, or a copy stored in an electronic format.

9 SEC. 5. Section 7507.6 of the Business and Professions Code
10 is amended to read:

11 7507.6. (a) Within seven days after a violent act has occurred
12 involving a licensee, or any officer, partner, qualified certificate
13 holder, registrant, or employee of a licensee, while acting within
14 the course and scope of his or her employment or contract, that
15 results in a police report or bodily harm or bodily injury, the
16 licensee or the licensee's qualified certificate holder or registrant,
17 shall mail or deliver to the chief a notice concerning the incident
18 upon a form provided by the bureau.

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

30 (c) A licensee, qualified certificate holder, or registrant may
31 send the notice set forth in subdivision (b) for a violent act or
32 threatened violent act even if a police report is not made or no
33 bodily harm or bodily injury occurs. Any notice of a threatened
34 violent act provided pursuant to subdivision (b) may only be used
35 to notify a subsequent assignee and not for any collateral purpose.
36 Nothing in this subdivision or subdivision (b) shall be construed
37 to provide immunity against any claim for defamation.

38 SEC. 6. Section 7507.9 of the Business and Professions Code
39 is amended to read:

1 7507.9. Except as otherwise provided in this section, personal
2 effects shall be removed from the collateral, including any personal
3 effect that is mounted but detachable from the collateral by a
4 release mechanism. A complete and accurate inventory of the
5 personal effects shall be made, and the personal effects shall be
6 labeled and stored by the licensee for a minimum of 60 days in a
7 secure manner, except those personal effects removed by or in the
8 presence of the debtor or the party in possession of the collateral
9 at the time of the repossession. If the licensee or the licensee's
10 agent cannot determine whether the property attached to the
11 collateral is a personal effect or a part of the collateral, then that
12 fact shall be noted on the inventory and the licensee or agent shall
13 not be obligated to remove the item from the collateral, unless the
14 item can be removed without the use of tools, in which case it shall
15 be removed and inventoried. The licensee or the licensee's agent
16 shall notify the debtor that if the debtor takes the position that an
17 item is a personal effect, then the debtor shall contact the legal
18 owner to resolve the issue. If the collateral is locked, the licensee
19 shall inventory the personal effects within 15 days, if possible.

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

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

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

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

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

39 (c) Personal effects may be disposed of after being held for at
40 least 60 days. The inventory, and adequate information as to how,

1 when, and to whom the personal effects were disposed of, shall
2 be filed in the permanent records of the licensee and retained for
3 four years.

4 (d) The inventory shall include the name, address, business
5 hours, and telephone number of the repossession agency to contact
6 for recovering the personal effects and an itemization of all
7 personal effects removal and storage charges that will be made by
8 the repossession agency. The inventory shall also include the
9 following statement: “Please be advised that the property listed
10 on this inventory will be disposed of by the repossession agency
11 after being held for 60 days from the date of this notice IF
12 UNCLAIMED.”

13 (e) The inventory shall be provided to a debtor not later than
14 48 hours after the recovery of the collateral, except that if:

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

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

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

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

34 (f) Environmental, Olympic, special interest, or other license
35 plates issued pursuant to Article 8 (commencing with Section
36 5000), Article 8.4 (commencing with Section 5060), or Article 8.5
37 (commencing with Section 5100) of Chapter 1 of Division 3 of
38 the Vehicle Code that remain the personal effects of the debtor
39 shall be removed from the collateral and inventoried pursuant to
40 this section. If the plates are not claimed by the debtor within 60

1 days, they shall either (1) be effectively destroyed and the licensee
2 shall, within 30 days thereafter, notify the Department of Motor
3 Vehicles of their effective destruction on a form promulgated by
4 the chief that has been approved as to form by the Director of the
5 Department of Motor Vehicles; or (2) be retained by the licensee
6 indefinitely to be returned to the debtor upon request, in which
7 case the licensee shall not charge more than 60 days' storage on
8 the plates.

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

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

18
19 "I, [insert debtor's name here], have received all personal effects
20 that were in the vehicle at the time of the repossession."
21

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

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

39 (2) Subject to paragraph (1), a licensee shall not release or
40 conspire or agree to release personal effects or other personal

1 property not covered by a security agreement to anyone other than
2 the debtor.

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

7 (k) The inventory or waiver of inventory, as provided in
8 subdivision (h), shall be a confidential document. A licensee shall
9 only disclose the contents of the inventory under the following
10 circumstances:

11 (1) In response to the order of a court having jurisdiction to
12 issue the order.

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

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

19 (4) To the debtor.

20 (l) A licensee who has been notified that collateral will be
21 retrieved may store personal effects or personal property inside
22 the collateral until the collateral is no longer in the possession of
23 the licensee. If a licensee stores personal effects pursuant to this
24 subdivision, the notice and inventory provisions of this section
25 shall apply, the licensee shall be liable for the security of the
26 personal effects, and the collateral shall not be released by the
27 licensee until all personal effects or personal property have been
28 removed.

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

31 7507.13. (a) A licensed repossession agency is not liable for
32 the act or omission of a legal owner, debt collector, debtor,
33 lienholder, lessor, lessee, registered owner, or an agent of any of
34 them, in making a repossession order to it or for accepting a
35 repossession order from any legal owner, debt collector, debtor,
36 lienholder, lessor, lessee, registered owner, or an agent of any of
37 them, and is entitled to indemnity from the legal owner, debt
38 collector, debtor, lienholder, lessor, lessee, or registered owner for
39 any loss, damage, cost, or expense, including court costs and
40 attorney's fees, that it may reasonably incur as a result thereof.

1 Nothing in this subdivision limits the liability of any person for
2 his or her tortious conduct.

3 (b) The legal owner, debt collector, debtor, lienholder, lessor,
4 lessee, registered owner, or the agent of any of them, is not liable
5 for any act or omission by a licensed repossession agency, or its
6 agent, in carrying out a repossession order and is entitled to
7 indemnity from the repossession agency for any loss, damage,
8 cost, or expense, including court costs and attorney’s fees, that the
9 legal owner, debt collector, debtor, lienholder, lessor, lessee,
10 registered owner, or the agent of any of them, may reasonably
11 incur as a result thereof. Nothing in this subdivision limits the
12 liability of any person for his or her tortious conduct.

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

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

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

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

36 7508.2. The director may assess administrative fines for any
37 of the following prohibited acts:

38 (a) Recovering collateral or making any money demand in lieu
39 thereof, including, but not limited to, collateral registered under
40 the Vehicle Code, that has been sold under a security agreement

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (2) (A) The legal owner or the licensed reposessor pays all
6 towing and storage fees related to the seizure of the vehicle. Any
7 person having possession of the vehicle shall not collect from the
8 legal owner of the type specified in paragraph (1) or a licensed
9 reposessor any administrative charges imposed pursuant to Section
10 22850.5 unless the legal owner voluntarily requested a poststorage
11 hearing.

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

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

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

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

35 (3) The legal owner or licensed reposessor presents a copy of
36 the repossession order, as defined in Section 7500.1 of the Business
37 and Professions Code; a release from the one responsible
38 governmental agency to give to the tow yard, only if required by
39 the agency; a government-issued photographic identification card;
40 and any one of the following, as determined by the legal owner or

1 the licensed reposessor: a certificate of repossession for the
2 vehicle, a security agreement for the vehicle, or title, whether paper
3 or electronic, showing proof of legal ownership for the vehicle.
4 Any documents presented may be originals, photocopies, or
5 facsimile copies, or may be transmitted electronically. The law
6 enforcement agency, impounding agency, or any other
7 governmental agency, or any person acting on behalf of those
8 agencies, shall not require any documents to be notarized. The law
9 enforcement agency, impounding agency, or any person acting on
10 behalf of those agencies may require the licensed reposessor to
11 produce a photocopy or facsimile copy of its repossession agency
12 license or registration issued pursuant to Chapter 11 (commencing
13 with Section 7500) of Division 3 of the Business and Professions
14 Code.

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

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

1 (e) A legal owner or a licensed reposessor that obtains release
2 of a vehicle pursuant to subdivision (d) shall not release the vehicle
3 to the registered owner of the vehicle, the person who was listed
4 as the registered owner when the vehicle was impounded, or any
5 agents of the registered owner, unless the registered owner is a
6 rental car agency.

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

15 (g) *A law enforcement agency may require a signed*
16 *acknowledgment from a licensed reposessor stating that the*
17 *repossessed vehicle impounded pursuant to Section 14602.6 for*
18 *30 days will not, under any circumstances, be released by the*
19 *licensed reposessor to the registered owner prior to the expiration*
20 *of the 30-day period without the law enforcement agency's*
21 *approval.*

22 SEC. 10. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution for certain
24 costs that may be incurred by a local agency or school district
25 because, in that regard, this act creates a new crime or infraction,
26 eliminates a crime or infraction, or changes the penalty for a crime
27 or infraction, within the meaning of Section 17556 of the
28 Government Code, or changes the definition of a crime within the
29 meaning of Section 6 of Article XIII B of the California
30 Constitution.

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