

AMENDED IN ASSEMBLY AUGUST 21, 2013

AMENDED IN ASSEMBLY JUNE 4, 2013

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 762

Introduced by Senator Hill

February 22, 2013

An act to amend Section 21647 of the Business and Professions Code, to amend Section 21206.8 of the Financial Code, and to amend Sections 186.2, 186.8, 1411, 1411 and 11108.5 of the Penal Code, relating to secondhand goods.

LEGISLATIVE COUNSEL'S DIGEST

SB 762, as amended, Hill. Secondhand goods: lost, stolen, or embezzled items.

(1) Existing law provides for the regulation of secondhand dealers, as defined, and makes it unlawful for a person to engage in the business of a secondhand dealer without a license issued by the chief of police, the sheriff, or, where appropriate, the police commission. Existing law makes it a crime, punishable by specified fines or imprisonment, or both, if a person knowingly violates the provisions regulating secondhand dealers. Existing law authorizes the district attorney or the Attorney General to bring an action to enjoin a violation or threatened violation of the provisions regulating secondhand dealers.

This bill would make operating a secondhand business in violation of those licensing provisions a "criminal profiteering activity" and would include the unlicensed operation of a secondhand dealer business without reporting acquisitions as required by existing law within the definition of "organized crime."

~~(2) Existing law, the California Control of Profits of Organized Crime Act, defines criminal profiteering as any act committed or attempted, or any threat made for financial gain or advantage, that may be charged as a crime under specified provisions. Under existing law, property and assets acquired or received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity are subject to forfeit. The money proceeds from that forfeiture are distributed as prescribed.~~

~~This bill would prescribe that funds derived from a forfeiture of lost, stolen, or embezzled items seized from a pawnbroker or secondhand dealer be distributed 50% to the general fund of the city, county, or city and county that instituted the forfeiture and 50% to the general fund of the city, county, or city and county that prosecuted the forfeiture.~~

~~(3) Existing~~

~~Existing law authorizes a peace officer to place a 90-day hold on property in possession of a pawnbroker, secondhand dealer, or coin dealer if the peace officer has probable cause to believe that property is stolen, as specified, and regulates the manner in which the property is placed on hold, persons claiming the property are notified, and disputes arising out of claims for the property are adjudicated, as provided.~~

This bill would revise these provisions to, among other things, authorize a peace officer to also place a hold on property that the officer has probable cause to believe is lost or embezzled. The bill would limit these provisions to licensed pawnbrokers and secondhand dealers and would revise notification procedures regarding lost, stolen, or embezzled property. The bill would permit the law enforcement agency to extend the hold beyond 90 days, as specified, until the conclusion of the criminal proceedings. The bill would authorize a peace officer to take physical possession of property as evidence if the property is placed on hold. The bill would provide that if a search warrant is issued for the search of the business of a licensed pawnbroker or secondhand dealer to secure lost, stolen, or embezzled property, the hold would continue as long as the property is subject to the jurisdiction of the court. The bill would also require a person claiming ownership of the property to file a written statement, signed under penalty of perjury, stating the factual basis upon which they claim ownership or an interest in the property. This bill would require law enforcement to return property that it has taken physical possession of at the conclusion of the criminal proceedings.

(4)

(2) Because a knowing violation of the bill’s provisions by a person engaging in the business of a secondhand dealer would be a crime, and because the bill would expand the crime of perjury, the bill would impose a state-mandated local program.

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 21647 of the Business and Professions
2 Code is amended to read:

3 21647. (a) (1) If a peace officer has probable cause to believe
4 that property, except coins, monetized bullion, or “commercial
5 grade ingots” as defined in subdivision (d) of Section 21627, in
6 the possession of a licensed pawnbroker or secondhand dealer is
7 lost, stolen, or embezzled, the peace officer may place a hold on
8 the property for a period not to exceed 90 days.

9 (2) A 90-day hold issued pursuant to this section:

10 (A) Is created upon the receipt by a licensed pawnbroker or
11 secondhand dealer of a written notice by a peace officer that
12 contains the following:

13 (i) An accurate description of the property being placed on the
14 90-day hold.

15 (ii) An acknowledgment that the property is being placed on
16 hold pursuant to this section and denoting whether physical
17 possession will remain with the licensed pawnbroker or secondhand
18 dealer or will be taken by the law enforcement agency instituting
19 the 90-day hold.

20 (iii) The law enforcement agency’s police report or department
21 record number, if issued, for which the property is needed as
22 evidence.

23 (iv) The date the notice was delivered to the licensed pawnbroker
24 or secondhand dealer that shall initiate the notification period set
25 forth in subdivisions (c) and (g).

1 (B) ~~Will~~ Shall not exceed a period of 90 calendar days, but may
2 be renewed as provided in subparagraph (C).

3 (C) May be renewed as often as is required for a criminal
4 investigation or criminal proceeding by any peace officer who is
5 a member of the same law enforcement agency as the peace officer
6 placing the hold on the property.

7 (D) Permits a peace officer to either take physical possession
8 of the property as evidence, consistent with a peace officer’s right
9 to a plain view seizure for a criminal investigation or criminal
10 proceeding, or to leave the property in the possession of the
11 licensed pawnbroker or secondhand dealer as a custodian on behalf
12 of the law enforcement agency.

13 (E) Requires the licensed pawnbroker or secondhand dealer to
14 maintain physical possession of the property placed on hold and
15 prohibits the property’s release or disposal, except pursuant to the
16 written authorization signed by a peace officer who is a member
17 of the same law enforcement agency as the peace officer placing
18 the hold on the property.

19 (F) Terminates when the property is no longer needed as
20 evidence in a criminal investigation or criminal proceeding, at
21 which time the property shall be disposed of pursuant to
22 subdivision (d).

23 (G) Shall not be applicable to secure lost, stolen, or embezzled
24 property found in the possession of an unlicensed pawnbroker or
25 secondhand dealer that has not duly and correctly reported the
26 acquisition pursuant to Section 21628. In such a circumstance, a
27 peace officer, having probable cause to believe the property found
28 in the possession of an unlicensed pawnbroker or secondhand
29 dealer is lost, stolen, or embezzled, may seize the item or items
30 consistent with the authority granted the peace officer under the
31 Penal Code or any other law.

32 (b) (1) Whenever property that is in the possession of a licensed
33 pawnbroker or secondhand dealer, and that has been placed on
34 hold pursuant to this section, is required by a peace officer in a
35 criminal investigation, the licensed pawnbroker or secondhand
36 dealer, upon reasonable notice, shall produce the property at
37 reasonable times and places or may deliver the property to the
38 peace officer upon the request of any peace officer.

39 (2) If property placed on hold pursuant to this section is
40 physically surrendered or delivered to a law enforcement agency

1 during the period of the hold, the hold and the pawnbroker's lien
2 against the property shall continue.

3 (c) Whenever a law enforcement agency has knowledge that
4 property in the possession of a licensed pawnbroker or secondhand
5 dealer has been reported as lost, stolen, or embezzled, the law
6 enforcement agency shall, within two business days after placing
7 the hold on the property pursuant to this section, notify in writing
8 the person who reported the property as lost, stolen, or embezzled
9 of the following:

10 (1) The name, address, and telephone number of the licensed
11 pawnbroker or secondhand dealer who reported the acquisition of
12 the property.

13 (2) That the law neither requires nor prohibits payment of a fee
14 or any other condition in return for the surrender of the property,
15 except that when the person who reported the property lost, stolen,
16 or embezzled does not choose to participate in the prosecution of
17 an identified alleged thief, the person shall pay the licensed
18 pawnbroker or secondhand dealer the "out-of-pocket" expenses
19 paid in the acquisition of the property in return for the surrender
20 of the property.

21 (3) That if the person who reported the property as lost, stolen,
22 or embezzled takes no action to recover the property from the
23 licensed pawnbroker or secondhand dealer within 60 days of the
24 mailing of the notice, the licensed pawnbroker or secondhand
25 dealer may treat the property as other property received in the
26 ordinary course of business. During the 60-day notice period, the
27 licensed pawnbroker or secondhand dealer may not release the
28 property to any other person.

29 (4) That a copy of the notice, with the address of the person
30 who reported the property as lost, stolen, or embezzled deleted,
31 will be mailed to the licensed pawnbroker or secondhand dealer
32 who is in possession of the property.

33 (d) When property that is in the possession of a licensed
34 pawnbroker or secondhand dealer is subject to a hold as provided
35 in subdivision (a), and the property is no longer required for the
36 purpose of a criminal investigation or criminal proceeding, the law
37 enforcement agency that placed the hold on the property shall
38 release the hold on the property and return the property to the
39 licensed pawnbroker or secondhand dealer from which it was taken

1 if the law enforcement agency took physical possession of the
2 property.

3 (e) If a pledgor seeks to redeem property that is subject to a
4 hold, the licensed pawnbroker shall advise the pledgor of the name
5 of the peace officer who placed the hold on the property and the
6 name of the law enforcement agency of which the officer is a
7 member. If the property is not required to be held pursuant to a
8 criminal prosecution the hold shall be released.

9 (f) Whenever information regarding allegedly lost, stolen, or
10 embezzled property is entered into the Department of Justice
11 automated property system or automated firearms system, and the
12 property is thereafter identified and found to be in the possession
13 of a licensed pawnbroker or secondhand dealer, the property shall
14 be placed on a hold pursuant to this section and Section 11108.5
15 of the Penal Code.

16 (g) If the hold, including any additional hold, is allowed to lapse,
17 or 60 days elapse following the delivery of the notice required to
18 be given by subdivision (c) to the person who reported the property
19 to be lost, stolen, or embezzled without a claim being made by
20 that person, whichever is later, the licensed pawnbroker or
21 secondhand dealer may mail under a certificate of mailing issued
22 by the United States Post Office, addressed to the law enforcement
23 agency that placed the property on hold, a written request to delete
24 the property listing from the Department of Justice automated
25 property system or automated firearms system, as is applicable.
26 Within 30 days after the request has been mailed, the law
27 enforcement agency shall either cause the property listing to be
28 deleted as requested or place a hold on the property. If no law
29 enforcement agency takes any further action with respect to the
30 property within 45 days after the mailing of the request, the
31 licensed pawnbroker or secondhand dealer may presume that the
32 property listing has been deleted as requested and may thereafter
33 deal with the property accordingly, and shall not be subject to
34 liability arising from the failure of the removal of the property
35 listing from the Department of Justice automated property system
36 or automated firearms system.

37 (h) A licensed pawnbroker or secondhand dealer shall not refuse
38 a request to place property in their possession on hold pursuant to
39 this section when a peace officer has probable cause to believe the
40 property is lost, stolen, or embezzled. If a licensed pawnbroker or

1 secondhand dealer refuses a request to place property on hold
2 pursuant to this section, the property may be seized with or without
3 a warrant. The peace officer shall issue a receipt, as described in
4 Section 21206.7 of the Financial Code, left with the licensed
5 pawnbroker or secondhand dealer. The property shall be disposed
6 of pursuant to procedures set forth in Section 21206.8 of the
7 Financial Code, which shall apply to both licensed pawnbrokers
8 and secondhand dealers under this section.

9 (i) If a search warrant is issued for the search of the business of
10 a licensed pawnbroker or secondhand dealer to secure lost, stolen,
11 or embezzled property that has been placed on hold, the hold shall
12 continue for the duration that the property remains subject to the
13 court's jurisdiction. Notwithstanding any other law, when the use
14 of the property seized for a criminal investigation or criminal
15 proceeding has concluded, the property shall be disposed of
16 pursuant to subdivision (d).

17 (j) If a civil or criminal court is called upon to adjudicate the
18 competing claims of a licensed pawnbroker or secondhand dealer
19 and another party claiming ownership or an interest in the property
20 that is or was subject to a hold pursuant to this section, the court
21 shall award possession of the property only after due consideration
22 is given to the effect of Section 2403 of the Commercial Code.

23 (k) A licensed pawnbroker or secondhand dealer is not subject
24 to civil liability for compliance with this section.

25 SEC. 2. Section 21206.8 of the Financial Code is amended to
26 read:

27 21206.8. (a) Notwithstanding the provisions of Chapter 12
28 (commencing with Section 1407) of Title 10 of Part 2 of the Penal
29 Code, whenever property alleged to have been lost, stolen, or
30 embezzled is taken from a pawnbroker, the peace officer,
31 magistrate, court, clerk, or other person having custody of the
32 property shall not deliver the property to any person claiming
33 ownership unless the provisions of this section are complied with.

34 (b) (1) If any person makes a claim of ownership, the person
35 shall file a written statement, signed under penalty of perjury,
36 stating the factual basis upon which they claim ownership or an
37 interest in the property with the person having custody of the
38 property, and the person having custody of the property shall notify
39 the pawnbroker of the claim by providing a true and correct copy
40 of the claim to the pawnbroker.

1 (2) If the pawnbroker makes no claim with respect to the
 2 property within 10 days of such notification, the property may be
 3 disposed of as otherwise provided by law.

4 (3) In adjudicating the competing claims of a pawnbroker and
 5 a person claiming ownership or an interest in the property seized
 6 from a pawnbroker, the adjudicating court shall give due
 7 consideration to the effect Section 2403 of the Commercial Code
 8 may have on the claims.

9 (4) At least 30 calendar days before any hearing adjudicating
 10 any competing claims of a pawnbroker and a person claiming
 11 ownership or an interest in the property, the person having custody
 12 of the property shall deliver to the pawnbroker a true and correct
 13 copy of the police report, redacted as may be required by law and
 14 consistent with due process of law, substantiating the basis of the
 15 seizure of the property from the pawnbroker.

16 (c) If property alleged to have been stolen or embezzled is taken
 17 from a pawnbroker, prior to any disposal of the property pursuant
 18 to Section 1411 of the Penal Code, the notice to be given to the
 19 owner and owner of a security interest pursuant to Section 1411
 20 shall be given to the pawnbroker. Such property shall not be
 21 disposed of pursuant to Section 1411 until three months after such
 22 notice has been given.

23 (d) A pawnbroker shall not be liable to any person for any
 24 property seized from the pawnbroker on account of the
 25 pawnbroker's inability to return the property to that person because
 26 of the seizure.

27 ~~SEC. 3. Section 186.2 of the Penal Code is amended to read:~~

28 ~~186.2. For purposes of this chapter, the following definitions~~
 29 ~~apply:~~

30 ~~(a) "Criminal profiteering activity" means any act committed~~
 31 ~~or attempted or any threat made for financial gain or advantage,~~
 32 ~~which act or threat may be charged as a crime under any of the~~
 33 ~~following sections:~~

34 ~~(1) Arson, as defined in Section 451.~~

35 ~~(2) Bribery, as defined in Sections 67, 67.5, and 68.~~

36 ~~(3) Child pornography or exploitation, as defined in subdivision~~
 37 ~~(b) of Section 311.2, or Section 311.3 or 311.4, which may be~~
 38 ~~prosecuted as a felony.~~

39 ~~(4) Felonious assault, as defined in Section 245.~~

40 ~~(5) Embezzlement, as defined in Sections 424 and 503.~~

- 1 ~~(6) Extortion, as defined in Section 518.~~
- 2 ~~(7) Forgery, as defined in Section 470.~~
- 3 ~~(8) Gambling, as defined in Sections 337a to 337f, inclusive,~~
- 4 ~~and Section 337i, except the activities of a person who participates~~
- 5 ~~solely as an individual bettor.~~
- 6 ~~(9) Kidnapping, as defined in Section 207.~~
- 7 ~~(10) Mayhem, as defined in Section 203.~~
- 8 ~~(11) Murder, as defined in Section 187.~~
- 9 ~~(12) Pimping and pandering, as defined in Section 266.~~
- 10 ~~(13) Receiving stolen property, as defined in Section 496.~~
- 11 ~~(14) Robbery, as defined in Section 211.~~
- 12 ~~(15) Solicitation of crimes, as defined in Section 653f.~~
- 13 ~~(16) Grand theft, as defined in Section 487.~~
- 14 ~~(17) Trafficking in controlled substances, as defined in Sections~~
- 15 ~~11351, 11352, and 11353 of the Health and Safety Code.~~
- 16 ~~(18) Violation of the laws governing corporate securities, as~~
- 17 ~~defined in Section 25541 of the Corporations Code.~~
- 18 ~~(19) Any of the offenses contained in Chapter 7.5 (commencing~~
- 19 ~~with Section 311) of Title 9, relating to obscene matter, or in~~
- 20 ~~Chapter 7.6 (commencing with Section 313) of Title 9, relating to~~
- 21 ~~harmful matter that may be prosecuted as a felony.~~
- 22 ~~(20) Presentation of a false or fraudulent claim, as defined in~~
- 23 ~~Section 550.~~
- 24 ~~(21) False or fraudulent activities, schemes, or artifices, as~~
- 25 ~~described in Section 14107 of the Welfare and Institutions Code.~~
- 26 ~~(22) Money laundering, as defined in Section 186.10.~~
- 27 ~~(23) Offenses relating to the counterfeit of a registered mark,~~
- 28 ~~as specified in Section 350.~~
- 29 ~~(24) Offenses relating to the unauthorized access to computers,~~
- 30 ~~computer systems, and computer data, as specified in Section 502.~~
- 31 ~~(25) Conspiracy to commit any of the crimes listed above, as~~
- 32 ~~defined in Section 182.~~
- 33 ~~(26) Subdivision (a) of Section 186.22, or a felony subject to~~
- 34 ~~enhancement as specified in subdivision (b) of Section 186.22.~~
- 35 ~~(27) Any offenses related to fraud or theft against the state's~~
- 36 ~~beverage container recycling program, including, but not limited~~
- 37 ~~to, those offenses specified in this subdivision and those criminal~~
- 38 ~~offenses specified in the California Beverage Container Recycling~~
- 39 ~~and Litter Reduction Act, Chapter 1 (commencing with Section~~
- 40 ~~14500) of Division 12.1 of the Public Resources Code.~~

1 ~~(28) Human trafficking, as defined in Section 236.1.~~

2 ~~(29) Any crime in which the perpetrator induces, encourages,~~
3 ~~or persuades a person under 18 years of age to engage in a~~
4 ~~commercial sex act. For purposes of this paragraph, a commercial~~
5 ~~sex act means any sexual conduct on account of which anything~~
6 ~~of value is given or received by any person.~~

7 ~~(30) Any crime in which the perpetrator, through force, fear,~~
8 ~~coercion, deceit, violence, duress, menace, or threat of unlawful~~
9 ~~injury to the victim or to another person, causes a person under 18~~
10 ~~years of age to engage in a commercial sex act. For purposes of~~
11 ~~this paragraph, a commercial sex act means any sexual conduct~~
12 ~~on account of which anything of value is given or received by any~~
13 ~~person.~~

14 ~~(31) Theft of personal identifying information, as defined in~~
15 ~~Section 530.5.~~

16 ~~(32) Offenses involving the theft of a motor vehicle, as specified~~
17 ~~in Section 10851 of the Vehicle Code.~~

18 ~~(33) Abduction or procurement by fraudulent inducement for~~
19 ~~prostitution, as defined in Section 266a.~~

20 ~~(34) Buying, selling, trading, accepting for sale on consignment,~~
21 ~~accepting for auctioning, or auctioning secondhand tangible~~
22 ~~personal property as defined by Section 21627 of the Business and~~
23 ~~Professions Code, including, but not limited to, gold, silver,~~
24 ~~platinum, palladium, and jewelry made of gold, silver, platinum,~~
25 ~~palladium, or having any diamond, ruby, emerald, or other precious~~
26 ~~stone, or any item containing sterling or fine silver in violation of~~
27 ~~Section 21640 of the Business and Professions Code.~~

28 ~~(b) (1) “Pattern of criminal profiteering activity” means~~
29 ~~engaging in at least two incidents of criminal profiteering, as~~
30 ~~defined by this chapter, that meet the following requirements:~~

31 ~~(A) Have the same or a similar purpose, result, principals,~~
32 ~~victims, or methods of commission, or are otherwise interrelated~~
33 ~~by distinguishing characteristics.~~

34 ~~(B) Are not isolated events.~~

35 ~~(C) Were committed as a criminal activity of organized crime.~~

36 ~~(2) Acts that would constitute a “pattern of criminal profiteering~~
37 ~~activity” may not be used by a prosecuting agency to seek the~~
38 ~~remedies provided by this chapter unless the underlying offense~~
39 ~~occurred after the effective date of this chapter and the prior act~~
40 ~~occurred within 10 years, excluding any period of imprisonment,~~

1 of the commission of the underlying offense. A prior act may not
2 be used by a prosecuting agency to seek remedies provided by this
3 chapter if a prosecution for that act resulted in an acquittal.

4 (e) “Prosecuting agency” means the Attorney General or the
5 district attorney of any county.

6 (d) “Organized crime” means crime that is of a conspiratorial
7 nature and that is either of an organized nature and seeks to supply
8 illegal goods and services such as narcotics, prostitution,
9 loan-sharking, gambling, and pornography, or that, through
10 planning and coordination of individual efforts, seeks to conduct
11 the illegal activities of arson for profit, hijacking, insurance fraud,
12 smuggling, operating vehicle theft rings, fraud against the beverage
13 container recycling program, or systematically encumbering the
14 assets of a business for the purpose of defrauding creditors.
15 “Organized crime” also means crime committed by a criminal
16 street gang, as defined in subdivision (f) of Section 186.22.
17 “Organized crime” also means false or fraudulent activities,
18 schemes, or artifices, as described in Section 14107 of the Welfare
19 and Institutions Code, and the theft of personal identifying
20 information, as defined in Section 530.5. “Organized crime” also
21 means the violation of Section 21640 of the Business and
22 Professions Code by any person engaged in business as a
23 secondhand dealer, as defined by Section 21626 of the Business
24 and Professions Code, while not reporting acquisitions of
25 secondhand property as required by Section 21628 of the Business
26 and Professions Code.

27 (e) “Underlying offense” means an offense enumerated in
28 subdivision (a) for which the defendant is being prosecuted.

29 SEC. 4. Section 186.8 of the Penal Code is amended to read:

30 186.8. Notwithstanding that no response or claim has been
31 filed pursuant to Section 186.5, in all cases where property is
32 forfeited pursuant to this chapter and, if necessary, sold by the
33 Department of General Services or local governmental entity, the
34 money forfeited or the proceeds of sale shall be distributed by the
35 state or local governmental entity as follows:

36 (a) To the bona fide or innocent purchaser, conditional sales
37 vendor, or holder of a valid lien, mortgage, or security interest, if
38 any, up to the amount of his or her interest in the property or
39 proceeds, when the court declaring the forfeiture orders a
40 distribution to that person. The court shall endeavor to discover

1 all those lienholders and protect their interests and may, at its
2 discretion, order the proceeds placed in escrow for up to an
3 additional 60 days to ensure that all valid claims are received and
4 processed.

5 (b) To the Department of General Services or local governmental
6 entity for all expenditures made or incurred by it in connection
7 with the sale of the property, including expenditures for any
8 necessary repairs, storage, or transportation of any property seized
9 under this chapter.

10 (c) To the General Fund of the state or a general fund of a local
11 governmental entity, whichever prosecutes.

12 (d) In any case involving a violation of subdivision (b) of
13 Section 311.2, or Section 311.3 or 311.4, in lieu of the distribution
14 of the proceeds provided for by subdivisions (b) and (c), the
15 proceeds shall be deposited in the county children's trust fund,
16 established pursuant to Section 18966 of the Welfare and
17 Institutions Code, of the county that filed the petition of forfeiture.
18 If the county does not have a children's trust fund, the funds shall
19 be deposited in the State Children's Trust Fund, established
20 pursuant to Section 18969 of the Welfare and Institutions Code.

21 (e) In any case involving crimes against the state beverage
22 container recycling program, in lieu of the distribution of proceeds
23 provided in subdivision (c), the proceeds shall be deposited in the
24 penalty account established pursuant to subdivision (d) of Section
25 14580 of the Public Resources Code, except that a portion of the
26 proceeds equivalent to the cost of prosecution in the case shall be
27 distributed to the local prosecuting entity that filed the petition of
28 forfeiture.

29 (f) (1) In any case described in paragraph (29) or (30) of
30 subdivision (a) of Section 186.2, or paragraph (33) of subdivision
31 (a) of Section 186.2 where the victim is a minor, in lieu of the
32 distribution provided for in subdivision (c), the proceeds shall be
33 deposited in the Victim-Witness Assistance Fund to be available
34 for appropriation to fund child sexual exploitation and child sexual
35 abuse victim counseling centers and prevention programs under
36 Section 13837. Fifty percent of the funds deposited in the
37 Victim-Witness Assistance Fund pursuant to this subdivision shall
38 be granted to community-based organizations that serve minor
39 victims of human trafficking.

1 ~~(2) Notwithstanding paragraph (1), any proceeds specified in~~
2 ~~paragraph (1) that would otherwise be distributed to the General~~
3 ~~Fund of the state under subdivision (c) pursuant to a paragraph in~~
4 ~~subdivision (a) of Section 186.2 other than paragraph (29) or (30)~~
5 ~~of subdivision (a) of Section 186.2, or paragraph (33) of~~
6 ~~subdivision (a) of Section 186.2 where the victim is a minor, shall,~~
7 ~~except as otherwise required by law, continue to be distributed to~~
8 ~~the General Fund of the state as specified in subdivision (c).~~

9 ~~(g) In any case described in paragraph (34) of subdivision (a)~~
10 ~~of Section 186.2, in lieu of the distribution provided for in~~
11 ~~subdivision (c), the proceeds shall be distributed in the following~~
12 ~~manner: 50 percent shall be distributed into the general fund of~~
13 ~~the city, county, or city and county that instituted the forfeiture,~~
14 ~~and 50 percent shall be distributed to the general fund of the city,~~
15 ~~county, or city and county that prosecuted the forfeiture.~~

16 ~~SEC. 5.~~

17 *SEC. 3.* Section 1411 of the Penal Code is amended to read:

18 1411. (a) If the ownership of the property stolen or embezzled
19 and the address of the owner, and the address of the owner of a
20 security interest therein, can be reasonably ascertained, the peace
21 officer who took custody of the property shall notify the owner,
22 and a person having a security interest therein, by letter of the
23 location of the property and the method by which the owner may
24 obtain it. This notice shall be given upon the conviction of a person
25 for an offense involving the theft, embezzlement, or possession of
26 the property, or if a conviction was not obtained, upon the making
27 of a decision by the district attorney not to file the case or upon
28 the termination of the proceedings in the case. Except as provided
29 in Section 217 of the Welfare and Institutions Code, if the property
30 stolen or embezzled is not claimed by the owner before the
31 expiration of three months after the giving of this notice, or, in any
32 case in which such a notice is not given, before the expiration of
33 six months from the conviction of a person for an offense involving
34 the theft, embezzlement, or possession of the property, or if a
35 conviction was not obtained, then from the time the property came
36 into the possession of the peace officer or the case involving the
37 person from whom it was obtained is disposed of, whichever is
38 later, the magistrate or other officer having it in custody may, on
39 the payment of the necessary expenses incurred in its preservation,
40 deliver it to the county treasurer or other proper county officer, by

1 whom it shall be sold and the proceeds paid into the county
2 treasury. However, notwithstanding any other law, if the person
3 from whom custody of the property was taken is a secondhand
4 dealer or licensed pawnbroker and reasonable but unsuccessful
5 efforts have been made to notify the owner of the property and the
6 property is no longer needed for the criminal proceeding, the
7 property shall be returned to the secondhand dealer or pawnbroker
8 who had custody of the property and be treated as regularly
9 acquired property. If the property is transferred to the county
10 purchasing agent it may be sold in the manner provided by Article
11 7 (commencing with Section 25500) of Chapter 5 of Part 2 of
12 Division 2 of Title 3 of the Government Code for the sale of surplus
13 personal property. If the county officer determines that any of the
14 property transferred to him or her for sale is needed for a public
15 use, the property may be retained by the county and need not be
16 sold. The magistrate or other officer having the property in custody
17 may, however, provide for the sale of the property in the manner
18 provided for the sale of unclaimed property which has been held
19 for at least three months pursuant to Section 2080.4 of the Civil
20 Code.

21 (b) This section shall not govern the disposition of property
22 placed on hold pursuant to Section 21647 of the Business and
23 Professions Code, notwithstanding the current custodial status of
24 the property, unless the licensed pawnbroker or secondhand dealer,
25 after receipt of the written advisement required by subdivision (h)
26 of Section 21647 of the Business and Professions Code, willfully
27 refuses to consent to a statutory hold as provided by Section 21647
28 of the Business and Professions Code or a search warrant for the
29 business of the licensed pawnbroker or secondhand dealer has
30 resulted in the seizure of the property subject to this section.

31 ~~SEC. 6.~~

32 *SEC. 4.* Section 11108.5 of the Penal Code is amended to read:

33 11108.5. (a) If a law enforcement agency identifies serialized
34 property or any property reported pursuant to Section 21628 of
35 the Business and Professions Code that has been reported lost or
36 stolen by the owner or a person entitled to possession of the
37 property and the property has been entered into the appropriate
38 Department of Justice automated property system pursuant to
39 Section 11108, the agency shall notify the owner or person
40 claiming to be entitled to possession of the property of the location

1 of the property within 15 days of making the identification. If the
2 location of the property was reported by a licensed pawnbroker or
3 secondhand dealer pursuant to Section 21630 of the Business and
4 Professions Code, notwithstanding the method by which the
5 property was identified, notice shall be given to the party who
6 reported the property lost or stolen pursuant to Section 21647 of
7 the Business and Professions Code.

8 (b) If the property is in the custody of the law enforcement
9 agency and it is determined that the property is no longer required
10 for use as evidence in a criminal case, the property shall be made
11 available to the person entitled to possession pursuant to Section
12 1417.5 or if the property was found in the possession of a licensed
13 pawnbroker or secondhand dealer, pursuant to Section 21647 of
14 the Business and Professions Code.

15 (c) Subdivision (a) shall not apply to the return to an owner of
16 a lost or stolen vehicle, as defined in Section 670 of the Vehicle
17 Code if the report of theft or loss of the vehicle into the automated
18 property system preceded the report of the acquisition of property
19 as set forth in Section 21628 of the Business and Professions Code
20 by a licensed pawnbroker.

21 ~~SEC. 7.~~

22 *SEC. 5.* No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.