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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~~ and 7507.13 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~~: *recovery*.

(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 *lawful* 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. *and provides that lawful experience does not include employment performing work other than skip tracing, debt collection, or actual collateral recovery.* That act makes a violation of any of its provisions a crime.

~~This bill, among other things, bill 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. remove debt collection from the employment included under lawful experience. The bill would change the definition of assignment to also include any written authorization to skip trace or locate, 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, 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, “assignment,” and would make conforming changes. The bill would delete the definition for the term “repossession.” By expanding the scope of a crime, this bill would 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.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

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 “repossession order” means any written
- 10 authorization by the legal owner, lienholder, lessor, lessee, or

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

12 ~~(b)~~

13 (c) "Bureau" means the Bureau of Security and Investigative
14 Services.

15 ~~(e)~~

16 (d) "Chief" means the Chief of the Bureau of Security and
17 Investigative Services.

18 ~~(d)~~

19 (e) "Collateral" means any specific vehicle, trailer, boat,
20 recreational vehicle, motor home, appliance, or other property that
21 is subject to a security agreement.

22 ~~(e)~~

23 (f) "Combustibles" means any substances or articles that are
24 capable of undergoing combustion or catching fire, or that are
25 flammable, if retained.

26 ~~(f)~~

27 (g) "Dangerous drugs" means any controlled substances as
28 defined in Chapter 2 (commencing with Section 11053) of Division
29 10 of the Health and Safety Code.

30 ~~(g)~~

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

37 ~~(h)~~

38 (i) "Debtor" means any person obligated under a security
39 agreement.

40 ~~(i)~~

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

1 (u) “Registered owner” means the individual listed in the records
2 of the Department of Motor Vehicles, ~~or on a conditional sales~~
3 ~~contract, or on an assignment or a repossession order, as the~~
4 registered owner.

5 (v) “Registrant” means a person registered under this chapter.
6 ~~(w) “Repossession” or “repossess” means the locating or~~
7 ~~physically recovering of collateral by means of a repossession~~
8 ~~order.~~

9 ~~(x)~~
10 ~~“Repossession order” means any written authorization by the~~
11 ~~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)~~
22 (w) “Secured area” means and includes any fenced and locked
23 area.

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

32 ~~(aa)~~
33 (y) “Services” means any duty or labor to be rendered by one
34 person for another.

35 ~~(ab)~~
36 (z) “Violent act” means any act that results in bodily harm or
37 injury to any party involved.

38 ~~(ae)~~

1 (aa) The amendments made to this section by Chapter 418 of
2 the Statutes of 2006 shall not be deemed to exempt any person
3 from the provisions of this chapter.

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

6 7504. (a) Except as otherwise provided in this chapter, an
7 applicant for a qualification certificate shall comply with all of the
8 following:

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

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

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

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

35 An applicant or person submitting the certification who declares
36 as true any material matter pursuant to this paragraph that he or
37 she knows to be false is guilty of a misdemeanor.

38 (3) Complete and forward to the bureau a qualified certificate
39 holder application which shall be on a form prescribed by the
40 director and signed by the applicant. An applicant who declares

1 as true any material matter pursuant to this paragraph that he or
2 she knows to be false is guilty of a misdemeanor. The application
3 shall be accompanied by two recent photographs of the applicant,
4 of a type prescribed by the director, and two classifiable sets of
5 his or her fingerprints. The residence address, residence telephone
6 number, and driver's license number of each qualified certificate
7 holder or applicant for a qualification certificate, if requested, shall
8 be confidential pursuant to the Information Practices Act of 1977
9 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part
10 4 of Division 3 of the Civil Code) and shall not be released to the
11 public.

12 (4) Pass the required examination.

13 (5) Pay the required application and examination fees to the
14 bureau.

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

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

26 ~~SEC. 3.— Section 7506.7 of the Business and Professions Code~~
27 ~~is amended to read:~~

28 ~~7506.7. (a) Employees of a licensee who are engaged~~
29 ~~exclusively in stenographic, typing, filing, clerical, or other office~~
30 ~~activities are not required to register under this article.~~

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

36 ~~SEC. 4.~~

37 ~~SEC. 3. Section 7507.3 of the Business and Professions Code~~
38 ~~is amended to read:~~

39 ~~7507.3. A repossession agency shall be required to keep and~~
40 ~~maintain adequate records of all transactions, including, but not~~

1 limited to, *assignment or* repossession order forms; vehicle report
2 of repossession required by Section 28 of the Vehicle Code; vehicle
3 condition reports, including odometer readings, if available;
4 personal effects inventory; notice of seizure; and records of all
5 transactions pertaining to the sale of collateral that has been
6 repossessed, including, but not limited to, bids solicited and
7 received, cash received, deposits made to the trust account,
8 remittances to the seller, and allocation of any moneys not so
9 remitted to appropriate ledger accounts. Records, including bank
10 statements of the trust account, shall be retained for a period of
11 not less than four years and shall be available for examination by
12 the bureau upon demand. In addition, collateral and personal effects
13 storage areas shall be made accessible for inspection by the bureau
14 upon demand. ~~A~~ *An assignment or* repossession order form may
15 be an original, a photocopy, a facsimile copy, or a copy stored in
16 an electronic format.

17 ~~SEC. 5. Section 7507.6 of the Business and Professions Code~~
18 ~~is amended to read:~~

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

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

38 ~~(c) A licensee, qualified certificate holder, or registrant may~~
39 ~~send the notice set forth in subdivision (b) for a violent act or~~
40 ~~threatened violent act even if a police report is not made or no~~

1 ~~bodily harm or bodily injury occurs. Any notice of a threatened~~
2 ~~violent act provided pursuant to subdivision (b) may only be used~~
3 ~~to notify a subsequent assignee and not for any collateral purpose.~~
4 ~~Nothing in this subdivision or subdivision (b) shall be construed~~
5 ~~to provide immunity against any claim for defamation.~~

6 ~~SEC. 6.— Section 7507.9 of the Business and Professions Code~~
7 ~~is amended to read:~~

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

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

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

33 ~~(1) Deadly weapons and dangerous drugs shall be turned over~~
34 ~~to any law enforcement agency for retention. These items shall be~~
35 ~~entered on the inventory and a notation shall be made as to the~~
36 ~~date, time, and place the deadly weapon or dangerous drug was~~
37 ~~turned over to the law enforcement agency, and a receipt from the~~
38 ~~law enforcement agency shall be maintained in the records of the~~
39 ~~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 ~~(e) 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, whichever
26 is earlier, and signs a statement that reads only as follows:

27
28 "I, [insert debtor's name here], have received all personal effects
29 that were in the vehicle at the time of the repossession."
30

31 (2) No other signature or document shall be required to waive
32 the preparation and presentation of an inventory. If the debtor
33 claims there are personal effects or personal property missing, the
34 licensee shall provide the debtor with the phone number of the
35 licensed repossession agency. A licensee shall not require the
36 person retrieving the personal effects to sign any other documents
37 or waivers prior to the return of the personal effects. No other
38 documents or signatures shall be required for the person to receive
39 the personal effects. Any fees paid for clerical, handling,
40 administering, inventorying, or storage of personal effects are

1 ~~confidential and shall only be disclosed by the licensed~~
2 ~~repossession agency as ordered by a court of competent~~
3 ~~jurisdiction.~~

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

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

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

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

20 ~~(1) In response to the order of a court having jurisdiction to~~
21 ~~issue the order.~~

22 ~~(2) In compliance with a lawful subpoena issued by a court of~~
23 ~~competent jurisdiction.~~

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

28 ~~(4) To the debtor.~~

29 ~~(l) A licensee who has been notified that collateral will be~~
30 ~~retrieved may store personal effects or personal property inside~~
31 ~~the collateral until the collateral is no longer in the possession of~~
32 ~~the licensee. If a licensee stores personal effects pursuant to this~~
33 ~~subdivision, the notice and inventory provisions of this section~~
34 ~~shall apply, the licensee shall be liable for the security of the~~
35 ~~personal effects, and the collateral shall not be released by the~~
36 ~~licensee until all personal effects or personal property have been~~
37 ~~removed.~~

38 ~~SEC. 7.~~

39 ~~SEC. 4. Section 7507.13 of the Business and Professions Code~~
40 ~~is amended to read:~~

1 7507.13. (a) A licensed repossession agency is not liable for
2 the act or omission of a legal owner, debt collector, debtor,
3 lienholder, lessor, lessee, *or* registered owner, or an agent of any
4 of them, in making ~~a~~ *an assignment or* repossession order to it or
5 for accepting ~~a~~ *an assignment or* repossession order from any legal
6 owner, debt collector, debtor, lienholder, lessor, lessee, *or*
7 registered owner, or an agent of any of them, and is entitled to
8 indemnity from the legal owner, debt collector, debtor, lienholder,
9 lessor, lessee, or registered owner for any loss, damage, cost, or
10 expense, including court costs and attorney's fees, that it may
11 reasonably incur as a result thereof. Nothing in this subdivision
12 limits the liability of any person for his or her tortious conduct.

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

23 (c) The legal owner, debtor, lienholder, lessor, lessee, *or*
24 registered owner, or the agent of any of them, is not guilty of a
25 violation of Section 7502.1 or 7502.2 if, at the time of the
26 *assignment or* repossession order, the party making the *assignment*
27 *or* repossession order has in its possession a copy of the
28 reposessor's current, unexpired repossession agency license, and
29 a copy of the current, unexpired repossession agency's qualified
30 manager's certificate, and does not have actual knowledge of any
31 order of suspension or revocation of the license or certificate.

32 (d) Neither a licensed repossession agency nor a legal owner,
33 debtor, lienholder, lessor, lessee, *or* registered owner, or an agent
34 of any of them may, by any means, direct or indirect, express or
35 implied, instruct or attempt to coerce the other to violate any law,
36 regulation, or rule regarding the recovery of any collateral,
37 including, but not limited to, the provisions of this chapter or
38 Section 9609 of the Commercial Code.

39 (e) A licensed repossession agency, at least annually, on or
40 before January 31 of each year, shall provide a legal owner from

1 which the agency accepts a *an assignment or* repossession order
2 with a copy of this section, Sections 7500.2, 7507.4, 7507.115,
3 7507.12, and 7507.125 of this code, and Section 28 of the Vehicle
4 Code.

5 ~~SEC. 8. Section 7508.2 of the Business and Professions Code~~
6 ~~is amended to read:~~

7 ~~7508.2. The director may assess administrative fines for any~~
8 ~~of the following prohibited acts:~~

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

31 ~~(b) Using collateral or personal effects, which have been~~
32 ~~recovered, for the personal benefit of a licensee, or officer, partner,~~
33 ~~manager, registrant, or employee of a licensee. The fine shall be~~
34 ~~twenty-five dollars (\$25) for the first violation and one hundred~~
35 ~~dollars (\$100) for each violation thereafter. This subdivision does~~
36 ~~not apply to personal effects disposed of pursuant to subdivision~~
37 ~~(c) of Section 7507.9. Nothing in this subdivision prohibits the~~
38 ~~using or taking of personal property connected, adjoined, or affixed~~
39 ~~to the collateral through an unbroken sequence if that use or taking~~

1 is reasonably necessary to effectuate the recovery in a safe manner
2 or to protect the collateral or personal effects:

3 ~~(e) Selling collateral recovered under this chapter, or making a~~
4 ~~demand for payment in lieu of repossession. The fine shall be two~~
5 ~~hundred fifty dollars (\$250) for the first violation and one thousand~~
6 ~~dollars (\$1,000) for each subsequent violation.~~

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

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

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

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

22 ~~SEC. 9. Section 22651.03 is added to the Vehicle Code,~~
23 ~~immediately following Section 22651, to read:~~

24 ~~22651.03.—(a) Notwithstanding Sections 14602.6 and 22651,~~
25 ~~this section shall apply when collateral is released to a licensed~~
26 ~~reposessor. For purposes of this section, “licensed reposessor”~~
27 ~~means a licensed reposessor, licensed repossession agency, or its~~
28 ~~officers or employees pursuant to Chapter 11 (commencing with~~
29 ~~Section 7500) of Division 3 of the Business and Professions Code.~~

30 ~~(b) Pursuant to Section 4022, a vehicle obtained by a licensed~~
31 ~~reposessor as a release of collateral is exempt from registration~~
32 ~~for purposes of the reposessor removing the vehicle to his or her~~
33 ~~storage facility or the facility of the legal owner. A law enforcement~~
34 ~~agency, impounding authority, tow yard, storage facility, or any~~
35 ~~other person in possession of the collateral shall release the vehicle~~
36 ~~without requiring current registration and pursuant to this section.~~
37 ~~The law enforcement agency shall be open to issue a release to the~~
38 ~~legal owner or a licensed reposessor whenever the agency is open~~
39 ~~to serve the public for nonemergency business.~~

1 ~~(e) The law enforcement agency and the impounding agency,~~
2 ~~including any storage facility acting on behalf of the law~~
3 ~~enforcement agency or impounding agency, shall comply with this~~
4 ~~section and shall not be liable to the registered owner for the~~
5 ~~improper release of the vehicle to the legal owner or a licensed~~
6 ~~repossessor provided the release complies with this section. A law~~
7 ~~enforcement agency shall not refuse to issue a release to a legal~~
8 ~~owner or a licensed reposessor on the grounds that it previously~~
9 ~~issued a release.~~

10 ~~(d) A vehicle removed and seized for any reason shall be~~
11 ~~released to the legal owner of the vehicle or to a licensed~~
12 ~~repossessor if all of the following conditions are met:~~

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

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

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

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

38 ~~(D) A person operating or in charge of a storage facility~~
39 ~~described in subparagraph (B) shall have sufficient funds on the~~
40 ~~premises of the primary storage facility during normal business~~

1 hours to accommodate, and make change in, a reasonable monetary
2 transaction.

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

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

27 No administrative costs authorized under subdivision (a) of
28 Section 22850.5 shall be charged to the legal owner, of the type
29 specified in paragraph (1), who redeems the vehicle unless the
30 legal owner voluntarily requests a poststorage hearing. No city,
31 county, city and county, or state agency shall require a legal owner
32 or a licensed reposessor to request a poststorage hearing as a
33 requirement for release of the vehicle to the legal owner or the
34 licensed reposessor. The law enforcement agency, impounding
35 agency, or other governmental agency, or any person acting on
36 behalf of those agencies, shall not require any documents other
37 than those specified in this paragraph. The law enforcement agency,
38 impounding agency, or other governmental agency, or any person
39 acting on behalf of those agencies, shall not require any documents
40 to be notarized. The legal owner or the licensed reposessor shall

1 be given a copy of any documents he or she is required to sign,
2 except for a vehicle evidentiary hold logbook. The law enforcement
3 agency, impounding agency, or any person acting on behalf of
4 those agencies, or any person in possession of the vehicle may
5 photocopy and retain the copies of any documents presented by
6 the legal owner or licensed repossessor.

7 (4) A failure by a storage facility to comply with any applicable
8 conditions set forth in this subdivision shall not affect the right of
9 the legal owner or a licensed repossessor to retrieve the vehicle,
10 provided all conditions required of the legal owner or licensed
11 repossessor under this subdivision are satisfied.

12 (e) A legal owner or a licensed repossessor that obtains release
13 of a vehicle pursuant to subdivision (d) shall not release the vehicle
14 to the registered owner of the vehicle, the person who was listed
15 as the registered owner when the vehicle was impounded, or any
16 agents of the registered owner, unless the registered owner is a
17 rental car agency.

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

26 (g) A law enforcement agency may require a signed
27 acknowledgment from a licensed repossessor stating that the
28 repossessed vehicle impounded pursuant to Section 14602.6 for
29 30 days will not, under any circumstances, be released by the
30 licensed repossessor to the registered owner prior to the expiration
31 of the 30-day period without the law enforcement agency's
32 approval.

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

1 ~~meaning of Section 6 of Article XIII B of the California~~
2 ~~Constitution.~~

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

8 *SEC. 5. No reimbursement is required by this act pursuant to*
9 *Section 6 of Article XIII B of the California Constitution because*
10 *the only costs that may be incurred by a local agency or school*
11 *district will be incurred because this act creates a new crime or*
12 *infraction, eliminates a crime or infraction, or changes the penalty*
13 *for a crime or infraction, within the meaning of Section 17556 of*
14 *the Government Code, or changes the definition of a crime within*
15 *the meaning of Section 6 of Article XIII B of the California*
16 *Constitution.*