

AMENDED IN SENATE AUGUST 28, 2006

AMENDED IN SENATE AUGUST 7, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2318

Introduced by Assembly Member Calderon

February 22, 2006

An act to amend Sections 7500.1, 7500.3, 7507.9, 7507.12, 7507.13, 7508.4 of the Business and Professions Code, and to amend Sections 14602.6 and 14602.7 of the Vehicle Code, relating to collateral recovery.

LEGISLATIVE COUNSEL'S DIGEST

AB 2318, as amended, Calderon. Repossessors.

(1) Existing law, the Collateral Recovery Act, provides for the licensing and regulation of repossession agencies by the Department of Consumer Affairs. Existing law sets forth a procedure for the removal, inventory, and storage of personal effects from repossessed collateral. Existing law requires a licensee to prepare an inventory of the personal effects and to label and store the personal effects as specified for a minimum of 60 days in a secure manner.

This bill would require the licensee to note on the inventory if it cannot be determined whether the property is a personal effect or a part of the collateral. The bill would provide that, under this circumstance, the licensee or its agent would not be obligated to remove the item from the collateral, unless the item can be removed without the use of tools. The bill would also ~~specify~~ *require a licensee or its agent to notify a debtor* that if the debtor takes the position that

an item is a personal effect, then the debtor is required to contact the legal owner to resolve the issue.

(2) Existing law authorizes the Director of ~~the Department of~~ Consumer Affairs to assess administrative fines against any repossession agency licensee, qualified certificate holder, or registrant for specified prohibited acts, such as, but not limited to, failing to register registrants within 15 days. Under existing law, the fine is \$25 dollars for each of the first 2 violations and \$100 for each subsequent violation.

This bill would raise these fines to \$250 for each of the first 2 violations and \$1000 for each subsequent violation. The bill would specify that the money attributable to these administrative fines shall not be continuously appropriated.

(3) Existing law provides that a peace officer or, in certain other cases, a magistrate, may cause the removal and seizure of a vehicle, as specified. Existing law provides that a vehicle so seized may be impounded for 30 days. Under existing law, a vehicle removed and seized may be released to the legal owner or the legal owner's agent prior to the end of 30 days' impoundment, if certain conditions are met, including, but not limited to, the requirement that the legal owner or the legal owner's agent present either a lawful assignment, as defined, or an affidavit of repossession for the vehicle, and a security agreement or title showing proof of legal ownership for the vehicle.

This bill would instead require the legal owner or the legal owner's agent to present a copy of the assignment, as defined, and any one of the following: a certificate of repossession for the vehicle, a security agreement for the vehicle, or title showing proof of legal ownership for the vehicle.

(4) Existing law defines assignment, among other things, as a written authorization by the legal owner, lienholder, lessor or lessee to skip trace, locate, or repossess or to collect money payment in lieu of repossession of, any collateral, including, but not limited to, collateral registered under the Vehicle Code that is subject to a security agreement that contains a repossession clause.

This bill would specify that an assignment also means, among other things, a written authorization by the agent of any of those persons, to take any of those actions with respect to any collateral. The bill would make technical, nonsubstantive, and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 7500.1 of the Business and Professions Code is amended to read:

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

(a) "Advertisement" means any written or printed communication, including a directory listing, except a free telephone directory listing that does not allow space for a license number.

(b) "Assignment" means a written authorization by the legal owner, lienholder, lessor or lessee, or the agent of any of them, to skip trace, locate, or repossess or to collect money payment in lieu of repossession of, any collateral, including, but not limited to, collateral registered under the Vehicle Code that is subject to a security agreement that contains a repossession clause. "Assignment" also means a written authorization by an employer to recover any collateral entrusted to an employee or former employee if the possessor is wrongfully in possession of the collateral. A photocopy, facsimile copy, or electronic copy of an assignment shall have the same force and effect as an original written assignment.

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

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

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

(f) "Combustibles" means any substance or article that is capable of undergoing combustion or catching fire, or that is flammable, if retained.

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

(h) "Deadly weapon" means and includes any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or revolver, or any other firearm, any knife having a blade longer

1 than five inches, any razor with an unguarded blade, and any
2 metal pipe or bar used or intended to be used as a club.

3 (i) “Debtor” means any person obligated under a security
4 agreement.

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

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

7 (l) “Health hazard” means any personal effects which if
8 retained would produce an unsanitary or unhealthful condition.

9 (m) “Legal owner” means a person holding a security interest
10 in any collateral that is subject to a security agreement, a lien
11 against any collateral, or an interest in any collateral that is
12 subject to a lease agreement.

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

16 (o) “Multiple licensee” means a repossession agency holding
17 more than one repossession license under this chapter, with one
18 fictitious trade style and ownership, conducting repossession
19 business from additional licensed locations other than the
20 location shown on the original license.

21 (p) “Person” includes any individual, partnership, limited
22 liability company, or corporation.

23 (q) “Personal effects” means any property that is not the
24 property of the legal owner.

25 (r) “Private building” means and includes any dwelling,
26 outbuilding, or other enclosed structure.

27 (s) “Qualified certificate holder” or “qualified manager” is a
28 person who possesses a valid qualification certificate in
29 accordance with the provisions of Article 5 (commencing with
30 Section 7504) and is in active control or management of, and
31 who is a director of, the licensee’s place of business.

32 (t) “Registrant” means a person registered under this chapter.

33 (u) “Secured area” means and includes any fenced and locked
34 area.

35 (v) “Security agreement” means an obligation, pledge,
36 mortgage, chattel mortgage, lease agreement, deposit, or lien,
37 given by a debtor as security for payment or performance of his
38 or her debt, by furnishing the creditor with a recourse to be used
39 in case of failure in the principal obligation. “Security
40 agreement” also includes a bailment where an

1 employer-employee relationship exists or existed between the
2 bailor and the bailee.

3 (w) "Services" means any duty or labor to be rendered by one
4 person for another.

5 (x) "Violent act" means any act that results in bodily harm or
6 injury to any party involved.

7 (y) The amendments made to this section during the 2005–06
8 Regular Session shall not be deemed to exempt any person from
9 the provisions of this chapter.

10 SEC. 2. Section 7500.3 of the Business and Professions Code
11 is amended to read:

12 7500.3. A repossession agency shall not include any of the
13 following:

14 (a) Any bank subject to the jurisdiction of the Commissioner
15 of Financial Institutions of the State of California under Division
16 1 (commencing with Section 99) of the Financial Code or the
17 Comptroller of the Currency of the United States.

18 (b) Any person organized, chartered, or holding a license or
19 authorization certificate to make loans pursuant to the laws of
20 this state or the United States who is subject to supervision by
21 any official or agency of this state or the United States.

22 (c) An attorney at law in performing his or her duties as an
23 attorney at law.

24 (d) The legal owner of collateral that is subject to a security
25 agreement or a bona fide employee employed exclusively and
26 regularly by the legal owner of collateral that is subject to a
27 security agreement. With regard to collateral subject to
28 registration under the Vehicle Code, the legal owner shall be the
29 legal owner listed on the records of the Department of Motor
30 Vehicles.

31 (e) An officer or employee of the United States of America, or
32 of this state or a political subdivision thereof, while the officer or
33 employee is engaged in the performance of his or her official
34 duties.

35 (f) A qualified certificate holder or a registrant when
36 performing services for, or on behalf of, a licensee.

37 SEC. 3. Section 7507.9 of the Business and Professions Code
38 is amended to read:

39 7507.9. Personal effects shall be removed from the collateral,
40 including any personal effect that is mounted but detachable from

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (f) Environmental, Olympic, special interest, or other license
24 plates issued pursuant to Article 8 (commencing with Section
25 5000), Article 8.4 (commencing with Section 5060) or Article
26 8.5 (commencing with Section 5100) of Chapter 1 of Division 3
27 of the Vehicle Code that remain the personal effects of the debtor
28 shall be removed from the collateral and inventoried pursuant to
29 this section. If the plates are not claimed by the debtor within 60
30 days, they shall be effectively destroyed and the licensee shall,
31 within 30 days thereafter, notify the Department of Motor
32 Vehicles of their effective destruction on a form promulgated by
33 the chief that has been approved as to form by the Director of the
34 Department of Motor Vehicles.

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

38 (h) The debtor may waive the preparation and presentation of
39 an inventory if the debtor redeems the personal effects or other
40 personal property not covered by a security interest within the

1 time period for the notices required by this section and signs a
2 statement that he or she has received all the property.

3 (i) If personal effects or other personal property not covered
4 by a security agreement are to be released to someone other than
5 the debtor, the repossession agency may request written
6 authorization to do so from either the debtor or the legal owner.

7 (j) The inventory shall be a confidential document. A licensee
8 shall only disclose the contents of the inventory under the
9 following circumstances:

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

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

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

18 SEC. 4. Section 7507.12 of the Business and Professions
19 Code is amended to read:

20 7507.12. With regard to collateral subject to registration
21 under the Vehicle Code, a repossession is complete when the
22 reposessor gains entry to the collateral or when the collateral
23 becomes connected to a tow truck or the reposessor's tow
24 vehicle, as those terms are defined in Section 615 of the Vehicle
25 Code.

26 SEC. 5. Section 7507.13 of the Business and Professions
27 Code is amended to read:

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

38 (b) The legal owner, debtor, lienholder, lessor or lessee, or the
39 agent of any of them, is not liable for any act or omission by a
40 licensed repossession agency, or its agent, in carrying out an

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

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

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

22 SEC. 6. Section 7508.4 of the Business and Professions Code
23 is amended to read:

24 7508.4. The director may assess administrative fines for any
25 of the following prohibited acts:

26 (a) Conducting business from any location other than that
27 location to which a license was issued or conducting a business
28 as an individual, partnership, limited liability company, or
29 corporation unless the licensee holds a valid license issued to that
30 exact same individual, partnership, limited liability company, or
31 corporation. The fine shall be one thousand dollars (\$1,000) for
32 each violation.

33 (b) Aiding or abetting an unlicensed reposessor or assigning
34 his or her license. "Assigning his or her license" means that no
35 licensee shall permit a registrant, employee, or agent in his or her
36 own name to advertise, engage clients, furnish reports, or present
37 bills to clients, or in any manner whatsoever to conduct business
38 for which a license is required under this chapter. The fine shall
39 be one thousand dollars (\$1,000) for each violation.

1 (c) Failing to register registrants within 15 days. The fine shall
2 be two hundred fifty dollars (\$250) for each of the first two
3 violations and one thousand dollars (\$1000) for each violation
4 thereafter.

5 (d) Employing a person whose registration has expired or been
6 revoked, denied, suspended, or canceled, if the bureau has
7 furnished a listing of these persons to the licensee. The fine shall
8 be twenty-five dollars (\$25) for each violation.

9 (e) Failing to notify the bureau, within 30 days, of any change
10 in officers. A notice of warning shall be issued for the first
11 violation. Thereafter, the fine shall be twenty-five dollars (\$25)
12 for each violation.

13 (f) Failing to present the debtor with an itemized receipt of
14 payment, if payment is made in lieu of repossession. The fine
15 shall be twenty-five dollars (\$25) for the first violation and one
16 hundred dollars (\$100) for each violation thereafter.

17 (g) Failing to submit a notice regarding a violent act within
18 seven days pursuant to Section 7507.6 or to submit a copy of a
19 judgment awarded against the licensee for an amount of more
20 than the then prevailing maximum claim that may be brought in
21 small claims court within seven days pursuant to Section 7507.7.
22 The fine shall be twenty-five dollars (\$25) for the first violation
23 and one hundred dollars (\$100) per violation thereafter.

24 (h) Failing to include the licensee's name, address, and license
25 number in any advertisement. A notice of warning shall be issued
26 for the first violation. Thereafter, the fine shall be twenty-five
27 dollars (\$25) for each violation.

28 (i) Failing to maintain personal effects for at least 60 days. The
29 fine shall be twenty-five dollars (\$25) for the first violation and
30 one hundred dollars (\$100) for each violation thereafter.

31 (j) Failing to provide a personal effects list or a notice of
32 seizure within the time limits set forth in Section 7507.9 or
33 7507.10. The fine shall be twenty-five dollars (\$25) for the first
34 violation and one hundred dollars (\$100) for each violation
35 thereafter.

36 (k) Failing to file the required report pursuant to Section 28 of
37 the Vehicle Code. The fine shall be twenty-five dollars (\$25) for
38 each of the first five violations and one hundred dollars (\$100)
39 for each violation thereafter, per audit.

(l) Failing to maintain an accurate record and accounting of secure temporary registration forms. The qualified certificate holder shall be fined twenty-five dollars (\$25) for the first violation, one hundred dollars (\$100) for the second violation, two hundred fifty dollars (\$250) for the third violation, and two hundred fifty dollars (\$250) plus a one year suspension of the privilege to issue temporary registrations pursuant to Section 7506.9 for the fourth and subsequent violations.

(m) Representing that a licensee has an office and conducts business at a specific address when that is not the case. The fine shall be five thousand dollars (\$5,000) for each violation.

(n) Notwithstanding any other provision of law, the money in the Private Security Services Fund that is attributable to administrative fines imposed pursuant to subdivision (c) shall not be continuously appropriated and shall be available for expenditure only upon appropriation by the Legislature.

SEC. 7. Section 14602.6 of the Vehicle Code is amended to read:

14602.6. (a) (1) Whenever a peace officer determines that a person was driving a vehicle while his or her driving privilege was suspended or revoked, driving a vehicle while his or her driving privilege is restricted pursuant to Section 13352 or 23575 and the vehicle is not equipped with a functioning, certified interlock device, or driving a vehicle without ever having been issued a driver's license, the peace officer may either immediately arrest that person and cause the removal and seizure of that vehicle or, if the vehicle is involved in a traffic collision, cause the removal and seizure of the vehicle without the necessity of arresting the person in accordance with Chapter 10 (commencing with Section 22650) of Division 11. A vehicle so impounded shall be impounded for 30 days.

(2) The impounding agency, within two working days of impoundment, shall send a notice by certified mail, return receipt requested, to the legal owner of the vehicle, at the address obtained from the department, informing the owner that the vehicle has been impounded. Failure to notify the legal owner within two working days shall prohibit the impounding agency from charging for more than 15 days' impoundment when the legal owner redeems the impounded vehicle. The impounding agency shall maintain a published telephone number that

1 provides information 24 hours a day regarding the impoundment
2 of vehicles and the rights of a registered owner to request a
3 hearing.

4 (b) The registered and legal owner of a vehicle that is removed
5 and seized under subdivision (a) or their agents shall be provided
6 the opportunity for a storage hearing to determine the validity of,
7 or consider any mitigating circumstances attendant to, the
8 storage, in accordance with Section 22852.

9 (c) Any period in which a vehicle is subjected to storage under
10 this section shall be included as part of the period of
11 impoundment ordered by the court under subdivision (a) of
12 Section 14602.5.

13 (d) (1) An impounding agency shall release a vehicle to the
14 registered owner or his or her agent prior to the end of 30 days'
15 impoundment under any of the following circumstances:

16 (A) When the vehicle is a stolen vehicle.

17 (B) When the vehicle is subject to bailment and is driven by an
18 unlicensed employee of a business establishment, including a
19 parking service or repair garage.

20 (C) When the license of the driver was suspended or revoked
21 for an offense other than those included in Article 2
22 (commencing with Section 13200) of Chapter 2 of Division 6 or
23 Article 3 (commencing with Section 13350) of Chapter 2 of
24 Division 6.

25 (D) When the vehicle was seized under this section for an
26 offense that does not authorize the seizure of the vehicle.

27 (E) When the driver reinstates his or her driver's license or
28 acquires a driver's license and proper insurance.

29 (2) No vehicle shall be released pursuant to this subdivision
30 without presentation of the registered owner's or agent's
31 currently valid driver's license to operate the vehicle and proof of
32 current vehicle registration, or upon order of a court.

33 (e) The registered owner or his or her agent is responsible for
34 all towing and storage charges related to the impoundment, and
35 any administrative charges authorized under Section 22850.5.

36 (f) A vehicle removed and seized under subdivision (a) shall
37 be released to the legal owner of the vehicle or the legal owner's
38 agent prior to the end of 30 days' impoundment if all of the
39 following conditions are met:

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

5 (2) The legal owner or the legal owner's agent pays all towing
6 and storage fees related to the seizure of the vehicle. No lien sale
7 processing fees shall be charged to the legal owner who redeems
8 the vehicle prior to the 15th day of impoundment. Neither the
9 impounding authority nor any person having possession of the
10 vehicle shall collect from the legal owner of the type specified in
11 paragraph (1), or the legal owner's agent any administrative
12 charges imposed pursuant to Section 22850.5 unless the legal
13 owner voluntarily requested a poststorage hearing.

14 (3) The legal owner or the legal owner's agent presents a copy
15 of the assignment, as defined in subdivision (b) of Section 7500.1
16 of the Business and Professions Code, and any one of the
17 following: a certificate of repossession for the vehicle, a security
18 agreement for the vehicle, or title showing proof of legal
19 ownership for the vehicle. Any documents presented may be
20 originals, photocopies, or facsimile copies, or may be transmitted
21 electronically. The impounding agency shall not require any
22 documents to be notarized. The impounding agency may require
23 the agent of the legal owner to produce a photocopy or facsimile
24 copy of its repossession agency license or registration issued
25 pursuant to Chapter 11 (commencing with Section 7500) of
26 Division 3 of the Business and Professions Code, or to
27 demonstrate, to the satisfaction of the impounding agency, that
28 the agent is exempt from licensure pursuant to Section 7500.2 or
29 7500.3 of the Business and Professions Code.

30 No administrative costs authorized under subdivision (a) of
31 Section 22850.5 shall be charged to the legal owner of the type
32 specified in paragraph (1), who redeems the vehicle unless the
33 legal owner voluntarily requests a poststorage hearing. No city,
34 county, city or county, or state agency shall require a legal owner
35 or a legal owner's agent to request a poststorage hearing as a
36 requirement for release of the vehicle to the legal owner or the
37 legal owner's agent. The impounding agency shall not require
38 any documents other than those specified in this paragraph. The
39 impounding agency shall not require any documents to be
40 notarized.

1 (g) (1) A legal owner or the legal owner's agent that obtains
2 release of the vehicle pursuant to subdivision (f) may not release
3 the vehicle to the registered owner of the vehicle or any agents of
4 the registered owner, unless the registered owner is a rental car
5 agency, until after the termination of the 30-day impoundment
6 period.

7 (2) The legal owner or the legal owner's agent may not
8 relinquish the vehicle to the registered owner until the registered
9 owner or that owner's agent presents his or her valid driver's
10 license or valid temporary driver's license to the legal owner or
11 the legal owner's agent. The legal owner or the legal owner's
12 agent shall make every reasonable effort to ensure that the
13 license presented is valid.

14 (3) Prior to relinquishing the vehicle, the legal owner may
15 require the registered owner to pay all towing and storage
16 charges related to the impoundment and any administrative
17 charges authorized under Section 22850.5 that were incurred by
18 the legal owner in connection with obtaining custody of the
19 vehicle.

20 (h) (1) A vehicle removed and seized under subdivision (a)
21 shall be released to a rental car agency prior to the end of 30
22 days' impoundment if the agency is either the legal owner or
23 registered owner of the vehicle and the agency pays all towing
24 and storage fees related to the seizure of the vehicle.

25 (2) The owner of a rental vehicle that was seized under this
26 section may continue to rent the vehicle upon recovery of the
27 vehicle. However, the rental car agency may not rent another
28 vehicle to the driver of the vehicle that was seized until 30 days
29 after the date that the vehicle was seized.

30 (3) The rental car agency may require the person to whom the
31 vehicle was rented to pay all towing and storage charges related
32 to the impoundment and any administrative charges authorized
33 under Section 22850.5 that were incurred by the rental car
34 agency in connection with obtaining custody of the vehicle.

35 (i) Notwithstanding any other provision of this section, the
36 registered owner and not the legal owner shall remain responsible
37 for any towing and storage charges related to the impoundment,
38 any administrative charges authorized under Section 22850.5,
39 and any parking fines, penalties, and administrative fees incurred
40 by the registered owner.

1 (j) The impounding agency is not liable to the registered
2 owner for the improper release of the vehicle to the legal owner
3 or the legal owner's agent provided the release complies with the
4 provisions of this section.

5 SEC. 8. Section 14602.7 of the Vehicle Code is amended to
6 read:

7 14602.7. (a) A magistrate presented with the affidavit of a
8 peace officer establishing reasonable cause to believe that a
9 vehicle, described by vehicle type and license number, was an
10 instrumentality used in the peace officer's presence in violation
11 of Section 2800.1, 2800.2, 2800.3, or 23103, shall issue a warrant
12 or order authorizing any peace officer to immediately seize and
13 cause the removal of the vehicle. The warrant or court order may
14 be entered into a computerized database. A vehicle so impounded
15 may be impounded for a period not to exceed 30 days.

16 The impounding agency, within two working days of
17 impoundment, shall send a notice by certified mail, return receipt
18 requested, to the legal owner of the vehicle, at the address
19 obtained from the department, informing the owner that the
20 vehicle has been impounded and providing the owner with a
21 copy of the warrant or court order. Failure to notify the legal
22 owner within two working days shall prohibit the impounding
23 agency from charging for more than 15 days impoundment when
24 a legal owner redeems the impounded vehicle.

25 (b) (1) An impounding agency shall release a vehicle to the
26 registered owner or his or her agent prior to the end of the
27 impoundment period and without the permission of the
28 magistrate authorizing the vehicle's seizure under any of the
29 following circumstances:

30 (A) When the vehicle is a stolen vehicle.

31 (B) When the vehicle is subject to bailment and is driven by an
32 unlicensed employee of the business establishment, including a
33 parking service or repair garage.

34 (C) When the registered owner of the vehicle causes a peace
35 officer to reasonably believe, based on the totality of the
36 circumstances, that the registered owner was not the driver who
37 violated Section 2800.1, 2800.2, or 2800.3, the agency shall
38 immediately release the vehicle to the registered owner or his or
39 her agent.

1 (2) No vehicle shall be released pursuant to this subdivision,
2 except upon presentation of the registered owner's or agent's
3 currently valid driver's license to operate the vehicle and proof of
4 current vehicle registration, or upon order of the court.

5 (c) (1) Whenever a vehicle is impounded under this section,
6 the magistrate ordering the storage shall provide the vehicle's
7 registered and legal owners of record, or their agents, with the
8 opportunity for a poststorage hearing to determine the validity of
9 the storage.

10 (2) A notice of the storage shall be mailed or personally
11 delivered to the registered and legal owners within 48 hours after
12 issuance of the warrant or court order, excluding weekends and
13 holidays, by the person or agency executing the warrant or court
14 order, and shall include all of the following information:

15 (A) The name, address, and telephone number of the agency
16 providing the notice.

17 (B) The location of the place of storage and a description of
18 the vehicle, which shall include, if available, the name or make,
19 the manufacturer, the license plate number, and the mileage of
20 the vehicle.

21 (C) A copy of the warrant or court order and the peace
22 officer's affidavit, as described in subdivision (a).

23 (D) A statement that, in order to receive their poststorage
24 hearing, the owners, or their agents, are required to request the
25 hearing from the magistrate issuing the warrant or court order in
26 person, in writing, or by telephone, within 10 days of the date of
27 the notice.

28 (3) The poststorage hearing shall be conducted within two
29 court days after receipt of the request for the hearing.

30 (4) At the hearing, the magistrate may order the vehicle
31 released if he or she finds any of the circumstances described in
32 subdivision (b) or (e) that allow release of a vehicle by the
33 impounding agency. The magistrate may also consider releasing
34 the vehicle when the continued impoundment will cause undue
35 hardship to persons dependent upon the vehicle for employment
36 or to a person with a community property interest in the vehicle.

37 (5) Failure of either the registered or legal owner, or his or her
38 agent, to request, or to attend, a scheduled hearing satisfies the
39 poststorage hearing requirement.

1 (6) The agency employing the peace officer who caused the
2 magistrate to issue the warrant or court order shall be responsible
3 for the costs incurred for towing and storage if it is determined in
4 the poststorage hearing that reasonable grounds for the storage
5 are not established.

6 (d) The registered owner or his or her agent is responsible for
7 all towing and storage charges related to the impoundment, and
8 any administrative charges authorized under Section 22850.5.

9 (e) A vehicle removed and seized under subdivision (a) shall
10 be released to the legal owner of the vehicle or the legal owner's
11 agent prior to the end of the impoundment period and without the
12 permission of the magistrate authorizing the seizure of the
13 vehicle if all of the following conditions are met:

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

18 (2) The legal owner or the legal owner's agent pays all towing
19 and storage fees related to the seizure of the vehicle. No lien sale
20 processing fees shall be charged to the legal owner who redeems
21 the vehicle prior to the 15th day of impoundment. Neither the
22 impounding authority nor any person having possession of the
23 vehicle shall collect from the legal owner of the type specified in
24 paragraph (1), or the legal owner's agent any administrative
25 charges imposed pursuant to Section 22850.5 unless the legal
26 owner voluntarily requested a poststorage hearing.

27 (3) The legal owner or the legal owner's agent presents a copy
28 of the assignment, as defined in subdivision (b) of Section 7500.1
29 of the Business and Professions Code, and any one of the
30 following: a certificate of repossession for the vehicle, a security
31 agreement for the vehicle, or title showing proof of legal
32 ownership for the vehicle. Any documents presented may be
33 originals, photocopies, or facsimile copies, or may be transmitted
34 electronically. The impounding agency shall not require any
35 documents to be notarized. The impounding agency may require
36 the agent of the legal owner to produce a photocopy or facsimile
37 copy of its repossession agency license or registration issued
38 pursuant to Chapter 11 (commencing with Section 7500) of
39 Division 3 of the Business and Professions Code, or to
40 demonstrate, to the satisfaction of the impounding agency, that

1 the agent is exempt from licensure pursuant to Section 7500.2 or
2 7500.3 of the Business and Professions Code.

3 No administrative costs authorized under subdivision (a) of
4 Section 22850.5 shall be charged to the legal owner of the type
5 specified in paragraph (1), who redeems the vehicle unless the
6 legal owner voluntarily requests a poststorage hearing. No city,
7 county, city and county, or state agency shall require a legal
8 owner or a legal owner's agent to request a poststorage hearing
9 as a requirement for release of the vehicle to the legal owner or
10 the legal owner's agent. The impounding agency shall not require
11 any documents other than those specified in this paragraph. The
12 impounding agency shall not require any documents to be
13 notarized.

14 (f) (1) A legal owner or the legal owner's agent that obtains
15 release of the vehicle pursuant to subdivision (e) shall not release
16 the vehicle to the registered owner of the vehicle or any agents of
17 the registered owner, unless a registered owner is a rental car
18 agency, until the termination of the impoundment period.

19 (2) The legal owner or the legal owner's agent shall not
20 relinquish the vehicle to the registered owner until the registered
21 owner or that owner's agent presents his or her valid driver's
22 license or valid temporary driver's license to the legal owner or
23 the legal owner's agent. The legal owner or the legal owner's
24 agent shall make every reasonable effort to ensure that the
25 license presented is valid.

26 (3) Prior to relinquishing the vehicle, the legal owner may
27 require the registered owner to pay all towing and storage
28 charges related to the impoundment and the administrative
29 charges authorized under Section 22850.5 that were incurred by
30 the legal owner in connection with obtaining the custody of the
31 vehicle.

32 (g) (1) A vehicle impounded and seized under subdivision (a)
33 shall be released to a rental car agency prior to the end of the
34 impoundment period if the agency is either the legal owner or
35 registered owner of the vehicle and the agency pays all towing
36 and storage fees related to the seizure of the vehicle.

37 (2) The owner of a rental vehicle that was seized under this
38 section may continue to rent the vehicle upon recovery of the
39 vehicle. However, the rental car agency shall not rent another
40 vehicle to the driver who used the vehicle that was seized to

1 evade a police officer until 30 days after the date that the vehicle
2 was seized.

3 (3) The rental car agency may require the person to whom the
4 vehicle was rented and who evaded the peace officer to pay all
5 towing and storage charges related to the impoundment and any
6 administrative charges authorized under Section 22850.5 that
7 were incurred by the rental car agency in connection with
8 obtaining custody of the vehicle.

9 (h) Notwithstanding any other provision of this section, the
10 registered owner and not the legal owner shall remain responsible
11 for any towing and storage charges related to the impoundment
12 and the administrative charges authorized under Section 22850.5
13 and any parking fines, penalties, and administrative fees incurred
14 by the registered owner.

15 (i) (1) This section does not apply to vehicles abated under the
16 Abandoned Vehicle Abatement Program pursuant to Sections
17 22660 to 22668, inclusive, and Section 22710, or to vehicles
18 impounded for investigation pursuant to Section 22655, or to
19 vehicles removed from private property pursuant to Section
20 22658.

21 (2) This section does not apply to abandoned vehicles
22 removed pursuant to Section 22669 that are determined by the
23 public agency to have an estimated value of three hundred dollars
24 (\$300) or less.

25 (j) The impounding agency shall not be liable to the registered
26 owner for the improper release of the vehicle to the legal owner
27 or the legal owner's agent provided the release complies with the
28 provisions of this section.